

Attachment C: Council Memo



Memorandum

Date: May 1, 2013
To: Mayor Piercy and City Council
From: Gabe Flock, Senior Planner, 541-682-5697
Subject: **EWEB Riverfront Master Plan Process Update**

This memo is intended to provide council with a brief update regarding the EWEB Riverfront Master Plan process. A work session on this topic is scheduled for May 15th that will provide an opportunity to share more in depth information and answer questions.

The Planning Commission conducted its review of EWEB's land use application package following a public hearing and three deliberation meetings. Several modifications were made to the package as a result of those deliberations and on March 11, 2013, the Planning Commission voted unanimously (7-0) to recommend the land use application package for approval.

The land use application package includes several regulatory actions needed to formally implement EWEB's Riverfront Master Plan, including a Metro Plan Amendment, Refinement Plan Adoption and Amendments, Code Amendments, a Willamette Greenway Permit, and Zone Change.

Several council work sessions and a public hearing will be held before council is asked to act on the land use application package, including:

- An initial work session is scheduled for May 15, 2013 to discuss the history of the process to date, the basic elements of the master plan, and the regulatory tools proposed. This meeting will provide an opportunity for councilors to ask questions and request additional information as needed.
- Another work session is scheduled for June 12, 2013 to follow up with additional information and questions from council.
- A public hearing is scheduled for June 17, 2013.
- Deliberations will be scheduled as needed following the hearing, in order to finalize Council's action prior to the August break.

Quasi-Judicial Procedures

This is a quasi-judicial process which will require that the initial work sessions be limited to factual information and questions about the request. Council should avoid prematurely

expressing opinions or deliberating on the merits of the proposal in advance of the public hearing.

“Ex-parte contact” should also be avoided to the extent possible. If these contacts do occur you must keep track of them and disclose them on the record before your public hearing to ensure a fair and open public process, *i.e.*, a chance for the public to rebut the substance of such communication. A failure to adequately disclose an ex parte contact or a perception that your statements demonstrate a bias could be a basis for LUBA to invalidate the City’s final decision on the matter. Once the opportunity for public comment is over and until the City’s decision becomes final (including the resolution of any appeals), you must refrain from any ex parte communications because, at that point, the opportunity for public rebuttal has passed.

While the law anticipates that you will handle the ex parte disclosures orally, we expect some long lists on this matter and therefore recommend that Councilors prepare a written disclosure, instead. The written disclosure should declare, as an ex parte contact, all of your contacts relating to the substance of EWEB’s proposal (verbal or written) if those contacts occurred outside of the public hearing. This does not include contacts with City staff; this does include site visits and media information. The law does not require you to disclose dates or speakers, so a statement like “I have heard from a number of people that they are concerned about XXXX” is sufficient. The substance is the important part of the disclosure, thus, you cannot just say “I heard a number of times from Jose Smith.” There is no model or magic words; you just want to make sure that the public gets to know all of the information that you have been given.

We will attach each Councilor’s written disclosures list to the AIS for the hearing, explicitly incorporate them into the record and ask that each of you reference your statement and state that the contacts lists are the only additional contacts you have had. We are hoping this will save some time for you and help to ensure that all contacts are disclosed. The City Attorney’s Office is happy to review each of your statements before you finalize it.

For More Information

Please feel free to contact me at 541-682-5697 or at gabriel.flock@ci.eugene.or.us if you have any questions.