

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, April 21, 2014. Mayor Knapp called the meeting to order at 7:11 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
Barbara Jacobson, Assistant City Attorney
Sandra King, City Recorder
Stephan Lashbrook, SMART Director
Pat Duke, Library Director

Kerry Rappold, Natural Resources Manager
Kristin Retherford, Urban Renewal Manager
Nancy Kraushaar, Community Development Director
Police Chief Jeff Smith
Chris Neamtzu, Planning Director

Motion to approve the order of the agenda.

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

Vote: Motion carried 5-0.

MAYOR'S BUSINESS

A. Recognize Dick Spence for Community Volunteering

As you may recall at our last meeting on April 7, we issued a proclamation that April is Volunteer Appreciation Month and we honored four volunteers. Tonight we want to honor one more person who has volunteered a significant amount of his time to help the City of Wilsonville and that person is Dick Spence.

Mr. Spence has been a long-time volunteer for the City and many other local organizations, including the Library Foundation Board, Friends of the Library Board and the Library Board in addition to the Parks and Recreation Department, Wilsonville Theater Company, Relay for Life, Special Olympics Oregon, and as a home shopper shopping and delivering food to homebound seniors on a weekly basis.

B. Upcoming Council meeting was announced. The Mayor identified the meetings he attended on behalf of the City and the actions that took place.

COMMUNICATIONS

A. Imagination Library Update (staff – Duke)

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Pat Duke, Library Director, introduced Jan Rippey, chair of the Imagination Library Program in Wilsonville. The Imagination Library is a successful program whose goal is to have children ready to enter kindergarten by having their parents read to them; children receive a book a month. To date 10,000 books have been sent to the 550 Wilsonville children participating in the program. Studies have shown the children enrolled in the program for fourteen months prior to entering kindergarten have higher standardized test scores in school.

B. Earth Day Proclamation

This year marks the 44th anniversary of Earth Day. Earth Day is a day that is intended to inspire awareness and appreciation for the Earth's natural environment. Over a billion people in 190 countries participate in Earth Day events. Mayor Knapp read the proclamation into the record.

CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS -- There was none.

COUNCILOR COMMENTS, LIAISON REPORTS & MEETING ANNOUNCEMENTS

Council President Starr – (*Park & Recreation Advisory Board Liaison*) reported the Parks and Recreation Board reviewed and distributed the Opportunity Grant awards at their last meeting. The annual Easter Egg Hunt was successful with 1,000 children participating. Councilor Starr noted Albertsons donated and filled all of the eggs for the event. He invited the public to attend the dedication of the Wastewater Treatment Plant on April 24th and advised a good discussion took place at the Chamber Leadership meeting.

Councilor Goddard – (*Library Board Liaison*) announced the Library Board was hosting a family night for Lowrie Primary School families. He announced the annual WERK day set for May 10th, volunteers should meet at the Community Center.

Councilor Fitzgerald – (*Development Review Panels A & B Liaison*) thanked the Planning Department and staff for their participation in the Arbor Day tree planting event in Villebois. She reported on the approvals made by the DRB Panel-A during their last meeting and noted the Tourism Strategy Development Task Force will hold their next meeting April 24th.

Councilor Stevens – (*Planning Commission; CCI; Wilsonville Seniors Liaison*) reported the Planning Commission elected Ben Altman Chair and Marta McGuire Vice Chair for 2014. The Commission held a public hearing and approved an amended version of the Residential Land Study which will be coming to Council in May. Wilsonville Seniors will be holding their board elections in July.

Mayor Knapp invited the community to participate in National Walk At Lunch Day April 30th, and advised Metro is taking public comment online via their website on four projects through May 5th; information can be found on Metro's website <http://www.oregonmetro.gov>.

PUBLIC HEARING

- A. Ordinance No. 737 – 1st reading**
An Ordinance Of The City Of Wilsonville Amending Chapter 10 Of The Wilsonville Code By Adding Section 10.240 Control Of Dogs And Amending Section 10.430 Penalties.

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Mr. Kohlhoff read the title of Ordinance No. 737 into the record on first reading and invited Assistant City Attorney and Police Chief Jeff Smith to make the presentation.

Mayor Knapp read the hearing protocol and opened the public hearing at 8 p.m.

Barbara Jacobson, Assistant City Attorney presented the staff report along with Chief of Police Jeff Smith. The ordinance will clarify issues citizens have complained about concerning off-leash dogs in public areas. The City has off-leash restrictions in City parks, but there have been complaints about dogs being off-leash on City sidewalks and other places where they intimidate other citizens, children and pets. In order for law enforcement to educate and if and when necessary, enforce, it was determined the ordinance needed some clarification. Prior to this the code addressed only vicious dogs at large. This ordinance addresses keeping your own pet on a leash when in public places and being mindful of other people. The ordinance also clarifies that, cleaning up after your dog will apply throughout the City.

Ms. Jacobson added during work session, Councilors expressed concern that the ordinance not be punitive, rather the purpose of it was for the health and safety of the community. Therefore, staff added language that in order to make the community safer for our citizens and to avoid altercations between citizens – one with a dog on leash, and one without - who may encounter each other, and make it easier for law enforcement to both educate and enforce the dog ordinance.

Mr. Kohlhoff noted the sixth and seventh Whereas clauses were changed to read (new language in *italics*):

“Whereas, to promote good and safe relationships between people and pets by avoiding confrontations between citizens; and

Whereas, to assist Wilsonville law enforcement officers in educating the public and in enforcing responsible dog control, as warranted, the city believes it in the best interest of the public to enact its own specific Ordinance regarding the prohibition of off leash and at large dogs within all public areas of the City, except as set forth herein, and to require owners to clean up after their dogs.”

Councilor Stevens thought the additional language clarified the intent, and would reduce conflicts between dogs and their owners; and that the ordinance it is not intended to be punitive.

Councilor Starr asked if there was adequate flexibility to uphold the law but still provide the flexibility.

Chief Smith stated part of his job as law enforcement was to educate for compliance.

Councilor Fitzgerald felt the ordinance also helped to promote the pedestrian friendly city we want, and reduces the arguments about whether a dog should be on a leash or not.

Mayor Knapp invited public testimony.

Angie Stoffregen, 28800 SW Meadows Loop expressed her support of the ordinance and hoped the ordinance would solve the problem with persons walking their dogs off leash.

Mayor closed hearing at 8:10 p.m.

Motion: Councilor Stevens moved to approve the amended version of Ordinance No. 737 on first reading. Councilor Fitzgerald seconded the motion.

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Vote: Motion carried 5-0.

CONTINUING BUSINESS

- A. **Ordinance No. 735** –2nd reading
An Ordinance Amending City Of Wilsonville Miscellaneous Code Provisions To Prohibit Smoking At Or Within Twenty Feet Of A Bus Stop Or Transit Shelter.

Mr. Kohlhoff read Ordinance No. 735 into the record by title only on second reading.

Motion: Councilor Fitzgerald moved to approve Ordinance No. 735 on second reading.
Councilor Stevens seconded the motion.

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

- B. **Ordinance No. 738** – 2nd reading
An Ordinance Of The City Of Wilsonville Approving A Comprehensive Plan Map Amendment From Residential 0 – 1 Du/Ac To Residential 4 – 5 Du/Ac On 1.79 Acres Comprising Tax Lot 5000 Of Section 13BA, T3S, R1W, Clackamas County, Oregon; Renaissance At Canyon Creek II; Renaissance Development, Applicant.

Mr. Kohlhoff read Ordinance No. 738 into the record by title only on second reading.

Motion: Councilor Fitzgerald moved to approve Ordinance No. 738 on second reading.
Councilor Stevens seconded the motion.

Councilor Starr commented although the layout of the subdivision and its open space park met the City's Code requirements, it is awkward and seems unpractical. He hoped that in the future should the DRB see something like this they would speak up.

Mayor Knapp confirmed the time for a City Council call-up of the issue had passed, and the design element was not before the Council for consideration. The question of how the park was laid out and the accessibility of the park for public use would be a design question that would have been appropriately asked at the DRB level.

Chris Neamtzu stated the applicant's representative was in the audience to answer specific questions about the process of the development. The DRB heard the application on March 10, 2014, and the period for call up is two weeks.

Councilor Goddard expressed a point of order; he understood the Council was being asked to vote on a Comprehensive Plan amendment and whether or not the Council called this DRB decision up doesn't preclude the Council from taking an action on the Comprehensive Plan amendment request tonight. Mr. Cosgrove confirmed they were two unrelated issues.

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The Mayor invited the applicant's representative to speak.

Ben Altman, SFA Design Group, representing the applicant, 9020 SW Washington Square Drive, Suite 505, Portland, 97223. Mr. Altman understood the concern about the pocket park. The reality is it is a result of code amendments adopted by Council following the original approval of Renaissance at Canyon Creek. Those code amendments changed the requirements for open space, and more recently reduced the number of homes that could access off of a private street.

The original design had the two open spaces facing each other across the street and the two lots on the west side of the street were to access originally off of the private street. The code changes did not allow this layout, so the lots were moved to the street, which put the open space to the back. He did not believe the developer would want to revise the lot layout.

Any requests for variances to the code provisions would open the land use code to modification. Suggestions were made to change locations and access points to the park; however, the time to have done that would be at the DRB stage.

Councilor Goddard asked if the park was public space or private open space.

Mr. Altman stated it was private open space owned by the entire homeowner association, including the additional new 8 lots.

Councilor Fitzgerald supported Councilor Starr's comments. She would like to think about a way to further empower the DRB and Planning Commission to suggest more creative ideas when they encounter similar situations.

Mr. Kohlhoff said the Planning Code contains a waiver provision for better design. This waiver provision has been used for a better design and workable community. He did not know if that provision was used, but it was available in the Code.

Mr. Altman added originally the area was shadow platted as part of the original subdivision, but the property owner was not ready to sell the property, leaving the hole in the middle of the subdivision. Then the Code changed. Mr. Altman said the CC&Rs gave Renaissance an automatic participation in the homeowners association if they came forward with a development, it did not preclude someone else, but they would have had to go to the HOA board and requested to be included. At the same time it gave the homeowners control over who would join their association.

Councilor Starr thought a discussion about empowering the Planning Commission and DRB to make recommendations when they saw an ungainly design or development layout would be a topic for the upcoming Spring Training session, so when they saw something like this, they can use their authority to say this follows the letter of the law, but does not capture the spirit.

Mayor Knapp noted on occasion Council has called up DRB decisions that seem to have an issue and then remanded the file back to the DRB for consideration. If Council has timely enough information on something that seems to be out of the ordinary the Council can address it if someone is aware at the DRB level.

Vote: Motion carried 5-0
Councilor Starr - Yes
Councilor Goddard - Yes

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Councilor Fitzgerald - Yes
Councilor Stevens - Yes
Mayor Knapp - Yes

C. **Ordinance No. 739** – 2nd reading

An Ordinance Of The City Of Wilsonville Approving A Zone Map Amendment From The Residential Agricultural - Holding (Ra-H) Zone To The Planned Development Residential - 3 (PDR-3) Zone On 1.79 Acres Comprising Tax Lot 5000 Of Section 13BA, T3S, R1W, Clackamas County, Oregon. Renaissance Development Corp., Applicant.

Mr. Kohlhoff read Ordinance No. 739 into the record by title only on second reading.

Motion: Councilor Stevens moved to approve Ordinance No. 739 on second reading.
Councilor Fitzgerald seconded the motion.

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

D. **Ordinance No. 740** – 2nd reading

An Ordinance Of The City Of Wilsonville Declaring A Moratorium On Medical Marijuana Facilities, And Declaring An Emergency.

Mr. Kohlhoff read Ordinance No. 740 into the record by title only on second reading.

Motion: Councilor Fitzgerald moved to approve Ordinance No. 740 on second reading.
Councilor Starr seconded the motion.

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

E. **Resolution No. 2456**

Resolution To Issue An Order By The City Council Approving The Appeal Of The Stage II Final Plan Revision, Site Design Review, And Master Sign Plan Revision And Sign Waiver Of A New 450 Square Foot Drive-Thru Coffee Kiosk At The Corner Of 95th Avenue And Boones Ferry Road. The Subject Site Is Located On Tax Lot 302 Of Section 2DB, T3S, R1W, Washington County, Oregon. Applicant/ Appellant/Owner Wilsonville Devco, LLC. Application Nos. DB 13-0046, DB 13-0047, And DB 13-0048.

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Mr. Kohlhoff read Resolution No. 2456 into the record by title only. He stated this matter was previously heard by Council; and Council made a determination and directed Staff to come back with findings and determinations, those are included now with the resolution for a decision.

Staff report included to provide background.

Applicant Wilsonville Devco LLC appealed the Development Review Board's denial of its applications to modify its already approved Stage II Final Plan to allow for a drive through Human Bean Coffee Kiosk. City Council held a public hearing on the appeal at the March 17, 2014 City Council meeting and the City Council voted 3 to 0 (two Council members were absent) to issue an Order granting the Application, subject to final review and approval by the City Council of the Findings of Fact, Conclusion of Law and Decision to be drafted to reflect the Council's approval requirements.

The DRB denied Wilsonville Devco's applications for a Stage II Final Plan Revision that would have replaced the already approved small mall project with a drive through coffee kiosk and store due to concerns about safety and internal traffic circulation, given the tight nature of the site and the adjoining development's drive through, coupled with traffic to and from the Chevron station. City Council granted the Appeal at the March 3, 2014 City Council meeting. The City Council determined that the appeal would be based on review of the DRB record, with allowance for limited new evidence and testimony relating only to on-site traffic congestion; adequacy, efficiency and safety of on-site pedestrian and vehicle circulation, inclusive of delivery and other larger format vehicles; and Section 4.154, Subsections 4.155(.03)A, 4.400(.02)A and 4.421(.01)C of the Wilsonville City Code. On March 17, 2014 the public hearing was held and based on the testimony given, new evidence presented and consideration of the entire record on appeal, the City Council members present for the hearing voted unanimously to reverse the DRB decision and approve the Applications, subject to imposition of three additional conditions relating to traffic, safety and circulation and adoption of Findings of Fact, Conclusions of Law and Decision, to be prepared by staff for approval and adoption by City Council

End of Staff Report.

Mayor Knapp asked if declarations were needed regarding the fact that at the previous meeting there were three Councilors in attendance, and now there were five.

Mr. Kohlhoff said if the Councilors read the full record and determined they could vote on it they may; if; however they felt that they were not informed because they were not at the hearing, they may abstain. Three councilors were necessary for a quorum to vote.

Mayor Knapp asked if any Councilors wished to make a statement regarding their participation.

Councilor Starr indicated he had read the information in the packet, but did not see the video of the Council meeting in mid-March. He asked if there was anything substantial he would have missed that would impact his decision making, or was this enough information to make a fair decision.

Mr. Kohlhoff explained when one listens to testimony one may be influenced by tone of voice and inflection as well as what is said. That may make a difference to some. If the two Councilors were to abstain, the three original voters would form a quorum.

Councilor Starr said he would abstain in fairness to the process because he did not hear the testimony or view it on TV.

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Mayor Knapp asked for a motion on the Resolution.

Motion: Councilor Stevens moved to approve Resolution No. 2456.
Councilor Fitzgerald seconded the motion.

Councilor Stevens reiterated in the three-hour discussion there were conditions added about vehicle length, and traffic safety changes that will be made on the site which improved the flow of traffic and pedestrian safety in that area.

Councilor Fitzgerald commented it was a long evening and the DRB members also put in a considerable amount of time studying the application. She thought Council was presented with a difficult situation, it is not ideal, but the conditions that were added were in the realm of what addressed the area that is the responsibility of the applicant.

A condition was added for the property owner to add a “do not block” sign and pavement markings which allows for passage through that area. A condition to limit the length of the trucks to 30 feet was added contrasting with what the DRB heard at their hearing. A third condition related to the easement. There was a lot of discussion that evening about an easement that was also referred to as a ‘curb cut’. Although the Council has no jurisdiction about the easement, there was agreement the Human Bean and Carl’s Jr. would not back over the easement/curb cut until such time as some other decision is made unrelated to what the Council has control over. With all of those factors Councilor Fitzgerald voted yes, and will vote yes tonight.

Councilor Goddard asked for clarification on the comments in the findings that the Council finds “pass by trips” do not have the same impact on levels of service of affected intersections.

Staff provided the definition of a pass-by trip versus a destination trip as trips that would have traveled on a street adjacent to a retail center even if the retail center was not constructed. Traffic engineers are able to differentiate the two types of trips on a percentage basis, as part of the ITE Standards.

Councilor Goddard read “the analysis demonstrating the proposed kiosk will not adversely impact study intersections in the AM/PM Peak, and that all levels of service at impact intersections remain within the city standards” and asked is it just the project that pushes the intersection over the standard that bears the responsibility for mitigating that, or do we capture contributions up to that point.

Mr. Cosgrove replied all projects pay SDCs and if something decreases the level of service, the City can ask additional conditions of approval.

Mr. Kohlhoff added the City has a standard and it is a first -come, first-served, up to the LOS-D standard. If the traffic in a development goes beyond the standard, unless there is some mitigation that can be done, that would affect the ability to go forward with the development.

Mr. Cosgrove pointed out the site was originally zoned for a much larger and more intensive commercial use than what is going in there. So the impact of the coffee kiosk is less than what would be allowed by law should they have built a larger strip mall development.

Mr. Kohlhoff said the original property also had property taken from it to help with the 95th intersection improvements and storm drainage which was included and taken into account.

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Mayor Knapp remarked on page 60 of 62, in the Findings Section (F) Stage II Final Plan approval for retail building already granted. And in the third paragraph on page 60, “City Council finds that the applicant had previously obtain Stage II Final Plan approval for a 3,150 square foot multi-tenant retail building commercial building on this site. City council also finds that such approval is still valid, and the retail building remains authorized for construction as approved.” The Mayor was concerned with the phrase, “remains authorized for construction as approved” in this coffee drive thru approval. If the applicant receives the final approval and builds the smaller coffee drive thru, does the 3,150 square foot commercial multi-user building remain approved, can they argue they did significant substantial construction on the drive thru, therefor they have preserved their long-term authorization for the larger retail building.

Mr. Kohlhoff pointed out on page 1 of 62, the applicant’s request states, “a revised Stage II Final Plan Site Design Review and revised Master Sign Plan for the development of a new 450 square foot drive foot coffee shop to **replace** an approved but un-built 3,150 square foot multi-tenant commercial building at the corner of 95th and Boones Ferry Road in north Wilsonville.” He thought the applicants request was clear, that they were getting approval to replace what was previously approved, and the new approval would govern.

Vote: Motion carried 3-0-2
Councilors Goddard and Starr abstained.

NEW BUSINESS

A. **Resolution No. 2466**

A Resolution Of The City Of Wilsonville Authorizing A Development Agreement For Canyon Creek Road Extension South Project From Boeckman Road To Vlahos Drive Between The Urban Renewal Agency Of The City Of Wilsonville, The City Of Wilson-Ville, And Mentor Graphics Corporation.

Mr. Kohlhoff read Resolution No. 2466 into the record by title only. Minor revisions made to the Development Agreement were at the request of Mentor Graphics; however final approval of one issue in the Agreement has not been received. Mr. Kohlhoff suggested adopting the resolution with the provision: “The City Manager has the authority to negotiate any minor changes to the Development Agreement with Mentor Graphics and the URA and to execute the Development Agreement subject to approval of the City Attorney as to the final form.”

Time is of the essence to meet 2014 construction season. Since development of the Mentor property would necessitate a half street improvement, and Mentor was not ready to develop, staff initially proposed acquisition of only a half street improvement and acquisition of half the right-of-way. However, if Mentor could be incentivized to cooperatively provide the remaining half street right-of-way for a full street improvement the public interest in having the full construction now would be better met as a superior transportation link would be constructed and a second interruption of the neighboring properties would be avoided. The Council provided staff with negotiation parameters and the Development Agreement reflects those parameters.

Motion: Councilor Goddard moved to approve Resolution No. 2466 with the revised Development Agreement and with the additional clarifying language offered by the City Attorney. Councilor Stevens seconded the motion.

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Councilor Stevens commented the completion of this north/south connection will provide an alternative cross-town route of travel in the City.

Councilor Goddard requested staff to make sure the costs in the agreement would be updated from the \$11.00 per square foot and be based on the current appraisal, and for the Council to be kept informed on any true-up of costs.

Councilor Fitzgerald thought the new road would improve pedestrian connectivity.

Vote: Motion carried 5-0.

CITY MANAGER'S BUSINESS

A. Council Goals Quarterly Update

Mr. Cosgrove provided information on the progress being made for each of the council goals.

LEGAL BUSINESS – there was no report.

The Mayor adjourned the Council meeting at 9:10 p.m.

Respectfully submitted,

Sandra C. King, MMC, City Recorder

ATTEST:

Tim Knapp, Mayor