



## COUNCIL SPECIAL SESSION

City Hall Council Chambers, 10722 SE Main Street  
& Zoom Video Conference ([www.milwaukieoregon.gov](http://www.milwaukieoregon.gov))

## MINUTES

MARCH 29, 2022

**Council Present:** Councilors Lisa Batey, Angel Falconer, Desi Nicodemus, Council President Kathy Hyzy, and Mayor Mark Gamba

<p><b>Staff Present:</b> Community Development Joseph Briglio City Attorney Justin Gericke Natural Resources Technician Galen Hoshovsky Deputy City Recorder Nicole Madigan City Manager Ann Ober Public Works Director Peter Passarelli</p>	<p>Urban Forester Courtney Wilson Climate and Natural Resources Manager Natalie Rogers Code Compliance Coordinator Tim Salyers City Recorder Scott Stauffer Planning Manager Laura Weigel</p>
--	---

**Mayor Gamba** called the meeting to order at 5:04 p.m.

### 1. Call to Order

**A. Pledge of Allegiance.**

**B. Native Lands Acknowledgment.**

### 2. Comprehensive Plan Implementation, Housing and Parking Code Amendments (continued) – Ordinance and Resolution

Call to Order: **Mayor Gamba** called the continued public hearing on the proposed housing and parking code amendments, file #ZA-2021-002, to order at 5:08 p.m.

Purpose: **Mayor Gamba** announced that the purpose of the hearing was to receive an update from staff, take additional public comment, and continue deliberation.

Conflict of Interest: No Council member declared a conflict of interest.

Staff Presentation: **Kolias** noted previous Council hearings and discussion on the parking and housing code amendments. **Ober** and **Kolias** reviewed the timeline for Council to finish deliberations and adopt the code changes.

Correspondence: Staff reported that one anonymous letter had been sent to Council regarding the hearing topics and the group remarked on whether unnamed correspondence should be included in the meeting record.

Conduct of Hearing: **Mayor Gamba** reviewed the public comment procedures.

Audience Testimony: **Garylynn Woodsong**, accessory dwelling unit (ADU) study consultant, noted that the study recommendations to allow ADUs anywhere in the city and provide an approval process for carriage house ADUs had not been included in the proposed code and encouraged Council to include the study recommendations.

Staff Response to Testimony: **Kolias** reported that the Planning Commission had considered allowing ADUs to be built in a front yard and Council could add language to the code to allow them. The group commented on what the code currently allowed and what the changes proposed in terms of new ADUs and converting garages to carriage houses.

Questions from Council to Staff: **Councilor Batey** remarked on the lack of recent discussion about cottage cluster and townhome housing. **Batey** and **Kolias** discussed cottage cluster sustainability design and land development standards.

**Councilor Batey, Kolias, and Mayor Gamba** remarked on the maximum number of units a single cottage cluster could include.

**Councilor Batey, Kolias, and Council President Hyzy** discussed the proposed calculation for determining maximum building height for cottage cluster housing.

**Councilor Batey, Kolias, and Mayor Gamba** remarked on why the proposed code would limit a front yard to 10-feet instead of setting the length at a minimum of 10-feet. They also commented on cottage cluster community building setbacks.

**Gericke** recommended that Council move to close the public comment and begin deliberation given the nature of Council's discussion.

Close Public Comment: **It was moved by Council President Hyzy and seconded by Councilor Falconer to close the public comment part of the hearing on the proposed housing and parking code amendments for today. Motion passed with the following vote: Councilors Batey, Nicodemus, Falconer, and Hyzy and Mayor Gamba voting "aye." [5:0]**

**Mayor Gamba** closed the public comment part of the hearing at 5:39 p.m.

Council Discussion: The group continued to discuss allowing an existing house that becomes part of a cottage cluster development to be considered a community house. It was Council consensus that the code should set the cottage cluster housing front yard setback to a maximum length of 20-feet and a minimum length of 10-feet.

The group remarked on why the proposed code referred to lot coverage and impervious areas in different places, noting differences in cottage cluster housing units versus other communal areas. They discussed calculations for determining resident and community bike parking spaces per housing unit, whether the proposed parking design rules would make it harder for disabled individuals to visit or live in cottage cluster housing and whether the code should follow universal access rules, and how Oregon House Bill (HB) 2001 housing requirements impacted the proposed design rules. It was Council consensus that the code should include universal accessibility design standards.

**Councilor Batey and Kolias** discussed whether the code would allow cottage cluster housing to have garages and not just covered parking spaces and it was Council consensus to allow garages for cottage cluster housing.

The group remarked on Council's pace in considering changes to the proposed code.

**Councilor Batey and Kolias** noted that townhomes were required to be on separate lots and the code treats modular and manufactured homes the same.

The group noted that buildings in higher density zones could be as tall as 55-feet and **Councilor Batey** expressed concern about stacked tri- or quadplexes being that high. **Councilor Falconer** observed that high density zone building heights were not part of the proposed code package and suggested that Council not discuss those issues now.

The group discussed allowing 3,000 square foot lots to become middle housing developments and Councilor Batey's suggestion that the minimum lot size for middle housing developments be 5,000 square feet. They remarked on the real estate market's impact on middle housing projects, how to incentivize affordable housing types, and what would happen to existing small lot non-conforming middle housing units. It was Council consensus that the proposed code should not allow single-family units on lots less than 5,000 square feet but would allow multi-family housing.

**Mayor Gamba** recessed the meeting at 6:30 p.m. and reconvened at 6:37 p.m.

**Councilor Batey** agreed with the original staff recommendation that the city require one onsite parking space per housing unit, which the Planning Commission had removed from the proposed code. **Batey** remarked on the Commission's parking requirement discussion, the likelihood of middle housing units being built in Milwaukie and suggested that requiring off-street parking would not hinder developers from building new houses.

**Councilors Falconer and Batey** commented on whether residential streets had existing parking issues and discussed existing code requirements for on-site parking for single family residential units that would not be changing. **Falconer** and **Kolias** noted how much onsite parking HB2001 required per unit for middle housing types.

The group discussed the status of a Portland General Electric (PGE) pilot program to install electric vehicle (EV) charging stations on utility poles in Portland and Milwaukie.

**Mayor Gamba** observed that the code would allow a developer to build onsite parking but would not require it. **Councilor Batey** commented on concerns about middle housing developments creating parking issues for an entire block. **Council President Hyzy** and **Ober** acknowledged public comments about existing parking issues across the city and noted the city's plans to address them. The group remarked on starting a residential parking program, concerns about not requiring onsite parking for middle housing units, and why some areas have more parking issues than others.

**Councilor Falconer** suggested that requiring an affordable housing development to have onsite parking could be an equity or tree problem. The group observed that garages were not being required, onsite parking spaces could be directly in front of a front door, and they discussed the cost of building sidewalks.

**Mayor Gamba** agreed that developments on heavier volume streets and townhomes should have an onsite parking requirement. **Councilor Batey** and **Gamba** remarked on the impact of townhome developments on parking and the likelihood that parking issues would cause some to reevaluate the use of their garages.

**Council President Hyzy** acknowledged public comments that voiced concern about the code creating parking issues and **Councilor Batey** suggested that removing the parking requirement now would be premature given the upcoming Transportation System Plan (TSP) work. **Council President Hyzy** believed removing the onsite parking requirement would provide flexibility to get more housing built and save trees.

Council discussed and agreed with Mayor Gamba's proposal that .5 onsite parking spaces per housing unit would be required for developments on arterials or collector streets and for townhome developments of a certain size.

**Councilor Batey, Kolias, and Mayor Gamba** commented on when a housing development was required to make transportation and public improvements. **Kolias** added that the proposed code would allow for angled parking and the group remarked on the benefits of reversed angle parking.

Continue Hearing: It was moved by **Councilor Nicodemus** and seconded by **Councilor Falconer** to continue the hearing on the Comprehensive Plan housing and parking code amendments, file #ZA-2021-002, to a date certain of April 5, 2022. Motion passed with the following vote: **Councilors Falconer, Batey, Nicodemus, and Hyzy** and **Mayor Gamba** voting "aye." [5:0]

**Mayor Gamba** closed the public hearing at 7:25 p.m.

### **3. Comprehensive Plan Implementation, Tree Code Amendments (continued) – Ordinance**

Call to Order: **Mayor Gamba** called the continued public hearing on the proposed tree code amendments, file #ZA-2021-002, to order at 7:25 p.m.

Purpose: **Mayor Gamba** announced that the purpose of the hearing was to receive an update from staff, take additional public comment, and continue deliberation.

Conflict of Interest: No Council member declared a conflict of interest.

Staff Presentation: **Rogers** provided an update on the proposed residential tree code and related fees, noting changes since the last hearing. **Councilor Batey** asked Rogers to review material previously presented. **Ober** confirmed that Council could discuss the code and fees at the same time. **Gericke** recommended that Council take audience testimony before the staff update.

Correspondence: Staff noted correspondence received regarding the hearing topic.

Audience Testimony: No audience member wished to speak about the hearing topic.

Close Public Comment: **It was moved by Councilor Batey and seconded by Council President Hyzy to close the public comment part of the tree code amendment hearing for today. Motion passed with the following vote: Councilors Batey, Nicodemus, Falconer, and Hyzy and Mayor Gamba voting “aye.” [5:0]**

**Mayor Gamba** closed the public comment part of the hearing at 7:36 p.m.

Council Discussion: **Rogers** reviewed the proposed residential tree code, including permits, fees, and replanting requirements. **Mayor Gamba** and **Rogers** remarked on how the code would address agricultural versus commercial trees. The group talked about orchard trees, noting how the code would allow for exceptions.

**Rogers** reviewed the permit process for removing a healthy tree. **Council President Hyzy** expressed frustration with the proposed code’s use of diameter at breast height (DBH) instead of simpler measurements and the group discussed why the code used DBH and how other measurements could be added to the code.

**Councilor Batey, Passarelli, and Rogers** discussed how to get developers and property owners to maintain trees on private property and the city’s obligation to maintain trees in the public right-of-way (ROW). **Rogers** remarked on the Tree Board’s work to place a monetary value on trees.

**Rogers** reviewed preservation and canopy standards for residential developments, how mitigation fees would be calculated, and tree protection and soil volume standards. The group noted existing standards for caring for and replanting trees during construction.

**Council President Hyzy** and **Councilor Batey** suggested that any indoor home conversion project should not require a tree plan. **Rogers** and **Councilor Falconer** commented on how a tree plan requirement could be developed for non-commercial residential projects. It was Council consensus that indoor non-commercial residential construction projects should not require a tree planting plan.

**Councilor Falconer** and **Rogers** noted which stakeholder groups had been included in the process to develop the tree code.

**Mayor Gamba** asked if Council had any additional feedback on the proposed tree code.

**Councilor Falconer** remarked on the challenges of placing a monetary value on trees when considering tree code fees and fines. **Passarelli** and **Rogers** discussed the

process used to develop the proposed fees and noted that the fees could be revised by Council as needed. The group confirmed that the municipal court judge would have discretion in determining fine amounts for tree code violations and observed that the tree goals were aspirational in terms of the desired outcomes encouraged by the code.

The group noted that Council had concluded its deliberation on the proposed tree code and would focus the remainder of the current meeting on the proposed tree fees. They reviewed the code changes requested by Council at the current meeting.

**Mayor Gamba** recessed the meeting at 8:19 p.m. and reconvened at 8:25 p.m.

**Councilors Falconer and Nicodemus** commented on how unaffordable some of the proposed tree removal fees would be for some families and whether landlords would pass tree removal costs onto renters. **Passarelli** explained how the fees were structured to accommodate elective non-commercial tree removals and match the public tree code fees. The group discussed whether private tree fees should match public tree fees and whether private fees should be capped in certain situations. **Rogers** noted that city staff would be available to consult with private property owners about how to handle various tree situations.

The group discussed the importance of informing the public about the new tree code and fees and the limits of what landlords can do in terms of passing on property maintenance costs to renters. **Rogers** summarized that Council had concerns about the proposed tree removal fees and the tree code violation fine amounts.

**Mayor Gamba** supported the judge having discretion in assessing fines and was concerned about capping tree removal fees. The group remarked on what the permit fees would cost to remove a healthy 15-inch DBH tree and noted that examples could be included in the code to explain how the fees work and what they would cost.

The group commented on whether Council supported an overall cap on tree removal fees. **Mayor Gamba** and **Councilor Batey** did not support a fee cap and **Council President Hyzy** wanted the judge to have discretion. The group noted that the judge would have the discretion to reduce or waive fines in situations where a tree was removed without a permit. **Rogers** summarized that Council wanted options to ensure that the code would provide a way for accidental tree removal fines to be reduced.

**Council President Hyzy** believed that people with little money often have a negative relationship or view of government and noted that requiring fined individuals to come to court could put them at a disadvantage. **Rogers** and **Hyzy** remarked on what barriers, such as language and mobility, individuals may face in dealing with fines related to the removal of trees. The group commented on whether the fees had taken these barriers into consideration and the city's overall approach of setting fines to encourage the preservation of the tree canopy.

**Councilor Nicodemus** expressed concern about setting up new barriers for individuals who are not familiar with how government works. The group discussed how the code could be set-up to avoid situations where individuals who remove trees could be fined too much. They commented on the differences between a tree that must be removed versus removing a tree by choice. **Mayor Gamba** suggested trees need to be valued more and appreciated for their impact beyond the property it's located on.

**Ober** suggested Council had concluded its deliberation on the tree code and noted there would be time at the April 5 regular session for Council to discuss the tree fees.

**Ober** asked if Council had other tree code issues. **Councilor Falconer** was interested in adding descriptions of different trees into the code and acknowledged the workload challenges of doing so. **Ober** noted the city already had tree lists outside of the code. **Mayor Gamba** agreed with Falconer's concern that the code treated all trees the same.

**Councilor Batey** and **Mayor Gamba** observed that the city had talked about a tree code for decades. **Council President Hyzy** noted that the city revisited the fees every two years and asked staff to track the tree fees to improve them in the future. **Ober** reported the city was adopting a new permitting system that would track tree fees.

**Council President Hyzy** and **Ober** summarized that Council had agreed on several changes to the tree code that staff would review at the April 5 regular session.

Continue Hearing: **It was moved by Councilor Batey and seconded by Councilor Falconer to continue the hearing on the Comprehensive Plan tree code amendments, file #ZA-2021-002, to a date certain of April 5, 2022. Motion passed with the following vote: Councilors Falconer, Batey, Nicodemus, and Hyzy and Mayor Gamba voting "aye." [5:0]**

**Mayor Gamba** closed the public hearing at 9:17 p.m.

#### **Transit Police Meeting and Parks District Meeting – Discussion**

**Gamba** and **Ober** explained they would be meeting with TriMet and the Multnomah County Sheriff's Office to discuss the possibility of the Milwaukie Police Department (MPD) rejoining the regional transit police force. They noted differences in how the force was managed by the sheriff's office now versus when it had been run by the Portland Police Bureau. The group discussed Council's interest in MPD rejoining the force, citing concerns about transit safety, transit officer uniforms, whether transit officers would be armed, the status of TriMet's rider ambassador program, if transit rider input was being considered, and whether the transit police reflect the communities they serve.

**Ober** noted that the North Clackamas Parks and Recreation District (NCPRD) Board would be discussing an intergovernmental agreement (IGA) between the city and district to fund Milwaukie Bay Park phase three construction on March 30. The group noted when the district would act on the IGA and who from Milwaukie would attend the meeting.

**Ober** summarized the issues Council had raised regarding the possibility of MPD rejoining the regional transit police force.

#### **4. Adjourn**

**It was moved by Councilor Nicodemus and seconded by Council President Hyzy to adjourn the meeting. Motion passed with the following vote: Councilors Falconer, Batey, Nicodemus, and Hyzy and Mayor Gamba voting "aye." [5:0]**

**Mayor Gamba** adjourned the meeting at 9:39 p.m.

Respectfully submitted,

  
 \_\_\_\_\_  
 Scott Stauffer, City Recorder