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Bandon, OR 97411

Bandon City Council
Regular Meeting
March 1, 2021, 7 P.M.

Re: Ordinance 1639 -- Amending Titles 16 ad 17
Use of a professional hearings officer to hold land use hearings

On the document's title page, the City Manager wrote:

BACKGROUND:

(snip)

In a similar vein, many jurisdictions use a professional hearing officer to hold land use hearings. This provides a number of advantages:

- Decisions are typically faster.
- An independent party can apply the rules without bias for or against an individual or project.
- Hearings officers are typically experienced land use attorneys, and can hold hearings that comply with due process requirements, and can draft legally-defensible decisions.
- The Planning Commission and Council can focus on the actual work of gaining community input and planning to create and maintain the kind of city that Bandon wants to be.

The city has been using a professional hearings officer since last year, and the process has met with good reviews from participants.

On pages 15 & 16, this has been added by the City Manager:

16.04.100 Authority of Hearings Officer.

The hearings officer is an impartial third party contracted by the City to hear land-use applications that require judgment and discretion in applying the Land Division and Zoning Code.

A. The Hearings officer shall be appointed by the City Manager and shall hold office at the pleasure of the City Manager.

B. It shall be the duty of a hearings Officer to exercise any express or implied power, right, or act pursuant to this code or ORS Chapter 227 and to receive and examine available information, conduct public hearings, prepare a record thereof, and enter findings and conclusions in connections therewith.

Now, let's consider our situation.

Before last year, the Planning Department staff, the Planning Commission, and the City Council made all the decisions about zoning, land use, and the completeness and adequacy of applications. They placed conditions on proposed projects, issued conditional use permits, made findings of fact, issued final decisions, and heard appeals.

Our Planning Department staff is well trained and highly competent. Our Planning Manager, Dana Nichols, has a Masters Degree in City Planning, and years of experience. Our City Planner, Megan Lawrence, has years of experience that she gained right here in Bandon. She is often appealed to for her extensive knowledge of planning law, and local planning issues and history.

Local decisions makers are scrupulously fair and impartial. They have to be, because their decisions are made under the watchful eyes of their fellow citizens. Transparency guarantees honesty and ethical behavior, and so do friendships and neighborliness. Our decision makers are our neighbors and friends, we know them well, and they know us, and that makes a big difference.

Because they are locals, if they have a question about a property or a project, they can go and look at it, and see it for themselves. That's something out-of-towners can't do.

Our local decision makers do their work conscientiously and efficiently, and they make every effort to complete their work in a timely manner, even putting in unpaid overtime to make that happen.

But the most important thing is this: The decisions they make are made locally.

Hiring an outside hearings officer adds a new and unnecessary level of bureaucracy. It makes applying for permits more expensive, because it is the applicant who pays the hearings officer's fee. That is an unnecessary expense to impose on top of all the necessary expenses faced by a family trying building a home, or by an entrepreneur trying build a new business.

Hiring a hearings officer takes decision making responsibility away from Bandon's elected officials, city employees and appointees. It also takes away the right of Bandon voters to decide for ourselves who is going to make the decisions about our local issues.

Let's keep land use decisions local by having locals make them, and let's do that by striking 16.04.100 Authority of Hearings Officer.

There is one more point to be made clear. Hearings officers are appointed by the Planning Commission, not the City Manager.

BMC 2.24 Planning Commission

2.24.080 Hearings officer.

At any time, the planning commission may appoint a person to serve as hearings officer to conduct reviews and render decisions on limited land use decisions and to carry out other duties and responsibilities as specifically delegated by the planning commission, provided;

The hearings officer is a member of the planning commission who has been selected by majority vote of the commission, and who has been a member of the planning commission for not less than six months; and

Appointment of the hearings officer can be terminated at any regular meeting by a majority of the members present, at which point the planning commission shall assume all duties of the hearings officer, including final action on all applications pending before the hearings officer prior to termination; and

The hearings officer may refer any matter to the planning commission for consideration and action; and

If the hearings officer is not available to review an application in a timely manner due to absence or illness, the application shall be reviewed by the chair of the planning commission or the full planning commission acting in the hearings officer's stead.

Allowing the City Manager to take over the role of appointing hearings officers takes an authorized duty and legitimate responsibility away from the Planning Commission.

Let's keep decision making local, and let's not concentrate decision making into one person's hands. Let's keep Bandon City Government a government of local people.