

**GLADSTONE PLANNING COMMISSION MEETING MINUTES** of October 21, 2014

Meeting was called to order at 7:00 PM.

**ROLL CALL:**

The following city officials answered roll call: Commissioner Kirk Stempel; Commissioner Steve Johnson; Commissioner Kevin Johnson; and Chairperson Tammy Stempel

**ABSENT:**

Commissioner Michele Kremers and Commissioner Pat McMahon

**STAFF:**

Jolene Morishita, Assistant City Administrator; David Doughman, City Attorney; Clay Glasgow, City Planner; Sean Boyle, Code Enforcement; Stan Monte, Fire Chief; Jeff Smith, Fire Coordinator; and Jeff Jolley, Police Lieutenant

**SWEARING IN NEW PLANNING COMMISSIONER:**

Assistant City Administrator Jolene Morishita administered the Oath of Office to Planning Commissioner Les Poole. He did so swear. Commissioner Poole was seated on the panel.

*Chairperson Stempel read and reviewed the Duties of the Planning Commission.*

**CORRESPONDENCE:**

None

**CONSENT AGENDA:**

1. Minutes of September 16, 2014.

*Commissioner Kevin Johnson made the motion to approve the minutes from September 16, 2014. Commissioner Stempel seconded the motion. Motion passed unanimously.*

**REGULAR AGENDA:**

2. Discussion of the Proposed Fire Department Training Grounds in Meldrum Bar Park – Chairperson Stempel introduced Fire Chief Stan Monte and Jeff Smith who will be making the presentation.

City Planner Glasgow explained that this was just an early look at this, having Fire Chief Monte come by to give the Commission an idea of what they are talking about and to give Staff's opinion of it and what may be necessary to make it happen.

Fire Chief Monte acknowledged that he had spoken with City Planner Glasgow about this and that he had also spoken with the Parks Board, who had already endorsed the training ground that the Commission was looking at. He explained the drawing that he provided, pointing out the open area at the bottom of the hill as you come into the park. He said that the training area is presently down at the City Shops; it is right in the middle of

neighborhoods – not very good, but it has been that way for years. Looking around town, he feels that this is an opportune time to move in there and set up their own training area; for burning, for laying out hoses without disturbing neighbors in the middle of the night. He explained that what the Commissioners had before them is a rough draft, and they have not yet consulted with the engineers to see if they will have requirements for ground water treatment or run off treatment if there is any. He said that he was there to start the process. He opened the discussion for questions from the Commission.

Commissioner Kevin Johnson asked if this was going to take a code change. City Planner Glasgow explained that the underlying area for Meldrum Bar is open space. There are a couple of overlays, including the Habitat Conservation Area. It is the OS open space zone that we need to work with first because the use that Fire Chief Monte is talking about is not an allowed use. In order to make it so, it will take a text amendment. We are bringing this to you as early as possible so that we can take a first look and identify any monster problems before getting too deep into it. He said that frankly he did not see any problems at this point, there are no particular issues; there are no permanent structures involved.

Fire Chief Monte explained that what they are looking at is about a 50 by 100 foot asphalt area - mostly that is for cleaning their hoses. They would like to set some of their storage units down there that they use for burning and their props, and enclose that with a fenced area. They are not looking for a tower at this time. He acknowledged that he is not sure what a permanent structure would be.

City Planner Glasgow said that they are looking at a flood plain issue, but the structure that they had talked about in an earlier meeting would not be classified as a permanent structure. In fact, some of those containers that you were talking about would have to be tied down to keep them from floating away. He said that nothing that Chief Monte and he had talked about runs afoul of any of the flood plain ordinances. Chief Monte said that they are not looking to put a building or anything there in the future.

Chairperson Stempel asked that with the issues that were going on with the federal insurance – the FEMA stuff that is going on right now – is this something that we need to be aware of? City Planner Glasgow stated that it would not be at this point because there is no permanence. This is not something that is an issue with what he thinks she is aiming at. She asked about the fencing becoming an issue. City Planner Glasgow explained that it would have to be a certain type of fencing because it is in the flood plain, it has to be something that does not impede the flow of water. Speaking to Chief Monte, he continued, this is going to be a conflict because we are going to want you to obscure the fence as much as possible, so it will limit you as how you can deal with the fence, because we want water to be able to flow through it, but that is down the road a piece.

City Planner Glasgow stated for the underlying zone, the open space zone, this is such a unique use. At this early juncture, he does not see any danger in adding it because it is so specific to a fire department or a fire district. Chairperson Stempel asked if it opened any gates. City Planner Glasgow said no, we could nail this down very tight to this particular use. You have some other stuff in there, and it talks about public utility facilities, but we

made a definition of a public utility facility here in the last couple of years which clearly does not get at what they are trying to do here. This really is different from the uses that are listed that are allowed, so it will have to be added before they can apply for it. It would come before you again for design review.

Chairperson asked how this would impact all the work that is being done, the mitigation work in the Rinearson Pond area because she knows that that is pretty big right now. City Planner Glasgow acknowledged it then explained that it would be down the road a piece. First we would look at the OS Zone generally, which is applied in Meldrum Bar Park and all along the Clackamas River clear over to 82<sup>nd</sup>. It is scattered about the City, typically near water, but there is one blob in off McLoughlin. It is mostly along the Willamette and the Clackamas, so we would be allowing this use anywhere within the OS Zone. You would get a specific application for use from Chief Monte, the Fire Department - that is when we would be looking at the detailed that you are asking about.

Chairperson Stempel stated that she just wanted to make sure that all of that stuff is considered, and that we have our T's crossed and our P's dotted so that there won't be any issues.

Commissioner Steve Johnson asked if there was a master plan for Meldrum Bar Park. Is there going to be a master plan? He said that he had heard rumors. Chairperson Stempel said that she did not think so. Commissioner Steve Johnson said that his only concern is that Meldrum Bar Park seems to be a catch-all for everything, and he thinks we need to consider where things fit. There is an RC Car park down there, there is a BMX park, there is Community Gardens, and there is talk about a dog park. He said that maybe the community needs to have more discussion on how that property is used. We always seem to put everything there - Meldrum Bar Park seems to be the answer to all of our problems. He is just concerned that we have our T's crossed and our P's dotted and get it right so that it still functions as a park for the community. It sounds like a great use, but everybody seems to have a great use for the park.

Chief Monte said that he understands, but other than the fenced area, it would only be parking area - it has always been parking area. He understands that there might be something coming down the line, but right now there is nothing else.

Commissioner Steve Johnson asked how temporary is temporary here. Are you going to pave it? You have that one area you are intending to pave? Chief Monte replied, "Yes." They will use it mostly just to get the gravel off of their hoses before they put them back in their beds. Commissioner Steve Johnson asked what comes out of those hoses. Just clean water? No foam? No chemicals of any kind? Chief Monte said that the foam that they use is biodegradable and should be non-hazardous. He said that he had not talked to the engineers about what would be required. The 50 by 100 might kick us into where we might have to do a bio-swale or something like that. Our intent at this time is to keep the ground sloped toward the roadway. We may be able to use the ditch that is there for the breakdown of the biodegradable. Commissioner Steve Johnson asked where the ditch

ended. Chief Monte said that the ditch ended right there at the site – you are pretty much sitting on a gravel drain and everything just filters right on down.

Commissioner Steve Johnson asked about what they would be burning down there. Not big piles of plastic or neoprene? Chief Monte said that they burn only wood products now. They have gotten away from burning actual cars and couches – we don't do that.

City Planner Glasgow said that these kinds of details would come up at the design review, if we finally get it there.

Chairperson stated that she thinks that the Fire Department needs a training facility, and she would like to see a permanent structure down there, but I don't think that is going to happen any time soon.

Chief Monte said that he had been thinking about the Webster/Oatfield property, but didn't think that it would go very far. Chairperson Stempel said that she did not think the neighbors would like that very much.

City Planner asked who owned the property. Is it the City or is it the Parks District? Chairperson Stempel said that Gladstone owned the property. Does the Parks Board act as the owner, or is it City Administrator Pete Boyce acting as the applicant? Chairperson Stempel replied that she is pretty sure that the City would.

Chief Monte stated that when he was talking with the Parks Board, they were talking about putting the dog park over there, and he noticed that they are the ones that City Administrator Boyce seemed to talk to if they wanted to do it one way or the other.

Chairperson Stempel asked that they keep the Commission apprized, and it is just perfect timing because we are at the beginning of reevaluating our zones and what we need to do to bring them up to the 21<sup>st</sup> century.

City Planner Glasgow told Chief Monte that he would be working with staff on this application, it is a simple zone change simply called a text amendment to the Open space zone. You are not trying to change the zone, you are simply trying to add a use, you are making a minor text amendment. It requires a public hearing. The application comes through me, it gets scheduled. For the timing, after we get the complete application, we are looking at least a month, possibly two months if there is something wrong with the application or if questions come up. That is it.

Chairperson Stempel asked what their timeframe was for when they want to start the process. Chief Monte replied that he was looking at starting it as soon as they got all of the construction equipment out of there, so we were looking a year to a year and a half out. Someone in the audience asked if they were talking about starting the zone change or are they talking about the passage. Chairperson Stempel answered that it was to start the application. City Planner Glasgow clarified that there were two separate public hearings.

First we are going to need to get the zone change and that is going to require a minimum of two public hearings.

Chairperson Stempel said that she would like to review that at the same time that they review open space as a whole, so that we could kind of make the changes at once or not. Then once that is done, and the use is allowed, you are going to apply for what is called a design review for the use that is allowed. It is Chapter 17 so it would have to go through, and if that is a couple of months, then it gives us enough time to get our ducks in a row on the rest of the OS Zone. She doesn't think that there is a whole lot. City Planner Glasgow said that it would easily be enough time and get the rules laid out.

Chief Monte said that if he is not hearing any large objections at this time, he would contact City Planner Glasgow the following week.

3. Code Enforcement - Nuisances – Lieutenant Jeff Jolley and Sean Boyle (no attachments)

Chairperson Stempel introduced the topic and said that it would start with a discussion with Lieutenant Jeff Jolley and Sean Boyle. She would like to follow that with the specific nuisance for which there are people in the audience – outdoor paging systems.

Lieutenant Jolley introduced himself and said that as a part of Chief Pryde's public policy on policing he is trying to get out and assess what they are doing in the community and specifically with different branches of their organization. Tonight, we (Sean and I) are here about code revision and open communications between the Planning Commission, code revision and the police department. Right now he is in the process of evaluating and reorganizing what they are doing with the MOS position as more duties have been heaped on Sean Boyle's position over the years without a long range picture and thinking about the future. With that increased workload we want to make sure we haven't gotten off track. That is why he was there, to make sure that we have an open dialog between us. We desire to focus on what is important to the community members of Gladstone and make sure that we are on line with doing what they think is important, what they feel needs to be done in ordinance and code, and nuisance enforcement.

He said that he knows that the Planning Commission is in the middle of code review, and that he and his organization are here to help out by providing their perspective – as they continue down the road, they will continue to refine that process of what they do in code enforcement. He said that they are there to assist the Planning Commission in any way, open communication, have dialog, in whatever form the Commission needs. He turned the floor over to Sean Boyle, Code Enforcement.

Sean Boyle said part of what brought on the conversation was the recent changes in the noise ordinance and the proposal that was submitted to City Council. After reviewing that, he just wanted to make sure that all parties involved are aware of what the current status of code enforcement in Gladstone is, specifically related to the noise ordinance. He had a specific question in reference to the table that was listed in the municipal code referenced in OAR 340-35-030, and that the proposed change was to include the table

into the municipal code, and he was wondering what the methodology behind that was. Chairperson Stempel asked where that was again. Mister Boyle said that it was under 8.12.050 under subsection 3. Chairperson Stempel clarified which is the allowable sound levels. Mister Boyle says that it makes reference to the Oregon Administrative Rule and in that reference in the proposed change it includes a table from that Oregon Administrative Rule. Chairperson said that she did not remember what that table was. Commissioner Steve Johnson said that the statute number was 8.12.060, under Motor Vehicles.

City Attorney Doughman said that he thinks they had a lot of discussion about where the table came from. Assistant City Administrator Morishita said she thinks it came from Commissioner Sieckman at the time who really wanted to have the table included. City Attorney Doughman said that his recollection that since it was there, why not put it in for the reference of the reader (to make it clean). Mister Boyle said that his concern is that if the State of Oregon ever changes then the ordinance goes out of date. Chairperson Stempel stated that it will have to be updated. City Attorney said that Mister Boyle is right. If we adopted it, we would probably have to go back in if it was changed. Mister Boyles said that it would require regular ongoing maintenance instead of just a reference. Chairperson Stempel noted that we have inclusions of ORS tables throughout this whole thing, we are supposed to be going back and cleaning it up as we move forward, but she thinks the last time it was done was in 1982. She explained that it was part of the reason they were in this process.

Mister Boyle explained that the OAR codes and the enforcement manuals that they provide on the OARs, they were written for DEQ enforcement action, and if one looked at the enforcement manuals provided by DEQ, it would be an impossibility to get anyone to submit themselves to participate in that process. He explained that it is a virtually an unenforceable table. It just seems like a lot of extra stuff in the code that is not enforceable by his organization at all. Chairperson Stempel acknowledged that it is the stuff that we need to hear.

Commissioner Stempel said "shame on us" for not asking Mister Boyle to the meetings. We should have him at these meetings and discussions because there is a lot of gray area in this that we don't know, and we keep hashing at it. He feels that Mister Boyle is a book of knowledge and pretty valuable.

Chairperson Stempel said to be fair, the Planning Commission agenda is not secret. It is out there posted. She assumes that the agenda topics are available to all of the departments out there. Especially since we are doing the code ordinance, she has gone in and copied the entire ordinance and included it as part of our package. It has been pretty obvious what we are going to be discussing, so moving forward, do we specifically send it to you (Sean) and Lieutenant Jolley beforehand? We usually send it out a week and a half before the meeting. We also have a kind of master agenda about what we are going to be discussing at each meeting as we move forward, so we would love your input – we need your input.

Commissioner Stempel said that like on a staff report to the Police Chief or Fire Chief, Let's include him on it, have him scan through it for his input. Chairperson Stempel concurred.

Mister Boyle said that the other issue is different but on a similar topic, but in a different area. He understands that there is a recent proposal for some changes to Chapter 17 (he couldn't remember) concerning the clear vision areas out of driveways and such. It is probably not common knowledge to the Commissioners, but code enforcement does not have anyone who does zoning enforcement. That was previous done by Jonathon Block, and since he is no longer with us after his retirement, that position was no longer filled. We have had a kind of Band-Aid approach between himself and City Planner Glasgow. There has been no one assigned to enforcement. Even if it was assigned, there would still be that element of education that would need to be included, and a revision of job duties. We are currently making changes to add new rules in an area where we have no enforcement. Chairperson Stempel said right, but we can't not make the rules. We have to have something in place. Who enforces that is something that we have been discussing for several months. That needs to be resolved sooner rather than later. That cannot stop us from moving forward and making the changes that need to be made.

Lieutenant Jolley said that that is a part of life. He hasn't even had the opportunity to meet City Planner Glasgow. We realize that government has to go on and we, as a police department, have to figure out how we can meet the needs, because we want the city to be as good as possible. We want ordinances enforced, we want zoning enforced; we are going to figure out how to do it, and as a partner in the process of developing these things, we will do whatever we can do.

Commissioner Stempel said that the bottom line is that we need to open up the communications with the police, with the City Council, it seems like that is where we are having issues – the lack of communication. Chairperson Stempel agreed and went on to say that finding someone who is going to do these zones – we need somebody who can enforce these zoning ordinances.

City Planner Glasgow said that is a significant part, and as Mister Boyle had mentioned, they had been using the Band-Aid approach and have been stumbling along doing the best that they could. He said that he is not sure that the IGA that the City has with him for his services may not even allow him to do any enforcement. That does need to be cleared up. Chairperson Stempel reiterated that that cannot stop us from cleaning this up.

Commissioner Steve Johnson said that we also benefit from our City Attorney and his experience with other cities, and their different code as well. So it is not like we are banging around in a dark room without a flashlight. Several side comments were made.

City Attorney Doughman said that there is something that they talked about a few months ago, is whether the County can pick up that piece – to actually do zoning code enforcement. City Planner Glasgow said that it is just a matter of money – we have a very slick, well oiled machine in the County when it comes to code enforcement. We have

several cities on contract, we have a lot of people, we have a code enforcement hearings officer where we can levy fines on the spot. It is just a very quick, clean process. It just costs money is all.

Chairperson asked what we have to do to get this going because we've been talking about it since she has been on the Planning Commission. City Planner Glasgow said that it was money. It will be up to the City Council to decide whether the City actually wants to pursue it. Chairperson asked if anyone had ever presented them with a budget with what it would cost. City Planner Glasgow said that they had never asked. He said that he could be point on that if needed.

City Attorney Doughman said that they are waiting for some answers from the county the building services. He said that he thought the question was posed about the County providing these services. City Planner Glasgow said that his question was he was unsure about whether it was going to be building and zoning, and nuisance type stuff, or are we going to narrow down that kind of thing. Commissioner Kevin Johnson said that was not the question. Chairperson Stempel said that it wasn't, but that it needed to be handled. City Planner Glasgow said that they will know before next month's meeting.

Chairperson Stempel addressed Mister Boyle and said that what she would like from him is that for sure we will steer things his way before we talk about them, but you have so much information available to you about what other cities are doing, because she had received some things from Oregon City on vagrancy (she thinks) the fact that he knows what other municipalities are doing could be very helpful, because why invent the wheel if someone else is already doing it.

Commissioner Poole said that he has seen it in other communities where they would just prioritize it. He said he knows that Sean will do that anyway, but he focuses on where they are going to get the bang for the dollar. How are we going to interact with the citizens so that they are going to understand why they are being approached, why we are doing what we are doing, because he thinks this is something critical that needs to happen in Gladstone – and sooner rather than later. The sooner we work on it, the sooner we start looking at the ways to find the money.

Chairperson explained that we had been discussing nuisances – in particular, the outdoor paging systems. She and Assistant City Administrator Morishita had been sending letters asking for feedback from businesses and schools that use that system. She explained that the Commissioners have a list of all of the business and schools to which the letter was sent. We did get two letters from the school district and one person from the car dealership. So at this time, we are not making decisions on the outdoor paging systems, but we would love to hear feedback so that when we discuss it we will have a little bit more information. She canvassed the Commission to see if they wanted the participants to come forward with the feedback.

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**Don Staley, Director of Finance and Operation of the Gladstone School District, introduced himself and Natalie Osborne, the High School Principal. He said that they**

received the letter and that they want to be good partners and they want to deal with the issue; they wanted to come to the meeting to understand what the concerns were. We use the paging system for many events. It is not just for extra-curricular activities, but it is also for emergencies. It might be paging during safety issues or whatever it might be. They had come to understand and share their hopes that in the code that they see an exception there for the Gladstone School District between the hours of 7am and midnight. We are hoping that exception stays there – we do work with our neighbors if there are concerns. He thinks that Lieutenant Jolley would say that – they work with the police department closely on noise and sounds around all of our buildings. We are just here to understand and how to work with the city.

Chairperson Stempel said that this was not brought up because we had a ton of complaints. We did not have any complaints. We just have one of the Planning Commissioners that lives close to one of those systems who was concerned, because he was not sure how those were being monitored. That just happens to be the point in the codes where we are at, so that is why the letter went out.

Director Staley said that they just need specifics; we've had concerns with trucks in the morning. He said that we are probably familiar with that, with their freezers going. We have to deal with those vendors because we have trucks deliver at 5:00 in the morning – they just don't come during the school day. When we know those incidents, we try to work with whoever it is, if it is the neighbor, the vendor, or one of our systems, but we are always open.

Commissioner Steve Johnson had a question. He said primarily the original question came up in regards to the paging coming from the paging systems at auto dealerships on McLoughlin and drifting into residential neighborhoods. Quite frankly, schools had not been a part of this. Looking in the municipal code under 9.16.040, there are hours of curfew for those under 18. Those hours are between 11:00 pm and 5:30 am. So the logical question would be, why or who would you be paging at midnight? Director Staley said that he doesn't think that they are paging at midnight. He can't think of a time when they would be. Commissioner Nelson said that football is usually done by 10:00. Director Staley noted that the times that he quoted were in there in the exceptions. He said that he doesn't think that there is a sporting event that has gone until 11:00.

Commissioner Steve Johnson asked that if they change that exception to allow them to be done with that... Director Staley said that to him, that corresponds to curfew times for 18 year-olds and under. He just doesn't see a time when it goes beyond that. Director Staley deferred to Principal Osborne and asked if she saw a concern. She said that she did not and mentioned that she thought 11:00 seems a little late. She said that even the football games are over before 10:00 and that by 10:30 they should be gone. Lights are usually off at 10:30, so he sees no problems whatsoever. She said that it is nice for them to have a reason to turn the lights off. It is part of their agreement with neighbors, and the sound would be turned off.

Director Staley said that when they received the letter, they were unsure. They both just wanted to come down and understand and share, and work with you and try to figure out if there is a solution. Chairperson Stempel thanked them for attending and for the wonderful letters.

**Rich Hartman, owner of the Gladstone Nissan,** said that he was there to answer any questions, but it was obvious in their business that it was necessary to use the external speakers all day long. He said that he also has other facilities in Washington where they have had issues in the past. He had a neighbor who was not happy. He said that it has always been easy to fix that. Sometimes it is a speaker in a bad spot, at the back of the store, it has been turned around or it is just turned up too loud. He said that he has never had a situation when working on a case by case basis where he could not make it work for everyone. He said that he could not speak for the rest of the stores, but usually it was from about 8:30 am to 8:00 pm. He thinks that he also saw somewhere where it was 7:00 for car dealerships, but he could not find it again. He thought that was a little early. He stated that it would be very difficult for them to not have the system. You would think that in this day and age that we could use the phone, but his people do not have their phones with them at all times. He said that they had suggested walkie-talkies, but they lose them half of the time, and it is not always with them.

He would rather keep things the way that they are, and if there are issues, then they would deal with them on a case-by-case basis; the code enforcement people or the police can say "Can you help out with this one neighbor?" Chairperson Stempel acknowledged case-by-case basis.

Mister Hartman said that at this point it does not seem to be a problem. The systems can be manipulated a little bit, and there is nothing that can't be worked on and made a little better, rather than more rules or laws.

Commissioner Steve Johnson said that he knows that there have been comments over the years about the paging, there seems to be an industrial level of noise on Saturdays when you seem to be especially busy. He said that he had seen speakers that look like they had been pointed at the moon and that it is fairly common. He said that you guys come and go and the next guy comes in and says, "Hey, here is the amplifier. Let's put it on eleven." That way everyone can hear it without ever thinking about the fact that you are now broadcasting sound for miles. Mister Hartman said that that was called common sense. Commissioner Steve Johnson agreed, but said that it doesn't always get practiced. Mister Hartman said that is why we have a police department. Commissioner Steve Johnson said, "Yeah, but we could also just ban outdoor paging." Mister Hartman said that we could ban lots of things, but that is a little extreme. Commissioner Steve Johnson said that it is modern times and he can understand that you have some concerns and some problems, but he would think that they could find a way of solving this without getting quite so drastic. He said that it is a problem, he has heard from many people. Mister Hartman said that he could see where it could be a problem. Commissioner Steve Johnson asserted that it has been a problem; it has been a problem for many years. Mister Hartman said that no one has come to him about his store. Commissioner Steve Johnson

said that people have just gotten tired of complaining and they just put up with it, that there is a factory level of noise next door. It is where the speakers are pointed, it is the amplification, it is the way the pages are made because you have someone new who is excited who picks up the phone and shouts into it and so there is this shouting going on and it goes on all day long. Mister Hartman conceded that potentially at different stores it could. Commissioner Steve Johnson said that he did not know if it was Mister Hartman's store in particular or whose it is, but it is a problem. Mister Hartman said that he sees how it could be a problem, but he also knows that it can be addressed. He said that he was not one for more legislation. Commissioner Steve Johnson said that he understands that and that he is open for suggestion. He said that if Mister Hartman and his fellow car dealers wanted to get together and see if there weren't some technology changes that you could do, that he would certainly be interested in hearing about it. Mister Hartman said that lots of things could be done with a big check book, if the City of Gladstone wants to help subsidize the technology, he would be all for it.

Mister Hartman said that at this point he would hope that they could work with the laws that are already there, and if there is a violation, which you already have those where you work with individual businesses, to overcome this.

Commissioner Stempel said that he has a garbage man every Tuesday at 5:00 am that he would just love to... Chairperson Stempel said that it was Wednesdays. Mister Hartman said that he had read that, and that there is a rule about that and you can complain. Commissioner Stempel said that he lives above Oatfield and that if he could shut the traffic down at 11:00... Chairperson Stempel said that was it – when you buy a home in a particular area, you have to be cognizant of what is around you and what is going to impact your home. Like Commissioner Stempel said – we live above Oatfield and we cannot have our windows open unless we want to hear car noise – it is all day and all night long. Commissioner Stempel said that they just accept it. Chairperson Stempel said that is just what you do, and if you address this on a case-by-case basis, instead of just making blanket changes that impact everybody – even those that are not in violation. That makes more sense to me instead of just limiting everybody.

Commissioner Steve Johnson said that they had asked in the past for what other cities were doing about this. Do we have that information? City Attorney Doughman said that he did take a look and kind of talked with some people, and everyone that he spoke with had ordinances that were very similar in wanting to be within a certain decibel range, allowing for that to be enforced, allowing for certain exceptions for certain types of uses. He thinks one of their clients, Sandy he thinks, actually had something that about two years ago thought about maybe changing, but they actually had more of a beneficial exception for the suburban dealerships and an RV store, and almost made it a little easier for them. I don't know that they made any legislative changes, but they may have come to more of a behind the scenes solution to it. But from a code point of view, He had not seen anything that is drastically different than what they have here.

Chairperson said that she thinks it all comes down to enforcement. Once we get that piece figured out on what entity is going to be doing the enforcement, then that might be the

route to take and try that first before we start making blanket changes. Commissioner Steve Johnson said that we were back to that enforcement challenge.

Commissioner Stempel said that maybe it might be an education part on your behalf (addressing Mister Hartman?) to educate your salesmen and say hey guys, it is 8:00 pm or later, let's try to limit the use on it. Mister Hartman said that he understands the frustration because he has to deal with these car dealers too. He said that he did not want to be compared with all of them because we all do things our own ways. He said that he just knows that he has always been able to solve those problems without Big Brother having to come down and make new rules.

4. Hearing to Consider Draft Amendments to Gladstone Municipal Code Chapter 17.52 - Signs

Chairperson Stempel explained that this was a legislative public hearing, and she asked if she needed to follow the script. City Attorney Doughman answered affirmatively and said as he amended it. He added that it was not a proponent/opponent kind of thing, but people can comment on it.

She read out the script for the hearing. She opened the Hearing to Consider Draft Amendments to Gladstone Municipal Code Chapter 17.52. She solicited the Commissioners for abstentions. She solicited for declarations of conflict of interest for this discussion. With no responses, she called for the City Staff Report.

City Planner Glasgow said that he took the lead on this report so he could guide the Commission through. He said that it turned out to be a little more straightforward than he had expected. This came to the Planning Commission two months ago when the Gladstone High Boosters requested to put banners up on poles along Portland Avenue in front of the school. Looking through the code, there did not seem a way to do that – mostly because there is a categorical prohibition about having signs on utility poles. So it did not get through, and one of their concerns was that if they opened that up, would they be opening it up for a whole variety of people to be putting signs up on poles. Though it has been pretty quite lately, this city has a history of some pretty vigorous debates about signs – it is one of those things that can lead to a lot of strong opinions.

One of the things that they needed to do, and he thinks they did it pretty successfully after the City was challenged on denying a billboard application, and ultimate lost that challenge, was to rewrite the sign code. One of the things that they had to address is that they cannot deal with content – we cannot regulate on the basis of content. We used to have provisions that would say real estate signs were allowed in these zones, but not in others; campaign signs can be put only here, and only this many of them. So the problem, especially in Oregon, is that if you have to ask, “What does it say?” in order to regulate it, you are running afoul of the Oregon Constitution – so says the Oregon Supreme Court. So it seems to be really tricky to get what would seem really innocuous and very community driven requests to fit without making a much bigger problem. We tailored this to say that if the government owns the sign, then it can put that sign on a utility pole,

if it has permission from the owner of the utility pole. They did hear from the Booster Club and they said that they had written permission from PGE to do this, so what do we have to do in order to do it?

There are other parts of the code, depending on what zone you are in that talks about the size of signs, the number of signs, etc. What he wanted to do was say that if you have a utility pole, and it is in the right-of-way, whether it is the school district, city, special district, it doesn't matter. If the sign is publicly owned it can be placed on the utility pole with the owner's consent, and the sign can be any size, number, etc. Basically it is giving discretion to the city and the schools in this case. That is really the thrust of what he has done here. He basically took some of the exemption language in 050 and said for these types of signs, you are not going to have these limitations on sign size, number, or location. They can be permanent or temporary, at the owner's discretion. That is kind of independent of the other provisions of the code that say you can have them for a determined amount of time (eight months, ten months), whatever it might be. He welcomes any questions or concerns that the Commissioners might have.

Commissioner Kevin Johnson said that when they talked about this two months ago, we talked about the city having to own the signs, but the way this is written, the school district, because they are another government entity can own the signs, so the City will have nothing to do with it. City Attorney Doughman said that they can if they want to, but actually it has always been written that signs in the public right-of-way, other than government owned or maintained signs have been prohibited. Basically, if it was a government owned sign in the right-of-way, it was allowed. It has always said "government," so that could mean state, such as ODOT, and the school district would certainly qualify.

Commissioner Kevin Johnson asked that if it was always in there, then what has changed, then. City Attorney Doughman said that what he had changed was in 050 and 060. In 060, what was changed was 060 – G which used to prohibit signs affixed to the utility pole, but he added, "unless the owner of the pole approves of the sign in writing and the sign is otherwise allowed in the code." That lead him to say in 050 to basically provide and exemption, a flat out exemption, for these types of signs that are owned by the government, are in the right-of-way, and wouldn't be subject to other size, number, and location criteria. That would arguably apply in other parts of this code.

Commissioner Kevin Johnson said so really this could have just been added to 050-B. City Attorney Doughman said that it already existed; the prohibition on it was basically the fact that it was going to be on a utility pole – that would have made it prohibited. Commissioner Kevin Johnson asked if 060 fixes that. City Attorney Doughman replied that it would. He added that there are arguably limitations on the size, number, and location of the signs in other parts of the code, so that is that new subsection F. It basically says that all that stuff, when it comes to these types of signs, do not apply.

Chairperson Stempel said that the question she has is that the content of the sign is the responsibility of the owner of the utility pole. City Attorney Doughman said that it was; if

they wanted to put up a sign that says "Enjoy Coca-Cola," they could, as long as the utility pole owner says that they can put it up on their pole. Chairperson Stempel said then that shifts that to them. She pointed out that the code now says "in writing," should we then hold a copy of that? City Attorney Doughman said that we should at least ask for it, and he thinks that he did do that. Chairperson Stempel said that was good, because we can say that it was signed and that we have the paperwork here to prove it.

Commissioner Steve Johnson said that if we are talking specifically in the area of the school, and putting up booster signs, did I hear then that it would be possible for them to put up commercials on those signs. Who else could ask for that – could Coca-Cola come along and ask to put up those signs? City Attorney Doughman said no, the owner of the sign would have to be a government entity. To take your example, Coca-Cola would have to be inside of the city or school district. Commissioner Steve Johnson said that they could do this, then, if they came to the city and said that they would pay a bunch of money to put up these signs. City Attorney Doughman said that this was the slippery slope of this thing. We can't come out and say that only signs that promote Gladstone athletics. In other states you can, but in Oregon, you cannot. So you are constantly trying to do it in a way that would not, but the chance is always there; it is remote, but there. Commissioner Steve Johnson said that if someone came to the city with enough money, and said that they would like to advertise on signs on those poles in front of the school because they have a whole bunch of consumers there that we would like to reach, the City could just, based on the amount of money, say, "Yeah, let's just do it."

City Attorney Doughman said that there is nothing else to prevent the City from doing something like that. Commissioner Kevin Johnson asked who at the city makes that determination. Is it going to have to go to City Council, is it going to require a public hearing? City Attorney Doughman replied that it wouldn't necessarily have to go through a hearing process, but his opinion is that a decision like that would have to go to City Council. Chairperson Stempel concurred that it could be put on the agenda by anybody. Another thing was they could have something there that would specifically say unless it was permitted by the City Council. Commissioner Steve Johnson said that there is no way of limiting it to non-commercial; speech is speech – non-commercial, commercial, it does not matter. City Attorney said that is true in Oregon. If you start reading in cases across the nation, there is a distinction between commercial and non-commercial for purposes of regulation, and that has been upheld. It is tough to do, but you can do it. In Oregon, they say "speech is speech is speech." You can imagine what was considered obscene when Oregon became a state...but you would be amazed at what is not. There was a case in Eastern Oregon in about 2005 that went all the way to the Supreme Court that had to do with live sex acts on a stage that people pay to see – that is protected speech in Oregon. Obscenity in Oregon has to be something pretty major.

That is basically it, except the classic kind of stuff where you yell fire in a crowded theatre. He doesn't know what they could put on a sign that would start that kind of riot. Commissioner Steve Johnson said what about if they put something up there about religious issues. City Attorney Doughman said that gets into another area, but there would not be a per se prohibition then. That gets into a whole sponsorship of state

sponsoring religion. Commissioner Steve Johnson said that he could think of times when a fringe religion or somebody like that would come to the city and say that the code says that we can put up our signs by the school; we want to do that, and the City Council says no – then you are in court. That is possible. There is good case law in Oregon about government speech, as ridiculous as that might sound. License plates – if someone in Oregon wanted to have license plates that said VINO. Commissioner Kevin Johnson said that they had changed that now. City Attorney said you mean that they can have plates that say wine or beer. Commissioner Kevin Johnson said that he believes so. City Attorney Doughman said that the state had a prohibition on that so that you could have no wine, no beer, no obscenities, - you can't have a personalized license plate and have that on there. It is all about the content; it is about as basic as it can get in what is the content of a license plate. The Supreme Court said that the license plates are the government's property, they are doing it for a legitimate reason to be able to track registration – no individual has the right to put anything on government property in terms of a message. They have the right to do that in virtually every other situation: on their house, on a sign that they own; we get to regulate size, we get to regulate where it goes and how many they get. That is where it gets to be a challenge; you are basically trying to get to an outcome here which is to allow the Booster Club to put their signs up at the high school. We would prefer that that is all that ever gets put up on those poles. We do roll the dice a little bit...He thinks the argument against it is that the city or the school district has the right to put up the signs in the first place, and what are the odds they are much lower than if private individuals had the right to do that. Then it would be a free-for-all.

City Planner Glasgow said that you are lumping in schools with government, but that is not the way he reads the sign code. The sign code specifically calls out institutional uses, defined as schools and such. A school would not be able to put up a sign, in his mind, based on government owned or maintained signs. The City of Gladstone could, the state of Kansas could, but the Gladstone School District is not a government agency for this purpose because it is dealt with as an institutional use later in the same section. City Attorney Doughman read off several of the other entities in the section "like public facilities, homes for the aged..." City Planner Glasgow read off, "church, school, public facility, hospital..." He said that he kind of liked the way that they had it, because then you could see it. City Attorney Doughman said that if we stuck with that interpretation, then it would still be the City that gets to manage that. We would still be in the process. Another option would be to say government, including public schools – they are government.

Commissioner Poole said that was the issue he was going to ask because when you are dealing with rural property, they can build and zone a school out there because it is a school. He thinks we just need to sort that out and get back to us, and he would recommend that the Council have some sort of process, more than anything, so that as we start working on Portland Avenue or our new library, we know where we are headed because they are going to look and see what is going on in town and, you've seen what happens with the car dealers, when one guy comes in and puts up banners, two months later they have all got them. City Attorney Doughman said that it was hard to put the genie back in the bottle, even if it is a code violation; technically, even if it is nothing

else, whether it is Sean not having a lot of experience in zoning code enforcement or saying that he has 15 things to address here and I have to prioritize them, banners on poles don't make it very high. It is always hard when you get these requests, because they are always well intentioned. We can certainly put something in there where it says government of public school district. There is an element in this where it just becomes obvious where the courts would see that you are just trying to satisfy this particular thing – that is a risk. I guess that gets back to how much do you care about the request.

City Planner Glasgow pointed to a spot in the packet and asked if this was the new language. It says government owned and maintained signs in the public right-of-way. He says that is fine, but then it should say the City of Gladstone doing the signs, not the school district because as he reads it. Discussion ensued. He said that he would just leave it up to City Council to what these signs are; if they want to do a signs for the school, great. Chairperson Stempel said that we should just let City Council make the decision.

Commissioner Kevin Johnson said but now we are talking about government owned and maintained, which means that the city is going to have to maintain them. City Attorney Doughman said “OR” maintained. Chairperson Stempel said to require them to maintain the signs by the people that are putting them up. City Attorney said that we could do this. He said that we could “own” them without having to maintain them. I guess someone could say, “My gosh, you own the signs, Why aren't you maintaining them?” We could delegate that duty. Chairperson Stempel said that could be part of the agreement. She asked how much were the sign permits for something small. City Attorney Doughman said it was pretty modest. City Planner Glasgow said he thought it was \$50 or so. A discussion ensued.

Chairperson asked what they wanted to do; leave it as it is or make them move it forward – she said she thinks it is fine the way it is. City Planner Glasgow said that the way it is, the State of Kansas could put a sign up. Chairperson Stempel asked if he thought it should say “City of Gladstone.” City Attorney Doughman pointed out that ODOT might have reasons for putting signs up. It could be somebody that we don't even know about. The state is what comes to mind – there may be some need for the state to put something in the right-of-way and one thing we don't want to do is put ODOT through a permit process. City Planner Glasgow read from the statute, “050.1 sub B governments owned or maintained signs in the public right-of-way,” that is already in there. So ODOT is already covered. Chairperson Stempel added Metro. City Planner Glasgow continued with anybody who needs a speed limit sign or welcome to Gladstone sign. They are all covered. You are just making it subject to some dimensional standards. City Attorney Doughman said that he just didn't want to have to go in there and tweak everything just to get the Booster Club their signs. City Planner Glasgow said that he felt so bad when he had to tell them “no” the first time that they came in. It is so innocuous anyway. Chairperson Stempel said they just didn't know what they were asking – they should come to our meetings more.

Chairperson Stempel gave a brief recap of the discussion. Commissioner Kevin Johnson said that he thought they were at a spot where they could just pass it the way it is now.

City Attorney said that they should recommend to the Council that they adopt it. Chairperson Stempel solicited for a motion on the Amendment to the Code.

*Commissioner Kevin Johnson made a motion to close the public hearing. Commissioner Stempel seconded the motion. Chairperson called for a vote. The motion passed unanimously.*

Commissioner Stempel said that he was not there when the Booster Club came and asked about this. So he wanted to know why they wanted the signs to go on the pole instead of the fence. Commissioner Kevin Johnson said that it was because they wanted them up higher, and that they were two sided so that as people were driving down the road either way, they could read them. Commissioner Poole said that they did them in Oak Grove for the Bike and Walk, at Jennings Lodge.

*Chairperson solicited for a motion. Commissioner Kevin Johnson made the motion to move this to City Council. Commissioner Stempel seconded. Chairperson Stempel called for the vote. The motion passed unanimously.*

Between topics, a discussion ensued regarding the Commercial Zones. City Planner Glasgow said that they had just finished and that Clackamas had just finished theirs. They briefly discussed the topics that were coming up soon and discussed how they may work it into the schedule.

Chairperson Stempel announced that the Planning Commission is kind of in flux, since two of its members were running for City Council and they will not know until November if they will have two more vacant seats to fill, or one, or none. She was concerned that if they start getting into the meaty stuff. She would rather have a cohesive Commission to move forward with instead of having people in and out. Commissioner Stempel concurred with if you start it now, come November, you just have to restart it. Assistant City Administrator Morishita pointed out that Commissioner Poole's position was up for reappointment in January. Chairperson said that she thinks they ought to be looking at all of this stuff, but she wants to have everybody here, present, and moving forward.

Commissioner Kevin Johnson said that in going back to Sean, why this noise table is not enforceable. Chairperson Stempel said that it was because they did not have anybody to enforce it. Commissioner Johnson said that is not Sean had said. City Attorney said that DEQ had some method. Commissioner Stempel reflected about when we had to go to DEQ, it was not an elective thing. They used to have those little sound monitors to have next to the exhaust pipes to see if your car was too loud. Chairperson Stempel asked if that was what he was saying, that DEQ had the machines, and that we don't to determine that. Commissioner Stempel said that they do not do that anymore. City Attorney Doughman said that he took it to mean something about the process. Commissioner Poole said that that is what he got out of it. It was a nightmare to enforce and it was very complex.

Chairperson said that whether they adopt it or not, they reference it and the state has already adopted it, so should we ignore it or include it. City Attorney advised that he does not generally include tables and things like that. Chairperson Stempel suggested that they don't include it. City Attorney Doughman explained that it is called out by reference. You can go and look at it. Perhaps if it is something that people look at a lot, then it makes sense to do it because it is convenient for the reader. Rather than having to go and look at two things, you just have it right there, but then you have to remember to update it. He believes that it should be done in brevity, say it and be done. If it is a table that is going to be in a state rule, especially if it is one that is as obscure as this, just reference it and you don't have anything to worry about. Commissioner Kevin Johnson pointed out that it was not just talking about cars. City Attorney Doughman said that he thought that one was just about motor vehicles. Chairperson Stempel pointed to the reference in the packet and said that it was the one that they were discussing. Discussion ensued. Commissioner Kevin Johnson said that he thought it was the table in the packet. Chairperson Stempel said that that table stayed – it was the table that was referenced below.

The citation is 8.12.050.3. He read the statute as it applies to motor vehicles. Chairperson Stempel said that she thinks that is fine as long as they reference it. City Attorney stated that it says a copy is on file with the City Recorder. Chairperson Stempel said then they did not have to keep updating their stuff. She asked if she needed to take a vote on it. City Attorney Doughman said that it was his take that if it was consensus, there was no need.

Chairperson Stempel canvassed the Commissioners:

- Commissioner Poole – We are not going to do anything with it really.
- Commissioner Steve Johnson – Said he was lost. Chairperson Stempel explained that it is just putting in a table that was part of the ORS. Commissioner Steve Johnson said that he had seen tables and references about time periods and dogs barking ten minutes or barking 9.5 minutes and the problem goes away, so he did not know. He asked if it had always been there. Chairperson Stempel said that the reference had, but not the table. Discussion ensued. Assistant City Administrator Morishita added that she thought there was some other changes made to the code in addition to the table. City Attorney said that there were. Chairperson Stempel said that the only issue that Sean had with it was that one table. She said that she agreed; if we actually have the table in the code, then it is up to the Commission to keep it updated, where if they just reference it, they can just go to the state site, and get the information. Assistant City Administrator said that if there is a table like that and you were going to cite somebody on and it is more than a couple of years old, you are going to go to the state site to see if the table is still current
- Commissioner Kevin Johnson said that he was fine with it.
- Commissioner Stempel said he was good (he rides a Harley).

Chairperson Stempel said that as far as the Work Session goes, they should just postpone it. Commissioner Kevin Johnson asked if they were going to get a staff report to start this thing, or what are we thinking. Chairperson Stempel clarified, for the commercial zone? City Planner Glasgow said he could do whatever they want. He suggested that they just

start from scratch, and narrow it down to a zone or two or a plan designation, at least commercial or whatever commercial zones you have here, and start. He said he could do that. Just let him put something together. Chairperson Stempel said that she would at least start with Portland Avenue, because she knows that that anchor property is purchased, and she would love to have something in the works to maybe be adoptable by the person that is going to be building that new building. City Planner Glasgow said that this is something different than the Winterbrook Study – what that came out with. Chairperson said that that was really vague and that it was good and that you were doing everything right. City Planner Glasgow said that he can come up with some examples, some suggestion, of what other cities have done, because they could just tailor them. He asked when they wanted that. Chairperson Stempel answered, “January.”

Assistant City Administrator pointed out that the next full session that they were going to have will be in January. A discussion ensued about the upcoming holidays.

Commissioner Poole said that one of his neighbors was asking about the leaf pickup. How long does that go on? Chairperson Stempel said that it was in the newsletter and it is on the website. She said that each neighborhood gets picked up twice.

5. Work Session: Gladstone Code Review -  
Not attended.

## **BUSINESS FROM THE PLANNING COMMISSION**

Not attended

### **ADJOURN:**

*Commissioner Kevin Johnson moved to adjourn the meeting. Commissioner Stempel seconded. Motion was passed and the meeting was adjourned at 8:25.*

Minutes approved by the Planning Commission this 20<sup>th</sup> day of JANUARY, 2015, 2015.

  
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Tamara Stempel, Chair