

CITY OF WILSONVILLE
CITY COUNCIL MEETING MINUTES

A regular meeting of the Wilsonville City Council was held at the Wilsonville City Hall beginning at 7:00 p.m. on Monday, October 20, 2014. Mayor Knapp called the meeting to order at 7:10 p.m., followed by roll call and the Pledge of Allegiance.

The following City Council members were present:

Mayor Knapp
Council President Starr - Excused
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
Delora Kerber, Public Works Director
Nancy Kraushaar, Community Development Director
Kerry Rappold, Natural Resources Coordinator
Susan Cole, Finance Director
Barbara Jacobson, Assistant City Attorney
Kristin Retherford, Economic Development Coordinator

Motion to approve the order of the agenda.

Motion: Councilor Fitzgerald moved to approve the order of the agenda. Councilor Stevens seconded the motion.

Vote: Motion carried 4-0.

MAYOR'S BUSINESS

A. Renewal of City Attorney Employment Contract

Mayor Knapp explained Mr. Kohlhoff has been the City's attorney for the past thirty-four years, and during that time he has mentored Councilors, staff and City Managers to build both the elected and staff into a team to function effectively. Mr. Kohlhoff's annual review consists of a survey that is sent to Council members, department managers, and the City's standing Boards and Commissions. The rankings are combined and the overall results were excellent.

Councilors expressed their appreciation for Mr. Kohlhoff's guidance, expertise, and dedication and for the advice he has provided to the City.

Motion: Councilor Fitzgerald moved to approve the extension of Mr. Kohlhoff's contract as City Attorney from October 1, 2014 to October 1, 2015 at a base salary of

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\$136,018.74 and a total compensation of \$148,875.23, as outlined in the employment agreement. Councilor Stevens seconded the motion.

Vote: Motion carried 4-0.

B. Upcoming Meetings

Mayor Knapp reported on the meetings he attended on behalf of the City including the Regional Mayor's Monthly meeting where the Urban Growth Report was discussed, JPACT, and the annual Greater Portland, Inc. summit.

COMMUNICATIONS

A. Metro Councilor Dirksen, Update on Metro Activities

Metro Councilor Dirksen spoke about the upcoming land use decisions and whether there was enough developable land in the Metro region to accommodate 20 years of growth. By the end of 2014 Metro Council will decide what kind of growth the region can expect in the coming decades. The decision on whether the Urban Growth Boundary will be expanded must be completed by the end of 2015, and the decision will be reviewed by the Oregon Land Conservation and Development Commission. The Councilor also spoke about activities taking place in Metro's regional parks, programs, and facilities.

B. Wilsonville Sister City Presentation, Joelle Scrbacic, Wilsonville High School teacher

Joelle Scrbacic, Japanese teacher at Wilsonville High School stated a student contingent traveled to Kitakata, Japan this past year marking the 26th year of the relationship between Kitakata and Wilsonville. The following students provided an overview of the trip and shared their experiences of the time spent in Kitakata with their host families.

- Katharine Hart, Wilsonville High School 2014 graduate
- Emma Miselin, Senior.
- Nathan Dillon, Junior.
- Kevin Payne, Senior
- Abby Humphrey, Junior

The students presented a gift sent from the mayor of Kitakata to Mayor Knapp. Mayor Knapp hoped the students experiences encourage them to take part and support the program in ways that will enable the exchange program to continue, grow, and succeed.

C. Introduce New Finance Director Susan Cole

Mr. Cosgrove introduced Susan Cole; the City's new Finance Director and shared some of Susan's background.

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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.

Francis James, Creekside Woods, spoke about the challenges and conflicts residents of Creekside Woods are having with Guardian Management. He requested help in resolving the issues with management.

Mary Joyce VanWechel, voiced her support of the performing theater arts in Wilsonville, and expressed the need for a performing arts place larger than the Frog Pond Grange Hall to showcase the talent in Wilsonville.

Michael Gibson, spoke on behalf of the Wilsonville Theater Company and advocated for a performing arts center in Wilsonville.

Councilor Goddard indicated he served on the Oregon Community Foundation Metro Leadership Council, and the organization provides grants for small arts and culture organizations around the Portland metropolitan area. He wanted to make sure the Wilsonville art community knew that grant program was available and encouraged them to apply for a grant next year.

Theonie Gilmore, Wilsonville Culture Committee, agreed with the prior comments and expressed her appreciation for the support communicated for the arts and the need for a performing art center in Wilsonville.

Tony Helbling, President of Positive Aurora Airport Management group, talked about the economic benefits the Aurora Airport brought to the surrounding communities, including Wilsonville. He said the flight tower will be completed and commissioned by the end of the year, and noted that ninety-seven percent of the heavy lift helicopter capacity was in Oregon with two of the three companies located at the Aurora Airport.

Mayor Knapp declared a recess at 8:50 p.m. and reconvened the meeting at 8:55 p.m.

COUNCILOR COMMENTS, LIAISON REPORTS & MEETING ANNOUNCEMENTS

Councilor Goddard – (*Library Board Liaison*) announced the date of the next Library Board meeting.

Councilor Fitzgerald – (*Development Review Panels A & B Liaison*) announced the next meeting dates of both DRB Panels. She thanked the Library Board for the recent fundraising event.

Councilor Stevens – (*Planning Commission; CCI; Wilsonville Seniors Liaison*) commented the Planning Commission as the CCI, will host a public open house on the Sanitary Sewer Collection Master Plan October 30th. In addition the Commission held an open house on a draft of the Coffee Creek Industrial Form Based Code and Pattern Book. An online survey is being conducted for the Frog Pond Planning Area, citizens can provide their input on that planning

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process via the City's website. The Councilor reported the Wilsonville Community Seniors "Spa Day" was very successful, as was the Harvest Festival held at the Stein Boozier Barn, and that the Fall Leaf Drop Off is scheduled for November 15th.

CONSENT AGENDA

A. Minutes of the September 29, 2014 and October 6, 2014 Council Meetings.

Mr. Kohlhoff read the Consent Agenda items for the record.

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

Vote: Motion carried 4-0

PUBLIC HEARING

A. **Ordinance No. 753** – 1st reading
An Ordinance Of The City Of Wilsonville Amending Wilsonville Code Chapter 8, Environment To Add A Stormwater Section And To Make Other Modifications.

Mr. Kohlhoff read the title of Ordinance No. 753 into the record by title for first reading.

Mayor Knapp opened the public hearing at 9:05 p.m.

The staff report was prepared by Kerry Rappold and Delora Kerber.

Chapter 8 of the City Code was originally developed to address policies related to Water Conservation, Sanitary Sewer Use, Industrial Pretreatment Regulations, Solid Waste, and Business Recycling with the expectation that a section on stormwater would be added at a later date. Thus, Section 8.500 was reserved for the policies related to stormwater.

With the completion of the 2012 Stormwater Master Plan, Chapter 8 is being amended to incorporate Stormwater policies identified in the Plan. In addition, the amendments to Chapter 8 will provide the City the ability to enforce the National Pollution Discharge Elimination System (NPDES) Stormwater Permit requirements.

Due to the addition of the stormwater section, other portions of Chapter 8 needed to be modified to provide clarity between sanitary sewers and stormwater sewers. Modifications include adding the word "sanitary" where appropriate, adding or revising definitions, and relocating requirements to a more appropriate section of the Chapter.

Other modifications of note include:

Section 8.210(9) - Removing the requirement of providing a cover for outside storage areas. Standards related to outside storage areas are being developed and will be addressed in the near future.

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Section 8.206(12) - Adding language about property owner responsibility for the maintenance, repair and replacement of the sanitary sewer lateral. This clarifies an unwritten policy.

Industrial Pretreatment Response Plan - Changing the suggested amounts in the base penalty matrix set forth in Section III – Assessment of Administrative Fines. This was done to match the amounts assessed by Clackamas County Water Environment Service (WES).

The revision to Chapter 8 will ensure the City's ability to enforce the NPDES Stormwater Permit requirements and provide clarification to other miscellaneous unwritten policies related to sanitary sewers.

Benefits to the community include: improved level of awareness of the requirements of the NPDES Stormwater Permit; ability to enforce the NPDES Stormwater Permit; codification of current unwritten policies related to sewer lateral; and updating the Pretreatment Enforcement Matrix.

Ms. Kerber indicated the majority of the changes deal with the incorporating policies included in the Stormwater Master Plan, into the City Code.

Mr. Rappold added this section helps the City to be compliant with the NPDES Stormwater Permit requirements.

Mr. Kohlhoff pointed out Council raised questions about three provisions in the ordinance during the work session and that staff would review and follow up on those provisions. Any language changes necessary would be brought to Council on second reading of the ordinance.

Mayor Knapp invited public comment, hearing nothing he closed the public hearing at 9:09 p.m.

Motion: Councilor Stevens moved to approve Ordinance No. 753 on first reading. Councilor Goddard seconded the motion.

Mayor Knapp asked how the following scenario would be dealt with: someone trespassing and discharging into a sewer inappropriately, which can happen on commercial properties. For example if a motor home parks on a parking lot and dumps a holding tank into a stormwater outlet on a parking lot and there is no one to witness the act, how is enforcement posed under the proposed ordinance?

Mr. Kohlhoff stated a discharge of sewage is a violation and is a criminal trespass. Stormwater release would depend on whether there was flood damage and flooding from stormwater may result in civil actions as well.

Mr. Cosgrove said owning property comes with inherent risks and it is the property owners' responsibility to protect their property.

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Ms. Kerber pointed out Section 8.504(4) addresses the issue. The section reads, “It is unlawful to discharge in or onto any natural outlet or stormwater sewer inlet (catch basin, grate, roof downspout, etc.) within the City of Wilsonville, or in any area under the jurisdiction of said City, any sewage or other polluted water.” The language is general in the fact that it is not to be done, the challenge is if that is occurring on property it would take investigation to determine who was doing the illegal dumping. Section 8.504(2) speaks to the Oregon Department of Environmental quality and the regulations associated with the NPDES permit and contaminates to stormwater.

Vote: Motion carried 4-0.

CONTINUING BUSINESS

A. **Ordinance No. 749** – 2nd reading

An Ordinance Of The City Of Wilsonville Amending Chapter 10 Of The Wilsonville Code By Amending Section 10.240 Control Of Dogs To Adopt 2014 Changes To Clackamas County Code 5.01.

Mr. Kohlhoff read Ordinance No. 749 into the record by title only on second reading.

Ms. Jacobson noted on first reading Council voted to adopt the amended Clackamas County Dog Control Ordinance, containing 2014 amendments, and incorporating those changes into Chapter 10 of the Wilsonville City Code. During Council discussion, Mayor Knapp raised the issue of whether enforcement would be with Clackamas County courts or Wilsonville Municipal Court. Ms. Jacobson identified the changes to the ordinance language shown in italics. Ms. Jacobson read the changes into the record.

1. **Chapter 10 ANIMALS** is hereby amended by adding amended language to **Section 10.240(5)** and new **Sections (6) and (7)**, as follows (amended text is shown in *italics*):

“(5) Additional provisions concerning Control of Dogs, as set forth in Clackamas County Code Chapter 5.01, *as amended in 2014*, will continue to apply, are enforceable within the City, and are incorporated by reference herein. ~~*Future amendments to Section 5.01 may be approved for enforcement within the City by Resolution of the City Council.*~~”

“(6) Citations for violations of this Chapter 10, including the incorporated provisions of Clackamas County Code Chapter 5.01, *as amended in 2014*, shall generally be prosecuted in Wilsonville Municipal Court; provided, however, that citations concerning animal licensing, dangerous animals, and animal impoundment shall be prosecuted in Clackamas County Court and citations involving a combination of these offenses may all be prosecuted in Clackamas County Court to avoid multiple prosecutions in different courts.

“(7) Before a citation is issued into Wilsonville Municipal Court for “Dog as Continuous Annoyance,” as defined in Clackamas County Code Section 5.01.020, *as amended*, the City of Wilsonville will follow the conciliation and mediation processes set forth in the Clackamas County Code, using Clackamas County mediation services, *if available.*”

Councilor Fitzgerald asked for clarification on the funding issue. She recalled Clackamas County increased the dog licensing fee to help fund the conciliation and mediation processes.

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Ms. Jacobson stated that was correct, the County also imposed licensing requirements on various animals that had been exempt and the County will continue to provide resources to fund the mediation program.

Mayor Knapp asked what the term “if available” referred to in paragraph (7).

Mr. Kohlhoff said the intent was if Clackamas County did not have the funding for the conciliation and mediation processes then that would not be a requirement; but the services would be used if they were available. The reason they might not be available is funding issues.

Motion: Councilor Stevens moved to adopt the revised version of Ordinance No. 749 on second reading. Councilor Fitzgerald seconded the motion.

Vote: Motion carried 4-0
Councilor Starr – Excused
Councilor Goddard - Yes
Councilor Fitzgerald - Yes
Councilor Stevens - Yes
Mayor Knapp - Yes

NEW BUSINESS

A. **Resolution No. 2489**

A Resolution Of The City Of Wilsonville Authorizing Acquisition Of Property Interest Related To The Planned Future Construction Of Road, Sewer And Trail Improvements On Boeckman Road East Of Canyon Creek Road.

Mr. Kohlhoff read the title of Resolution No. 2489 into the record.

Ms. Retherford presented the staff report.

Begin staff report. “The property located at 7550 SW Boeckman Road will be impacted by three upcoming capital projects including Transportation System Plan Project W-4F (Boeckman Road Widening), for Bicycle and Pedestrian Master Plan Project R3 (Boeckman Creek Regional Trail), and CIP Project No. 2045 (Boeckman Creek Sewer Line Replacement and Frog Pond Expansion). While some of these projects won’t occur for a number of years, the property owners are currently interested in selling their property which makes acquisition of the property for these future projects timely.

Staff has obtained an appraisal of the property establishing a value of \$550,000 and the owners have provided a separate appraisal establishing a value of \$625,000. Resolution No. 2489 seeks Council authorization to acquire this property per the terms of the Purchase and Sale Agreement. However, two items need to be completed prior to the signing of the Purchase and Sale Agreement, the remaining repair item, and clearing the neighbors access easement.

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This property acquisition is not identified in the City's fiscal year 2014-15 budget, and a supplementary budget adjustment will be needed. Two proposed funding strategies for Council consideration are identified as Option A and Option B.

Option A includes \$93,750 to be funded from Urban Renewal Program Income, which is the result of income received from the sale or rental of property acquired by the Urban Renewal Agency and is not the issuance of new additional debt. Urban Renewal Program Income can only be used for project purposes within the urban renewal area that produced the program income.

Option B uses the same funding sources as Option A, except there is no URA funding included.

This property acquisition is not identified in the City's fiscal year 2014-15 budget and a supplementary budget adjustment is needed in an amount not to exceed \$625,000, to come from funds identified in Option A or B as shown below.

Option A			Option B		
Sewer SDC	15%	\$ 93,750	Sewer SDC	20%	\$125,000
Sewer Ops	25%	\$156,250	Sewer Ops	30%	\$187,500
Street SDC	25%	\$156,250	Street SDC	30%	\$187,500
Urban Renewal	15%	\$ 93,750	<u>Parks SDC</u>	20%	<u>\$125,000</u>
<u>Parks SDC</u>	20%	<u>\$125,000</u>		100%	\$625,000
	100%	\$625,000			

The amount of the purchase price, the conditions of sale, and the timing to purchase now rather than later is a business decision, not a legal decision. Whether to also purchase "AS IS" or subject to typical warranties provided with the residential disclosure form is also a business decision, but could subject the City to liability in the event significant repairs were discovered."
End of staff report.

Mr. Kohlhoff recommended amending the language in paragraph three of the Resolution to read: "3. The City Manager or designee is authorized to execute documents necessary to complete this acquisition as necessary and customary in real estate transactions including but not limited to the final Purchase and Sale Agreement." He said the parties have come to terms on the major issues and the access easement will be completely released. The funding option would need to be selected by Council.

Ms. Retherford explained a supplemental budget would be necessary to fund the purchase.

The Mayor asked if Council wished to approve the resolution, and if so, how they wanted to fund the purchase.

Mr. Kohlhoff indicated the items should be taken in reverse order, select the funding option first, and then approve the resolution.

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Councilor Goddard did not want to use Urban Renewal funding, and had reservations on whether the property acquisition was necessary at this time.

Motion: Councilor Stevens moved to authorize Option A as the acquisition funding strategy. Councilor Fitzgerald seconded the motion.

Councilor Fitzgerald said the Council discussed the opportunity to use URA funds at an earlier meeting. Based on that discussion the Councilor was in favor of Option A, because given our current circumstances with obligations for the sewer fund and sewer SDCs this gives us a little flexibility and it is a moderate amount of funds and the timing was good for this decision.

Councilor Stevens agreed with Council Fitzgerald's statement, being able to use URA funding provides a buffer for the other areas, streets, sewer, and operations. The Boeckman Road Bridge is an important project from a safety standpoint.

Councilor Goddard agreed the dip is an issue and needs to be corrected; however, he would like to see a less expensive alternative to achieve the same end which is to allow the City to move forward with the project, but not require the use of public dollars to purchase private property that isn't needed to support the project. The Councilor would like to know when the Boeckman Road bridge project would be included in the CIP plan.

Mr. Kohlhoff offered that Steve Adams from Engineering had made a presentation on access alternatives to the Campbell property. With the level of the bridge, access to the Campbell property would not be likely to occur at all, even coming around from the north and underneath the bridge. The City Engineer was of the opinion that it would not be safe or pragmatic.

Mayor Knapp recalled the staff reports Mr. Kohlhoff referenced and found them persuasive. Access to the Campbell property would be virtually impossible to construct from a practical standpoint. He understood the owners are interested in selling their property at this time which provides an opportunity for the City to acquire a necessary piece of property to facilitate the planned construction improvements on Boeckman Road and bridge over this low spot. That is a reasonable and prudent thing for the City to do rather than a condemnation proceeding at a future date.

While we don't have firm answers on the future construction dates and impacts, it is a reasonable business decision. Many of those comments go to the second question Council had not yet asked, which is whether or not to make the purchase. The Mayor supported Funding Option A which used Urban Renewal funds since it was an appropriate nexus for Urban Renewal by facilitating development in a growing area of Wilsonville and providing public infrastructure to allow for private development.

Vote: Motion carried 3-1
Councilor Goddard voting 'No'.

Councilor Fitzgerald asked for clarification on the language for the motion adopting Resolution No. 2489.

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Mr. Kohlhoff suggested amending the language in Resolution 2489 in Paragraph 3, to read: “The City Manager or designee is authorized to execute documents necessary to complete this acquisition as necessary and customary in real estate transactions including but not limited to the final Purchase and Sale Agreement.” (New language underlined).

Paragraph 4 would now read: “City Council authorizes staff to fund this acquisition based on Option A as outlined in Exhibit B, attached hereto”.

Motion: Councilor Fitzgerald move to approve Resolution No. 2489 authorizing Option A as the acquisition funding strategy and adding the language to Paragraph 3.
Councilor Stevens seconded the motion.

Councilor Goddard commented looking forward to a road improvement project that affected this property, if, through some detailed engineering, it was determined access could be provided to the Campbell property, whose responsibility would it be provide access to the property. Did the City bear some responsibility for maintaining an access, or is it the property owners responsibility to find a way to get to their property.

Mr. Kohlhoff said if there was no access it would be a taking and under Oregon law an access would have to be provided. He thought the City would have to provide access if a bridge was constructed; however if Resolution No. 2489 was adopted the City would own the property.

Councilor Godard asked whose appraisal was being used to determine the offer price of the property. Mr. Kohlhoff indicated this had been a topic of an executive session.

Councilor Fitzgerald confirmed the access issue had been based on research and presentations by the City Engineering staff. The Councilor supported the Resolution since it was a prudent decision for the City and made good financial and planning sense. In addition the project is an important and necessary construction improvement for that dip.

Mayor Knapp recalled a significant amount of discussion and information brought by staff to the Council when they considering approaches to this question. While some of that information was done in executive session, all the appropriate questions were asked and answers were received from staff to enable those Councilors present to make informed judgments.

Vote: Motion carried 4-0

CITY MANAGER’S BUSINESS

A. Quarterly Goals Update

Ms. Retherford spoke a region wide industrial lands program initiated through the Port of Portland, and a number of affiliate organizations, were looking at the supply of industrial land in the region and identifying large lots for future development, and site readiness. Clackamas

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County initiated their own project as a follow on to that, and two sites in Wilsonville - the Elligsen property and Xerox property - worked through that process.

The City is also starting the same process with Washington County, Washington County identified fifteen sites to look at and perform the same sort of site concept planning and economic analysis to see what the market demand will be for these areas and what kind of uses are most appropriate for these sites.

Out of the fifteen locations in Washington County, four are in Wilsonville. Three are Coffee Creek sites and one is in the Basalt Creek area along Boones Ferry Road. Letters have been sent to the property owners in Coffee Creek to ask if they are interested in participating in the project. Coffee Creek I was concept planned in this way in 2012, and now the other three Coffee Creek sites will be similarly planned. The reports will provide information on what infrastructure is needed to serve which properties, which properties will have the greatest anticipated market demand the soonest, and what the best use will be for these properties.

Mr. Cosgrove advised the Aquatic Center Task Force will be giving their recommendation to the Council in December. A report on branding and marketing will also be presented to Council in December.

LEGAL BUSINESS – There was no report.

ADJOURN

The Mayor adjourned the Council meeting at 10:07 p.m.

Respectfully submitted,

Sandra C. King, MMC, City Recorder

ATTEST:

Tim Knapp, Mayor