



Snohomish County Council

Public Hearings

Meeting Minutes

Megan Dunn, Council Chair
Jared Mead, Council Vice-Chair
Councilmembers: Stephanie Wright, Sam Low, Nate Nehring

Wednesday, June 8, 2022

10:30 AM

Jackson Board Room
& Remote Meeting

CLOSED RECORD APPEAL – Riverstone Estates

PRESENT:

Council Chair Dunn
Council Vice-Chair Mead (*remote*)
Councilmember Wright (*remote*)
Councilmember Low
Councilmember Nehring
Ryan Countryman, Council Staff
Christina Richmond, Prosecutor's Office
Gary Brandstetter, Attorney for the Appellant
Mary Joy Dingler, Attorney for the Applicant
Debbie Eco, Clerk of the Council
**See names below for parties-of record who provided oral argument*

CALL TO ORDER

Council Chair Dunn called the closed record appeal hearing to order at 10:30 a.m.

ROLL CALL

The clerk called the roll and stated that all five members were present.

Council considers an appeal of the Snohomish County Hearing Examiner's April 14, 2022, Decision in the case of Riverstone Estates, File No. 21-107364 PSD, located at 14030 and 14106 Kenwanda Drive, Snohomish, Washington, requesting a 26-lot Rural Cluster Subdivision

[2022-0560](#)

The clerk read the formal title of the appeal into the record.

Chair Dunn asked for any statements or disclosures from councilmembers. She said she is not aware of any campaign contributions, gifts, or gratuities, but said if she had received any, it would not affect her ability to be neutral in this matter. She also stated that she directed her staff to respond to any e-mails addressed to her related to this appeal notifying the sender that councilmembers were prohibited from ex parte communications and receiving information related to the appeal that is not already in the administrative record or arguments presented as part of the appeal hearing. She said she has not read or considered any such e-mails and she has not had any ex parte communications related to this appeal. Councilmembers Wright, Nehring, and Mead stated the same disclosure.

Councilmember Low disclosed that he has had several ex parte communications unrelated to this, but related to his campaign for state representative. He said he has also received several campaign donations. He said he would be happy to recuse himself if either party would like him to do so. Neither party expressed any concerns or requested Councilmember Low to recuse himself from the closed record appeal.

Chair Dunn addressed the following procedural issue:

The Applicant has objected to submissions from parties-of-record that include evidence that was not before the Hearing Examiner. SCC 30.72.110 requires that the hearing be limited to the record from the Hearing Examiner. New evidence is not allowed unless specifically requested by the Council. She said that Council practice has been generally to not request new evidence. She asked if any councilmembers would like to request any new evidence. Seeing and hearing no requests for new evidence from the councilmembers, Chair Dunn stated the Council will disregard information submitted to the extent it includes evidence that was not included in the record before the Hearing Examiner. She asked that parties-of-record, when making oral arguments, to not refer to any evidence or exhibits that were not before the Hearing Examiner.

Ryan Countryman, Sr. Legislative Analyst, provided a detailed staff report.

Chair Dunn provided instructions for oral argument and instructions for parties-of-record wishing to provide argument for both in-person and remote via Zoom. She then opened the oral argument portion of the hearing.

Gary Brandstetter, Attorney for the Appellant, Marshland Flood Control District, spoke to a procedural issue regarding new evidence and Marshland's motion to strike. Chair Dunn noted Mr. Brandstetter's remarks for the record.

Mr. Brandstetter provided oral argument on behalf of Marshland Flood Control District and requested the Decision be remanded back to the Hearing Examiner.

The following parties-of-record provided oral argument:

1. Barbara Bailey
2. Don Bailey
3. Bob Chamberlin
4. David Beyer

Mary Joy Dingler, Attorney for the Applicant, provided oral argument on behalf of her client DR Horton, and requested Council to affirm the Hearing Examiner's Decision approving the project with conditions, and deny Marshland's appeal in its entirety.

Mr. Brandstetter provided rebuttal.

There being no further argument, Chair Dunn closed the oral argument portion of the hearing calling for a motion or discussion of the Council.

Pursuant to RCW 42.30.140(2) at 11:24 a.m. Chair Dunn recessed the Council into and Executive Session to discuss a quasi-judicial matter for approximately 10 minutes with extension, if necessary, and with potential action to follow.

EXECUTIVE SESSION

Quasi-Judicial Matter

Pursuant to RCW 42.30.140(2)

PRESENT:

Council Chair Dunn
Council Vice-Chair Mead (*remote*)
Councilmember Wright (*remote*)
Councilmember Low
Councilmember Nehring
Ryan Countryman, Council Staff
Deb Bell, Council Staff
Heidi Beazizo, Council Staff
Nicole Gorle, Council Staff
Christina Richmond, Prosecutor's Office
Laura Kisielius, Prosecutor's Office
Jennifer Keifer, Prosecutor's Office (*Intern*)

The Executive Session began at 11:24 a.m. for an initial 10 minutes to 11:34 a.m. At 11:34 a.m., an extension was announced for two minutes to 11:36 a.m. The Executive Session ended at 11:36 a.m.

Chair Dunn reconvened the Council at 11:37 a.m.

ACTION: Vice-Chair Mead made a motion to close argument with no ex parte communication and no new testimony and continue deliberations to Monday at Administrative Session, June 13th at 6:00 p.m. The meeting will be at the Arlington City Hall Council Chambers. Councilmember Wright seconded the motion and it carried unanimously.

ADJOURN

There being no further business, Chair Dunn adjourned the Council for the day at 11:39 a.m.