

CITY OF WILSONVILLE

CITY COUNCIL MEETING MINUTES

A regular meeting of the Wilsonville City Council was held at the Wilsonville City Hall beginning at 7:30 p.m. on Monday, December 15, 2014. Mayor Knapp called the meeting to order at 7:38 p.m., followed by roll call and the Pledge of Allegiance.

The following City Council members were present:

Mayor Knapp
Council President Starr
Councilor Goddard
Councilor Fitzgerald
Councilor Stevens

Staff present included:

Bryan Cosgrove, City Manager
Jeanna Troha, Assistant City Manager
Mike Kohlhoff, City Attorney
Sandra King, City Recorder
Dan Pauly, Planner
Stan Sherer, Parks and Recreation Director
Susan Cole, Finance Director
Nancy Kraushaar, Community Development Director
Jon Gail, Community Relations Coordinator
Cathy Rodocker, Assistant Finance Director
Keith Katko, Accountant
Chief Jeff Smith, CCSD

Motion to approve the order of the agenda.

Motion: Councilor Fitzgerald moved to approve the agenda as presented. Councilor Stevens seconded the motion.

Vote: Motion carried 5-0.

MAYOR'S BUSINESS

Mayor Knapp expressed his appreciation to Councilor Richard Goddard for the time he served on the Council and the Planning Commission. The City has dealt with a lot of issues in the past 4.5 years and is moving forward successfully. The robust discussion held during Council meetings is part of how good decisions are made.

Councilor Goddard thanked those in Wilsonville who supported him and gave him the opportunity to serve on behalf of the City. He also appreciated that he had the opportunity to make a positive difference; although the Council did not always agree on everything, he felt the Council has and continues to serve with the best interest of the community in mind. The Councilor thanked everyone for their support along the way.

Councilor Fitzgerald echoed the sentiments of Mayor, adding it was good to get to know Councilor Goddard and learn from of his experiences on the Council as well.

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Councilor Stevens said it had been a pleasure to serve with Councilor Goddard. The Councilor appreciated having the discussions and wished Councilor Goddard the best.

Councilor Starr commented he and Councilor Goddard were elected at the same time four years ago and expressed his appreciation to Goddard's services to the community, his passion for service, and his desire for the best in the Community.

Mr. Cosgrove added staff recognizes the amount of time officials put into the role of Councilor and the commitment to study the issues, ask questions and to put in the time to do it right, and Councilor Goddard had done it right. His advocacy on behalf of the less fortunate will be carried forward by the rest of the Council.

Mayor Knapp presented an engraved clock to Councilor Goddard and read the inscription.

The Mayor reported on the regional meetings he attended on behalf of the City, in particular the dinner given by the Korean Consulate to recognize and thank former Peace Corps volunteers. Restore Oregon is seeking support from cities for legislation supporting a tax rebate for restoration of historic buildings and the Mayor asked if Council was interested in sending a letter of support for the benefit of other communities engaged in revitalization around the state or would Council prefer to have more time and set the matter to a future meeting. Council briefly discussed the matter and determined to delay any decision until more can be learned about the program.

COMMUNICATIONS

A. City Auditors End of Year Presentation

Susan Cole, Finance Director, presented the staff report. She commented that she did not work on the audit since she was so new to the City; and thanked Cathy Rodocker, Keith Katko, and Vania Heberlein for working with the City's auditing firm to produce the financial audit for the year. The City is required by Oregon Revised Statute 297.425 to have an annual independent audit. The firm of Grove Mueller and Swank, P.C., Certified Public Accountants, audited the Comprehensive Annual Financial Report (CAFR) and the Urban Renewal Agency Financial Report for the fiscal year ending on June 30, 2014.

The City's independent audit received an unqualified opinion. This opinion is given when the financial statements presented are free of material misstatements and are represented fairly in accordance with the Generally Accepted Accounting Principles (GAAP), which in other words means that the City's financial condition, position, and operations are fairly presented in the financial statements. Grove Mueller and Swank, P.C. did not issue any Management Letter Comments or recommendations for improvements. Mr. Swank commented on the high quality of financial and accounting work that is done in the City by members of the Finance Staff, particularly Cathy Rodocker, Keith Katko and Vania Heberlein.

CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS

This is an opportunity for visitors to address the City Council on items **not** on the agenda. It is also the time to address items that are on the agenda but not scheduled for a public hearing. Staff and the City Council will make every effort to respond to questions raised during citizens input before tonight's meeting ends or as quickly as possible thereafter. Please limit your comments to three minutes.

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Wendy Veliz, 11498 SW Zurich Street, thanked Councilor Goddard for his thoughtful leadership and humility to serve. She also appreciated his advocacy for those without a voice in the community.

Brandi Ebner, 8565 SW Salish Lane #150, Events Director for the Chamber Of Commerce, stated the Chamber received a \$5,000 grant from the Parks and Recreation Board to fund the new Santa's Winter Wonderland Event. The Winter Wonderland Event was successful with over three hundred families attending from all over the region. Ms. Ebner thanked the local businesses who provided generous sponsorship, and she looked forward to an even more successful Winter Wonderland next year.

Rhoda Wolf, 28118 SW Wagner Street, expressed concern about the proposed development of the Frog Pond area, particularly the high density housing. She thought the additional apartments would increase traffic to an unmanageable amount and change the character of the City. Ms. Wolf believed the additional proposed retail would be a detriment to the present downtown merchants, create sprawl, and development along Stafford would damage the natural beauty and farm land there.

Jan Johnson, 6591 Landover, voiced her concern with high density development in Frog Pond, and new businesses in that area would negatively impact current businesses. Traffic is very heavy and noisy along Wilsonville Road and she thought the development of Frog Pond would increase the problem. She recommended building homes on larger lots, and for Council to take into consideration what the residents of Meadows and Landover have to say.

Councilor Starr noted the medians on Wilsonville Road in the Landover area will be built in the spring which will help slow traffic.

Doris Wehler, 6855 SW Boeckman Road, expressed her appreciation for the work Councilor Goddard had done representing the community during his term in office. As a member of the Frog Pond Task Force Ms. Wehler thought the density was too high in the West Area and felt the entire area should be larger homes on lots larger than 7,000-8,000 square feet. She asked Council to consider less density.

Peter Hurly, a member of the Planning Commission and member of the Frog Pond Task Force commented that seeing the proposed plan as presented was shocking particularly when the participants at the open house indicated they did not want to see any apartments, high density housing or retail, and preferred larger homes and lots in that area. He questioned the removal of the roundabout at the Wilsonville/Stafford/Boeckman/Advance intersection recommended by the Planning Commission with a stop light because TVF&R preferred a stoplight. He felt people who could afford larger homes on larger lots were being pushed out of Wilsonville, thereby driving out the job creators. Mr. Hurley questioned the work and recommendations of the consultant which seemed opposite to the information learned during the open house.

Councilor Starr asked how far along the planning process had come and at what point would Council be involved.

Councilor Stevens stated she is the chair of the Frog Pond Task Force. The preferred draft plan is a mixture of the lowest density and the second density. She heard the West Linn-Wilsonville School District Board liked the draft plan in terms of housing for families. The way the Frog Pond area is planned provides diversity. The Guiding Principles created during the first Task Force meeting included a walkable community; to work, transit, shopping, schools, and good connectivity between neighborhoods, to the natural resources, parks, and to the schools. The plan has been driven by the first guiding principles. A joint meeting with the Planning Commission is scheduled for January 22nd and

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these concerns can be discussed. There has been a significant amount of work done already in terms of transportation.

Mr. Cosgrove added it sounds like we are at a preferred alternative that will be discussed by the Planning Commission and the City Council. The alternative being forwarded is the most economically, and most vetted. He suggested Council consider all of the information, including citizen comments, the economic analysis, and staff recommendations, before making a decision. There will be multiple opportunities for public input and for Council to weigh in on the ultimate design form in Frog Pond.

Councilor Starr asked if public input would be allowed at all of the meetings.

Councilor Stevens explained during the meeting Mr. Hurley referenced, she wanted the Task Force to have the opportunity to speak first, but the gentleman did provide his comments. Comparing Tualatin with Wilsonville was information the consultant had at that time, afterwards we talked about doing a comparison with West Linn, and she expected the data to be coming.

Mr. Cosgrove said there will be additional opportunities for the public to comment at the Planning Commission, and City Council meetings. This is not the end of the process, but the beginning, and Council will make the final decision based on all of the information gathered.

Councilor Starr advised Mr. Hurley and the public to stay active throughout the process; there will be many more opportunities to be engaged in the process. He did not think the consultants came with preconceived ideas about the development, and it is the public that will continue to drive the process.

COUNCILOR COMMENTS, LIAISON REPORTS & MEETING ANNOUNCEMENTS

Council President Starr – (*Park & Recreation Advisory Board Liaison*) reported on the Parks and Recreation events over the past two weeks including the Holiday Tree Lighting, and Reindeer Romp. He announced the open house on Master Planning of Memorial Park that will take place on the 16th.

Councilor Goddard – (*Library Board Liaison*) mentioned the next Library Board meeting, and the Holiday Light Drives.

Councilor Fitzgerald – (*Development Review Panels A & B Liaison*) spoke about the Korean Consulate dinner honoring former Peace Corps volunteers and the many changes in Korea over the past 50 years. She noted the DRB Panel B meeting of December 22nd has been cancelled and she provided a report on the activities of DRB Panel A at their last meeting.

Councilor Stevens – (*Planning Commission; CCI; Wilsonville Seniors Liaison*) reported on the decisions the Planning Commission made at their last meeting.

Mr. Cosgrove suggested the Council address the New Business item prior to the Public Hearing.

Mr. Kohlhoff requested a motion to rearrange the agenda.

Motion: Councilor Goddard moved to adjust the order of the agenda to take New Business before the Public Hearing. Councilor Stevens seconded the motion.

Vote: Motion carried 5-0.

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NEW BUSINESS

A. Recreation / Aquatic Center Recommendation (staff – Sherer)

Ms. Troha introduced the topic. In 2002 the community survey showed there was strong interest from the community for exploring the idea of a recreation/aquatic facility in Wilsonville. Subsequently the Council adopted a goal to complete a feasibility study for a recreation/aquatic center in Wilsonville, based upon that staff hired a consultant to conduct the feasibility study out of four companies interviewed. Sports Facilities Advisory (SFA) was selected as the consultant who partnered with Councilman-Hunsaker.

A Task Force consisting of representatives of the community or various interest groups was appointed, with Councilor Starr as the chair of the Task Force. The Task Force voted to recommend the feasibility analysis be sent to Council for consideration. Tonight Council will hear the feasibility analysis, then should the Council want to move forward, they would direct staff to conduct due diligence regarding the next process, and bring additional information back to the Council. At this point, Council is voting on moving forward in the process to examine a recreation/aquatic center in Wilsonville.

The staff report is included here to provide background.

One of the City Council's 2013-15 goals is to complete a feasibility study for a community recreation and aquatic center in Wilsonville. Pursuant to that direction, staff prepared a Request for Proposal (RFP) to select a consulting team.

The scope of work for the project included the following:

- Market Analysis; analyze the demographic and socioeconomic characteristics, as well as sports participation research, of the primary service area and identify historical, current and projected trends for the service area including employment, income, population, etc.
- Stakeholder Interviews and Public Input; Conduct interviews with local sport leagues and associations, local senior groups, school district representatives, recreation league participants and solicit interested public input.
- Prepare conceptual facility design.
- Prepare a detailed financial and economic feasibility analysis (Pro Forma).
- Present findings to the Task Force and the City Council.

Staff interviewed several consulting firms and selected Sports Facilities Advisory (SFA). SFA partnered with Councilman-Hunsaker to prepare the aquatic design and operational model. SFA is a large national company with experience and expertise in both financial feasibility analysis and management of similar multipurpose recreation and aquatic facilities nationwide. Councilman-Hunsaker is a nationally acclaimed company specializing in aquatic facilities.

In February 2014 the City created a Task Force to guide the process and provide input to the consultants. Under direction of the City Council, the Recreation and Aquatic Center Task Force members were selected by the City Manager. The Task Force represented a diverse cross-section of the community including local sports associations, seniors, school district, and community leaders. The Task Force was chaired by Councilor Starr. The Task Force met with the consultant four times throughout the project.

The first phase of the project was to conduct a market analysis. The consultant team visited several recreation and aquatic facilities throughout the Portland metro area and gathered information about amenities at comparable regional facilities. The market analysis also included a demographic assessment for Wilsonville and surrounding communities. This first phase in the process is critical because it

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determines the target market for this type of a facility and ultimately determines if the Wilsonville market area can financially support a recreation and aquatic facility. Based on the assessment of demographic data, as well as similar regional facilities, the consultants concluded that the Wilsonville market area can support a recreation aquatic facility. The next step in the process was to conduct a financial analysis.

The financial feasibility stage began with identification of specific amenities that could be supported by identified market and with the right financial structure. The Task Force met several times to provide input on types of amenities and associated recreational programs. Based on the amenities and programs identified by the Task Force, the consultant team conducted a financial analysis, referred to as the Pro Forma. This detailed analysis examined the costs and revenue associated with each amenity and program. The goal was to develop a programming model that will be financially sustainable long-term. The following amenities were included because they generate sufficient revenue to achieve the goal of operational sustainability.

- Basketball Courts (basketball, volleyball, indoor soccer, Pickleball, etc.)
- Fitness Center
- Multi-Use Rooms (dance, cross training, aerobics, etc.)
- Walking Track
- Administration Offices
- Natatorium (25 yard / 6 lane pool, 6,000 SF Leisure Pool, multi-purpose classroom, office space, etc.)
- Rock Climbing Wall
- Concessions
- Child Care
- Multi-Purpose Rooms (birthday parties, rental/banquet rooms)

The Pro Forma concluded that a recreation and aquatic center is sustainable in Wilsonville with the above listed amenities and identified programs. A facility of this nature requires support from the City's general fund for approximately five years for start-up costs. After the fifth year, the facility will be close to operationally self-supporting.

If approved by the voters, the construction of this facility will be paid through general obligation bonds. There is a specific process included in state statute for preparing and presenting ballot title questions to the voters.

The Task Force spent a significant amount of time reviewing the detailed financial Pro Forma before making a recommendation to the City Council. The Task Force voted 7-1 to recommend that the City Council pursue the development of a recreation and aquatic center in Wilsonville.

The next steps are:

- Initiate discussions with the City's bond counsel regarding process
- Continue the site selection effort (\$3.75 M included in the preform for site acquisition)
- Determine operations management model to be decided through an RFP. Staff recommends Council consider the Design-Build-Operate (DBO) model, which has been used successfully by the City on projects such as the Sewer and Water Plant Upgrade Projects. There are significant cost savings that can be realized using the DBO model during construction as well as on the operational side.

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TIMELINE:

- Develop criteria and identify appropriate site for Recreation and Aquatic Center (January/February 2015).
- Prepare and advertise an RFP for the construction and operations of the recreation and aquatic center (March/April 2015).
- Prepare ballot title language and present to Council (July/August 2015).
- Present question to voters (November 2015).

CURRENT YEAR BUDGET IMPACTS: N/A

FINANCIAL REVIEW / COMMENTS:

Reviewed by: SCole Date: 12/8/14

It is important to note that the concept of financial sustainability discussed above only refers to the day-to-day operations and does not include major maintenance, rehabilitation or replacement of any of the facility's components. Examples of these items include pumps, heating and ventilation systems, roofing, etc. The City will need to plan appropriately for these items to ensure resources are available when necessary.

LEGAL REVIEW / COMMENT:

Reviewed by: MEK Date: 12/3/2014

It should be noted that there is also a DBFOM process that is currently in use for major infrastructure projects. The process is design, build, finance, operate and maintain. This is used for larger projects and the design builder also provides the financing, the operation and maintenance. Whether the size of the proposed facility is large enough is a question that needs to be determined. The report correctly indicates there is a statutory process for referring a ballot measure to the voters and time line provided can meet the process for a 2015 November election.

COMMUNITY INVOLVEMENT PROCESS: The public was represented by a Task Force of community members and stakeholder groups. There were four Task Force meetings throughout the project.

POTENTIAL IMPACTS or BENEFIT TO THE COMMUNITY: A recreation and aquatic center supports the City's healthy community initiative. The facility provides multigenerational services to seniors, youth, and families in Wilsonville. Market analysis concluded a facility would serve as a regional draw thus supporting economic development and tourism in Wilsonville. The market analysis also acknowledged deficiencies in particular amenities in Wilsonville, such as a gymnasium, so this facility meets a current service demand.

End of staff report.

Evan Eleff, Vice President of the Sports Facilities Advisory (SFA) stated SFA was selected to conduct the feasibility study and they partnered with Councilman-Hunsaker because this proposal has an aquatics and recreation component.

Kevin Post, Principal and Studio Director, said Councilman-Hunsaker designs aquatic facilities and has worked on over 800 facilities throughout the country.

Mr. Eleff provided an overview of the items he will be discussing during the presentation. The information given to the Council was a very high level overview of an in-depth process they engage in to determine financial feasibility. SFA has done this type of work over the past 11 years for about \$4 billion

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worth of planned and operational facilities; and noted not everything that is planned becomes operational, and not all of what they operate is a project they planned.

Mr. Post stated Councilman-Hunsaker has been in business for over 40 years and has designed over 850 facilities; they look at old facilities, plan for new facilities, and design and operate facilities.

Mr. Eleff described the project goals as:

1. Make sure what we were looking at represented the needs of the community, based upon existing facilities, and also the work and due diligence that had been done prior to SFAs engagement to determine a perceived community need, and work closely with the Task Force as representatives of the community in several different areas.
2. Address the opportunity to create a long-term sustainable model, which of course when you look at sustainability drives several of the factors we looked at and balancing those two is what this report is intended to do.
3. The result of that is to provide accurate, reliable information that enables an informed decision to be made. Starting with the project team moving forward with our work to the Task Force and ultimately to the Council to make a decision as to the next steps.

After an internal strategy session with the two firms identifying roles and responsibilities and collaborating on this market in terms of our analysis, SFA went forward with a market and demographic study (demographics, socio economics, and competition) at a high level before coming into the market. At that point SFA started working with the Task Force to identify potential sites and towards the existing market.

The team made several trips to Wilsonville and looked at several of the existing service providers and analyzed the market from several different perspectives. They created the building blocks of the analysis and prepared a full five-year operating forecast which was reviewed by facility managers across the country with experience in these types of facility to insure an exclusive and well-rounded perspective on the numbers.

The model is based on a 15, 30, and 60 minute drive time to the facility rather than a mileage range. The key to this are the drive times for this type of programing; 15 minutes is the primary cutoff for the fitness side of this membership based fitness and recreation aquatics facility, and 30 minutes for the programming side on sports. Sixty minutes takes you into another world and people driving into Portland so that was not a part of the analysis. But as a representative and comparison measure we did look within sixty minutes in all directions to determine population density, mean household income, and other factors to make sure we were looking at a complete picture of the market.

They identified the potential elements and looked at existing service providers to see how they covered the market and the demand within the market. SFA found sufficient coverage provided by some of the existing service providers which meant there was sufficient coverage, and to not include this in the final facility program. Competition:

- 6 court facilities
- 14 fitness facilities
- 3 family entertainment centers
- 5 aquatic facilities
- 2 indoor turf facilities
- 48 multipurpose outfields (22 synthetic)

In terms of the final facility program there will be:

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- 2 basketball courts
- Fitness center
- Walking track around the basketball courts
- Natatorium with a 25-yard 6-lane lap pool, and a leisure pool, warm water spa, and all of the additional areas that go into running an aquatics facility.
- Flexible space to include nursery and child care, locker rooms, multi-purpose class rooms
- 78,622 square foot facility that includes the space necessary for circulation and to make it a great member experience.

This is based on an undetermined site and there may be some changes depending on the final site selection.

Kevin Post showed a block diagram to illustrate the size comparisons of the various areas. The natatorium and gym require the most space. The fitness space, multi-purpose rooms and group exercise rooms are relatively small, but are higher revenue sources. As we talked about sustainability, we had to balance areas with a large cost like the pool with things that are big revenue producers to build the sustainable model. The pool meets the minimum requirement for high school swimming in the U.S. as well as NCAA, and the leisure pool area would be the location for swim lessons, water aerobics and general play.

Mr. Eleff stated the difference between the lap pool and the leisure pool is key differentiator for the facility, and one of the key components to sustainability that is a draw for membership. It is important to recognize one of the key areas we were looking at by definition was an aquatic center and what it would take to make an aquatic center sustainable.

Mr. Eleff worked with the City to create the cost estimates. There is a place holder for the land with an estimate of \$3.5 - \$3.75 million. Consistent with all of the information going forward in this presentation, when we have the option of being more conservative – given a range – we'll always go with the higher end of the range across the board in the planning phase, to give something that is truly reliable and as accurate as possible.

There is land allocation, a hard cost allocation for the building which includes all of the necessary pieces to be accounted for in this market including solar panels which are the state requirement, adjustments for prevailing wages, etc. The build out of the sport and fitness costs again are line itemized, to include fixtures and equipment including the maintenance equipment. He noted each one of these lines has a 20% contingency which was a recommendation by the Task Force and is on the high end of what SFA would consider for a contingency which creates a safe buffer within the total potential costs.

Finally the soft costs with construction and soft costs of operations; in total, construction costs for this facility at 78,622 square feet at \$25.1 million including the land acquisition and land costs.

The team created a five-year forecast, which is a high level overview of revenues and expense. Everything has significant detail and is founded on a tremendous amount of background information that is not included in the packet. Each one of the line items, in terms of how we reached this membership number, is within the document. Mr. Eleff discussed the revenue and expense identified in the report. He recognized the total revenue versus total expenses is operating in the negative throughout the maturation state; by year 5 it is within ¼ of 1% based on projections of a zero bottom line. There is no debt service associated based on the bond and the direction SFA received from the Task Force and project team. Looking at operational sustainability, overall, if you were to add those across reaching maturity and ultimately stabilization, that would be just under \$1.5 million the first five years of operation just to get to the point where it is fully mature and generating revenues that balance out the expenses.

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Key statistics in a quick overview;

- 78,622 square feet
- \$25.15 million cost estimate for land, hard costs, sport equipment costs, FF&E, and soft costs creating a five-year subsidy of \$1.5 million, but ultimately becoming operationally self-sustaining at maturity based upon the model developed and the market factors that SFA recognized need to be considered.

Councilor Fitzgerald asked for more background on the market study, and whether the demand for the services provided (rock wall, basketball) had been measured against other available resources in the surrounding area.

Mr. Eleff said the methodology used by SFA begins with the key demographics and socio-economic factors and then for each one of the areas projected we look at participation. So when we were considering the possibility for indoor turf for example we looked at soccer, ultimately we removed indoor turf. But for aquatics, fitness membership, basketball, volley ball, etc., we looked at sports participation on a statewide, regional and national level. From there we take the participation within those sports and we look at the existing service providers. We have eight different factors we look at for each service provider in order to weigh their competition level for example, what part of the market is already committed to fitness centers; and fitness centers with basketball courts, and so on. From there we take ten different factors in terms of what capture rate is. We did an elasticity portion of our pricing model and what we end up with is from 145,000 people down to a few thousand members that we're looking at would be part of this model.

Membership growth is based on information gathered from the facilities SFA manages, based on long term sustainability. Long term memberships are created through staffs' personal relationships with clients and by offering classes, and amenities members find of value. The different types of memberships were described, and all facilities will be available to members. Specialty classes will have an additional fee, such as swimming lessons and high level fitness classes.

Should Council move to accept the Recreation and Aquatic Center feasibility study, the next steps will be:

- Initiate discussions with the City's bond counsel regarding process
- Continue the site selection effort (\$3.75 Million included in the proforma for site acquisition)
- Determine operations management model to be decided through an RFP. Staff recommends Council consider the Design-Build-Operate (DBO) model, which has been used successfully by the City on projects such as the Sewer and Water Plant Upgrade projects. There are significant cost savings that can be realized using the DBO model during construction as well as on the operational side.
- Corporate sponsorship opportunities offered to reduce bonding costs of capital side before going to a vote.

Staff will insure the RFQ process includes Council input and contains the Council's requirements, and criteria for corporate sponsorship.

Councilor Fitzgerald was interested in moving the proposal forward.

Motion: Councilor Fitzgerald moved to accept the Recreation and Aquatic Center feasibility study and direct staff to develop a plan for placing the matter on the November 2015 ballot. Councilor Starr seconded the motion.

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Councilor Fitzgerald was encouraged by the consultant's report and in the depth of the study. She was impressed with the way they looked at market parameters and was interested in seeing the results of the future vote.

Councilor Goddard encouraged the Councilors to dig deeper into the assumptions in the report before placing a measure on the ballot. He thought it was easy to have the numbers pencil out on paper, but there are assumptions that need more vetting before the matter is sent to the voters.

Councilor Starr called Council's attention to the email received from former councilor Steve Hurst who recommended moving forward

Councilor Stevens noted it is a Council Goal to explore this area, and as more is learned, if Council determines it is not such a good idea to move forward, there is time to do that. She supported moving forward with an open mind. Ultimately the voters will make the decision.

Vote: Motion carried 5-0.

Motion to extend the Council meeting past ten o'clock.

Motion: Councilor Stevens moved to extend the meeting until we take care of the business at hand. Councilor Starr seconded the motion.

Vote: motion carried 5-0.

Mayor Knapp declared a recess at 10:10 p.m. and reconvened the meeting at 10:13 p.m.

PUBLIC HEARING

Mr. Kohlhoff read the title of Ordinance No. 765 into the record on first reading.

- A. **Ordinance No. 765** – 1st reading
An Ordinance Of The City Of Wilsonville Amending Wilsonville Code Chapter 3, Section 3.560, By Providing For A Governmental Exemption From The Established Privilege Tax For Use Of City Right-Of-Ways And Allowing Alternative Consideration In Lieu Of The Tax.

Mayor Knapp opened the public hearing at 10:14 p.m. and provided the hearing procedures.

Mr. Kohlhoff presented the staff report. The City has been working with Clackamas County to arrive at terms for an Intergovernmental Agreement (IGA) that would allow for some conduit sharing and swapping and some rate reductions that would benefit the City, the school district, and other government entities. This IGA would govern the relationship of the parties, rather than having Clackamas County's use of the City right-of-way for its fiber projects be governed by the current language of WC 3.560. The Code provides that if a franchise agreement is used, franchise fees would offset privilege taxes to avoid the issue of double collection. Where there is service in the City, it is based on a percentage of gross revenues. Thus, the City has the franchise agreement and franchise fee as a device to avoid the issue of taxing another government entity. However, in dealing with other governmental entities who also act in the public interest, there is often a mutuality of public interest that calls for a different classification of

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consideration than a straight fee percentage on gross revenues and could allow for the consideration of mutual promises and conditions that benefit the respective governmental entities, including cost and facility sharing. Additionally, gross revenues from functions other than enterprise funds may not be an appropriate measure.

The City may also have occasion in the future to enter into other agreements with other government entities that may result from special circumstances where an IGA with other consideration, in lieu of using a percentage franchise fee in place of the privilege tax, would be beneficial and be in the greater public interest. The City has been discussing with Tualatin Valley Water District, Hillsboro, and other cities the use of city property and right-of-ways of 66" to 72" pressurized water transmission line to transmit water from the Willamette River Water Treatment Plant through the City, which line would terminate with the Hillsboro water system. The impacts on the City are substantial and yet it the line would not serve City residents. However, although it is yet to be determined, there may be operational savings in expanding the plant that might benefit City ratepayers that could play into the consideration. The impacts from a 72" pressurized water line are potentially far greater than a 2" conduit. An IGA provides the flexibility to recognize the different impacts and benefits in a reasonable and nondiscriminatory way upon the City's right-of-way.

The proposed amendment to the Code is intended to recognize that other government entities are a different classification from private entities that are based primarily on gross revenues from users they serve, and the circumstances of government entity use can provide for advancing the public interest through the use of the City's right-of-ways based upon alternative consideration to a percentage franchise fee or privilege tax on gross revenues or a per line charge for simply passing through the City. The proposed amendment will provide more flexibility for the City in dealing with other government entities on issues related to franchise fees and privilege taxes.

In response to a question from Council, the City Attorney explained the language in the ordinance was broad to allow for flexibility, and noted IGAs can cover a number of different types of agreements, and many have features allowing termination of the IGA.

The Mayor invited public comment, hearing none he closed the public hearing at 10:26 p.m.

Motion: Councilor Starr moved to approve Ordinance 765 on first reading. Councilor Goddard seconded the motion.

Vote: Motion carried 5-0.

CONTINUING BUSINESS

Mayor Knapp stated staff requested continuing Ordinance No. 763 and 764 to date certain of January 5, 2015 because the plat language has not been received back from Clackamas County.

Mr. Kohlhoff the legal description states "Draft will be finalized after upcoming recording of Tonquin Woods at Villebois No. 7 plat" and as of today staff has not received notice the plat has been officially filed.

Motion: Councilor Fitzgerald moved to continue Ordinance No. 763 and 764 to the January 5, 2015 City Council meeting. Councilor Stevens seconded the motion.

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Vote: Motion carried 5-0.

Ordinance Nos. 763 and 764 will be considered for second reading at the January 5, 2015 Council meeting.

- A. **Ordinance No. 763** – 2nd reading
An Ordinance Of The City Of Wilsonville Annexing Approximately 9.8 Acres At 11650 SW Tooze Road And A Small Triangular, Approximately 6315 Square Foot, Property Across SW Grahams Ferry Road From 28333 SW Grahams Ferry Road Into The City Limits Of The City Of Wilsonville, Oregon; The Land Is More Particularly Described As Tax Lots 1100, 1101, And 1503 (Formerly 1591) Of Section 15 T3S-R1W, Clackamas County, Oregon, City Of Wilsonville, Applicant.
- B. **Ordinance No. 764** – 2nd reading
An Ordinance Of The City Of Wilsonville Approving A Zone Map Amendment From The Clackamas County Rural Residential Farm Forest 5 (RRFF5) Zone To The Village (V) Zone On Approximately 9.8 Acres At 11650 SW Tooze Road And A Small Triangular Approximately 6315 Square Foot Property Across SW Grahams Ferry Road From 28333 SW Grahams Ferry Road. Comprising Tax Lots 1100, 1101, And 1503 (Formerly 1591) Of Section 15, T3S, R1W, Clackamas County, Oregon, City Of Wilsonville, Applicant.
- C. **Ordinance No. 762** – 2nd Reading
An Ordinance Of The City Of Wilsonville Amending Wilsonville Code Chapter 3, Section 3.000(19) To Allow The City Manager And His/Her Designee To Establish And Post Park Closure Hours.

Mr. Kohlhoff read the title of Ordinance No. 762 into the record on second reading.

Motion: Councilor Goddard moved to approve Ordinance 762 on second reading. Councilor Fitzgerald seconded the motion.

Vote: Motion carried 5-0.
Council President Starr - Yes
Councilor Goddard - Yes
Councilor Fitzgerald - Yes
Councilor Stevens - Yes
Mayor Knapp - Yes

CITY MANAGER'S BUSINESS

Mr. Cosgrove informed the Council of his holiday vacation dates and wished them a Merry Christmas.

LEGAL BUSINESS

Mr. Kohlhoff thanked Councilor Goddard for his service.

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CITY COUNCIL MEETING MINUTES

ADJOURN

The Mayor adjourned the Council meeting at 10:30 p.m.

Respectfully submitted,

Sandra C. King, MMC, City Recorder

ATTEST:

Tim Knapp, Mayor