

**MINUTES OF THE CITY OF HOLLADAY  
PLANNING COMMISSION MEETING**

**Tuesday, September 5, 2023**

**5:30 p.m.**

**City Council Chambers**

**4580 South 2300 East**

**Holladay, Utah**

**ATTENDANCE:**

**Planning Commission Members:**

Martin Banks, Vice-Chair

Ginger Vilchinsky

Paul Cunningham

Dennis Roach

Karianne Prince

Angela Gong

**City Staff:**

City Planner, Carrie Marsh

Brad Christopherson, City Attorney

**WORK SESSION**

Vice-Chair, Martin Banks, called the Work Session to order at approximately 5:30 p.m. The agenda items were reviewed and discussed.

**CONVENE REGULAR MEETING – Public Welcome and Opening Statement by Commission Chair.**

Vice-Chair Banks called the Regular Meeting to order at approximately 6:03 p.m. He read the Commission Statement for the benefit of those present and discussed the Public Hearing process.

**PLANNING COMMISSION ELECTION**

It was noted that the Planning Commission election would take place at the end of the agenda. Following the Public Hearing and Action Item on the Regular Meeting agenda, Vice-Chair Banks asked to discuss the Planning Commission election. He reported that there have been several recent vacancies on the Commission. Additionally, his three-year term would conclude at the end of the month. He was willing to stay on in his current role until new members are in place. Vice-Chair Banks asked for a motion to appoint a New Planning Commission Chair and Vice-Chair.

*Commissioner Prince moved that Commissioner Roach be appointed to serve as Chair of the Planning Commission, which would be effective after the close of the current Planning Commission Meeting. Vice Chair Banks seconded the motion. The motion passed with the unanimous consent of the Commission.*

*Commissioner Roach moved that Commissioner Prince be appointed to serve as Vice-Chair of the Planning Commission, which would be effective after the close of the current Planning Commission Meeting. Vice-Chair Banks seconded the motion. The motion passed with the unanimous consent of the Commission.*

## **PUBLIC HEARING**

### **1. Text Amendment – 13.01.100; PERFORMANCE BONDS (A STATE REQUIRED AMENDMENT) Review and Recommendation to City Council on Proposed Updates, Consolidations and/or Clarifying Amendments to Title 13, of the Holladay City Code, Land Use and Development Regulations as they Relate to Statute Obligations, Set Forth by 2023 State of Utah Legislation within HB406, Modifying Provisions Related to Improvement Completion Assurance Requirements (Bonding). Item to be Reviewed as a Legislative Action, According to Procedures Set Forth in Holladay Ordinance §13.07. File #23-4-04**

City Planner, Carrie Marsh, presented the Staff Report and stated that the text amendment is a Legislative action. The Planning Commission will make a recommendation to the City Council. The request was to amend Title 13 of the Land Development Code. The amendments had been reviewed by an interdepartmental team that consisted of the Public Works, Legal, Community Development, and Public Utilities Departments. The purpose of the Code Amendment was to implement new State Legislation, House Bill (“H.B.”) 406, which was enacted last year. It was related to improving completion assurances (bonding) and will comply with the provisions of the Utah Municipal Land Use, Development, and Management Act (“LUDMA”).

Ms. Marsh explained that the proposed amendments would effectively remove requirements to bond for on-site landscaping and amenities unless it is for public improvements, public landscaping, or anything essential for public health and safety. The proposed Code changes also set forth administrative procedures and requirements for improvement agreements and financial assurance for construction improvements prior to recording a plat or obtaining a Building Permit. The amendments would bring the City Code into compliance with the new requirements. All of the proposed amendments were outlined in the Meeting Materials Packet. Large sections had been removed and rewrites were done to outline where bonding is required. The amendments would also remove areas where bonding could no longer be required.

Chair Banks opened the public hearing.

*Ron Hilton* gave his address as 2394 Murray Holladay Road. He had a question about what was proposed. One of the changes would increase the bonding requirement from 25% of the cost to 100% of the cost. He wondered if that was a requirement under State Law. If it was not, he felt it should be reconsidered because it would place a significant burden on the developer.

City Attorney, Brad Christopherson, clarified that bonding was not required. A developer could install the improvements before something is recorded but if there was a desire to record immediately, there needed to be a bond for 100% of the cost of the improvements. The developer had some flexibility, but if bonding was chosen, then it needed to be for 100% of the cost of the improvements. There was no reason that the rest of the residents of the City should pay for improvements related to development. He explained that the reason this was being done was because, in 2008, a lot of security bonding companies went out of business as did a lot of developers. Cities and taxpayers were then left trying to fix the associated issues. Cities have since adopted much stricter requirements to make sure something like that does not happen again.

Commissioner Prince asked if the 100% requirement was in the State Law that had passed. Mr. Christopherson confirmed this. He noted that a few cities were used as examples for the amendment. The intention was to protect residents and cities. The requirements were being tightened, which means cities will require that all engineer estimates be current and compatible with the City Engineer's estimates. Chair Banks asked about the premium percentage for these types of bonds. Mr. Christopherson explained that it is usually a percentage of the engineer's estimate. His recommendation as a City Attorney was not to use security bonds. If there is an issue, it is difficult to receive the money and could be costly in terms of litigation. Security bonding companies make it difficult to obtain the money, so many cities have now determined that those would no longer be accepted as collateral. Either a Letter of Credit or a cash bond for the full amount of the improvements would be more likely to be accepted.

There were no further comments. The public hearing was closed.

Commissioner Cunningham asked if the motion required findings to be listed. Ms. Marsh explained that findings did not need to be listed as the Planning Commission is making a recommendation to the City Council. This was a two-step process. Mr. Christopherson reported that the Planning Commission needs to review the amendments and hold a public hearing before the process moves to the City Council. The Council will then decide how to proceed. Vice-Chair Banks wondered if there was a reason the example motion referenced findings. It was noted that the motion could state that the text amendment was necessary to comply with H.B. 406.

***Commissioner Prince moved that the Planning Commission forward a recommendation to the City Council to APPROVE the proposals by Holladay City Staff to amend various sections of Title 13 of the City of Holladay Land Use Code as they relate to required improvement completion assurances and warranties, based on the need to comply with H.B. 406. Commissioner Roach seconded the motion. Vote on Motion: Commissioner Vilchinsky-Aye; Commissioner Cunningham-Aye; Commissioner Roach-Aye; Commissioner Banks-Aye; Commissioner Prince-Aye; Commissioner Gong-Aye. The motion passed unanimously.***

### **ACTION ITEMS**

**2. Approval of Minutes – June 6, 2023, July 11, 2023, July 25, 2023, and August 1, 2023.**

It was noted that the Commission could approve the Meeting Minutes at one time or individually. Since there were no suggested corrections, it was determined that there would be one motion.

***Commissioner Vilchinsky moved to APPROVE the City of Holladay Planning Commission Meeting Minutes from June 6, July 11, July 25, and August 1, 2023. Commissioner Prince seconded the motion. The motion passed with the unanimous consent of the Commission.***

### **ADJOURN**

***Vice-Chair Banks moved to ADJOURN. The motion passed with the unanimous consent of the Commission.***

The Planning Commission Meeting adjourned at approximately 6:25 p.m.

*I hereby certify that the foregoing represents a true, accurate, and complete record of the City of Holladay Planning Commission Meeting held Tuesday, September 5, 2023.*

Teri Forbes

Teri Forbes, Minutes Secretary  
T Forbes Group

Minutes Approved: **October 24, 2023**