

**CITY OF WILSONVILLE  
CITY COUNCIL MEETING MINUTES**

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A regular meeting of the Wilsonville City Council was held at the Wilsonville City Hall beginning at 7:00 p.m. on Monday, November 15, 2021. Mayor Fitzgerald called the meeting to order at 7:15 p.m., followed by roll call and the Pledge of Allegiance.

The following City Council members were present:

Mayor Fitzgerald  
Council President Akervall  
Councilor Lehan  
Councilor West  
Councilor Linville

Staff present included:

Bryan Cosgrove, City Manager  
Jeanna Troha, Assistant City Manager  
Barbara Jacobson, City Attorney  
Kimberly Veliz, City Recorder  
Chris Neamtzu, Community Develop. Director  
Mark Ottenad, Public/Government Affairs Director  
Zoe Mombert, Assistant to the City Manager  
Cindy Luxhoj, Associate Planner  
Dwight Brashear, Transit Director  
Miranda Bateschell, Planning Director  
Dan Pauly, Planning Manager  
Kimberly Rybold, Senior Planner  
Zach Weigel, Capital Projects Engineering Manager

Motion to approve the order of the agenda.

**Motion:** Councilor Akervall moved to approve the amended agenda. Councilor Lehan seconded the motion.

**Vote:** Motion carried 5-0.

**SUMMARY OF VOTES**

Mayor Fitzgerald	Yes
Council President Akervall	Yes
Councilor Lehan	Yes
Councilor West	Yes
Councilor Linville	Yes

**MAYOR'S BUSINESS**

A. Upcoming Meetings

The Mayor pointed out that the next City Council meeting would be Monday, December 6, 2021.

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Mayor Fitzgerald then reported on the past meetings she attended:

- Washington County Coordinating Committee (WCCC)
  - Attended November 15, 2021 meeting along with Council President Akervall, the City's alternate representative.
  - Reviewed a set of proposed changes to transportation projects funded by the County' Transportation Development Tax (TDT).
  - Approved a recommendation to the Board of County Commissioners for transportation project eligibility criteria and proposed roadways to be included in the MSTIP 23-28 System of Countywide Interest Map. The MSTIP or "Mis-Tip" as it is sometimes called is the Major Streets Transportation Improvement Program that is funded by a county property tax.
  - Both the TDT and MSTIP apply to developments in North Wilsonville that is located in Washington County. However, since relatively little of Wilsonville's development occurs in Washington County, these funds are only a portion of resources that the City uses for transportation improvements.
- Clackamas County Coordinating Committee (C4)
  - Attended the November 4, 2021 meeting where County staff presented on a range of homeless housing and services issues.
  - The Housing Authority of Clackamas County Team gave an in-depth review of the local implementation of the 2018 Metro-Area Affordable Housing Bond Measure Program. This program aims to acquire and build housing opportunities for those who are homeless. The County has over 1,700 housing units in process, with over 300 completed and another 150 in construction.
  - The County staff also reviewed the 2020 Metro-Area Supportive Housing Services Measure Program that is funded by an income tax on high-income earners and businesses grossing over \$5M.
  - The County's Implementation Plan seeks to increase shelter capacity, expand wrap-around social services for greater housing stability, and to increase all types of outreach and housing placement services.
  - Overall, this meeting demonstrated that Clackamas County is advancing the goals and objectives of both the Metro-Area Affordable Housing Bond Measure and the Supportive Housing Services Measure Programs.
  - The Mayor recalled she shared with the group the Council's interest of potentially adding mental health services staff in Wilsonville.
  - The Mayor shared Commissioner Paul Savas described the next steps with regard to Clackamas counties is to complete an intergovernmental agreement with Metro so all three counties are working on this IGA that would span 10 years.

**B. Small Business Saturday Proclamation**

The Mayor read into the record a proclamation declaring November 27, 2021 as Small Business Saturday in Wilsonville.

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C. City Attorney Employment Agreement

**Motion:** Councilor Akervall moved to approve the extension of Barbara Jacobson's employment agreement as City Attorney from November 30, 2021 to March 3, 2022 as outlined in the employment agreement. Councilor Linville seconded the motion.

Councilor Akervall appreciated that the contract extension allows the City to have continued service.

The Mayor noted that City Attorney Jacobson was transitioning to other activities and she was grateful Ms. Jacobson was giving the City time for that transition.

**Vote:** Motion carried 5-0.

**SUMMARY OF VOTES**

Mayor Fitzgerald	Yes
Council President Akervall	Yes
Councilor Lehan	Yes
Councilor West	Yes
Councilor Linville	Yes

**COMMUNICATIONS**

A. Metro Update

During Communications, Metro Councilor Gerritt Rosenthal displayed a PowerPoint detailing Metro's current priorities to support Portland-area residents. The PowerPoint has been made a part of the record.

B. Climate Rulemaking Presentation

Also, during Communications, Anne Debbaut Metro Regional Representative, Regional Solutions Team introduced Kevin Young Senior Urban Planner for Department of Land Conservation and Development (DLCD). Mr. Young then shared a PowerPoint with City Council outlining guidelines being established to support Climate-Friendly and Equitable Communities throughout Oregon. The PowerPoint has been made a part of the record.

Council questions followed the presentation.

Council was directed to contact Mark Ottenad, Public/Government Affairs Director if they had any further questions on the topic or wanted additional information.

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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.

There was no public input.

**COUNCILOR COMMENTS**

A. Council President Akervall

Reported on attending the following:

- Clackamas County Child Care Task Force on November 9, 2021.
- Veterans Day celebration at the Korean War Memorial on November 11, 2021.
- Washington County Coordinating Committee meeting on November 15, 2021.

Described the below upcoming events:

- Ruby Bridges Walk to School Day on November 17, 2021.
- Nature Play Grand dedication at Memorial Park on November 17, 2021.
- Red Cross Blood Drive at the Villebois Community Center on December 21, 2021.

B. Councilor Lehan

Stated she attended the following events:

- Tourism Promotion Committee meeting
- Willamette Falls and Landings Heritage Area Coalition meeting
- Veterans Day activities at Pleasant View Cemetery
- Andrea Bocelli concert with Councilor Linville

In closing, Councilor Lehan wished everyone a happy Thanksgiving. She reminded everyone to appreciate the people in their lives.

C. Councilor West

Councilor West congratulated the Wilsonville High School girls' soccer team for winning the 5A state championship game. He announced the Wilsonville High School boys' football team won their last game. Therefore, the football team would play in the state football semifinals. The team's next game would be played at McNary High School on Friday, November 19, 2021 against Thurston High School.

Councilor West wished everyone a happy Thanksgiving and hoped all enjoy their family traditions.

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D. Councilor Linville

Councilor Linville announced she would be attending the Clackamas County Coordinating Committee (C4) Metro Subcommittee meeting on November 17, 2021. She would provide information gathered at that meeting during the next City Council meeting.

Ms. Linville recalled at the Joint Policy Advisory Committee on Transportation (JPACT) work program there was a discussion about the Boone Bridge. Ms. Linville planned to find out more information about this discussion and report her findings at the next City Council meeting.

**CONSENT AGENDA**

Ms. Jacobson read the titles of the Consent Agenda items into the record.

A. **Resolution No. 2931**

A Resolution Of The City Of Wilsonville Adopting The Findings And Recommendations Of The “Solid Waste Collection Rate Report, October 2021” And The Republic Services Rate Schedule, Effective January 1, 2022.

B. **Resolution No. 2935**

A Resolution Of The City Of Wilsonville Authorizing The City Manager To Enter Into A Development Agreement With Taylor Morrison Northwest, LLC Regarding The Clermont Subdivision In Villebois.

C. Minutes of the November 1, 2021 City Council Meeting.

**Motion:** Councilor West moved to approve the Consent Agenda as read. Councilor Lehan seconded the motion.

**Vote:** Motion carried 5-0.

**SUMMARY OF VOTES**

Mayor Fitzgerald	Yes
Council President Akervall	Yes
Councilor Lehan	Yes
Councilor West	Yes
Councilor Linville	Yes

**NEW BUSINESS**

A. None.

**CONTINUING BUSINESS**

A. None.

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**PUBLIC HEARING**

A. None.

**CITY MANAGER'S BUSINESS**

No Report.

**LEGAL BUSINESS**

A. **Appeal Hearing**

An Appeal Of A Portion Of Development Review Board Resolution No. 393-B Villebois Village Center Mixed Use Development: Pacific Community Design-Representative For Costa Pacific Communities-Applicant And RCS Villebois Development Owner (Case File Numbers DB21-0022 And DB21-0023) – Review Of The Record For The Villebois Village Center Mixed Use Project Related To Approval Of A Parking Area On Lot 12 Of Special Area Plan Central Preliminary Development Plan 1C.

Ms. Jacobson read the title of the appeal hearing into the record.

Mayor Fitzgerald provided the appeal-hearing format and opened the appeal hearing at 8:12 p.m.

No Councilor declared a conflict of interest, bias, or conclusion from information gained outside the hearing. All Councilors reported they familiarized themselves with the record. No member of the audience challenged any of the Councilor's participation.

Cindy Luxhoj, Associate Planner provided the staff report and PowerPoint, both of which has been made a part of the record.

Following the presentation staff answered Council's clarifying questions.

Appellant Michele Sandlin informed City Council her son Duncan Sandlin would be presenting the appeal and rebuttal on behalf of the 41 petitioners in Villebois Village.

Mr. Sandlin then presented a PowerPoint, which has been made part of the record.

He described petitioners believed lot 12 was rushed into development and the City did not do its due diligence. He then stated there were issues not brought up at the Development Review Board hearings. Mr. Sandlin shared petitioners had mentioned these issues of concern in their letter to the Development Review Board.

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Mr. Sandlin noted the petitioners questioned why the parking lot was being built. He further stated petitioners had never received a clear answer to that question. He recalled that previously staff stated at the first Development Review Board hearing that no additional parking was needed. Mr. Sandlin further recalled a Development Review Board member asked if the additional buildings A, B and C met parking requirements. Mr. Sandlin informed staff had responded they did not and would not require any additional parking. According, to Mr. Sandlin DKS Associates said they conducted an initial parking study in 2018 and concluded there was plenty of adequate parking in the Villebois Village. Therefore, petitioners feel it is not necessary to build the parking lot.

Mr. Sandlin recalled petitioners asked what the benefit is to build the parking lot and/or if the City needed the parking lot. However, City staff left this question unanswered. Mr. Sandlin explained there would be no revenue generated by the City for the parking lot. He then recalled according to the applicant at the second Development Review Board hearing they anticipated losing a half a million dollars to develop the parking lot and would gain nothing. Mr. Sandlin described it is not in the applicants best interest to build this parking lot. Mr. Sandlin added the community did not request the parking lot. Mr. Sandlin shared that petitioners are confused about the building of the parking lot as the City nor the applicant needs it and it does not benefit the homeowners.

It was stated that the 41 petitioners were mainly concerned about safety. However, the petitioners were also concerned about loss in property/home equity and value.

Mr. Sandlin stated the parking lot does not fall under the definition of multi-use. He defined multi as meaning more than one. He then stated the parking lot only has one use and that all would have to agree that one does not equal more than one. He then shared in the Wilsonville Development Code defines mixed use as two to four story buildings that combine residential, commercial, and offices. He then stated the parking lot does not meet the definition of multi-use.

Mr. Sandlin explained the complaint letter submitted by the petitioners mentioned the issues about the right to use the off-site parking. Since, it would be restricted parking Mr. Sandlin stated there must be evidence in the form of recorded deeds, easements, leases, and/or contracts securing full and permanent access. He added that no permanent parking plan was ever obtained or provided to the record. Moreover, there is no way to know how to enforce parking. In addition, there is the question of whether the police enforce parking violations and how would they know which cars to tow or ticket.

Mr. Sandlin recalled the next subsection of the Wilsonville Development Code petitioners brought up was that “no area shall be considered a parking space unless it can be shown that the area is accessible and usable for that purpose, and has maneuvering area for the vehicles, as determined by the planning director.” He stated the petitioners have not seen any study or finding addressing this issue. He explained that Development Review Board Chairman Nada asked if a study had been performed during the first public hearing and was informed that none had been done. Mr. Sandlin stated that no study existed showing it was safe to use that alleyway to access that parking lot.

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Another subsection of the Wilsonville Development Code brought up by Mr. Sandlin was that, “off street parking shall be designed for safe and convenient access that meets ADA and ODOT standards.” He then shared the following information:

- Only non-private alley for access to convert to 2-way
  - Width 14’7”
    - 7’3.5” per lane
    - Average car width with rearview mirrors is 6’6” to 7’8”
- Wilsonville Transit Code, Chapter 3 and ODOT set minimum lane width at 10’
- City Engineer must do a finding to approve lane widths that do not meet ODOT or Wilsonville Transit Code
  - No study or finding by the City Engineer has been filed to date

Mr. Sandlin added the Oregon Department of Transportation lane widths may vary from 3 to 3.6 meters that's 10 to 12 feet

Mr. Sandlin concluded that the parking lot was not necessary or needed by anyone. He stated DKS Associates found it was unnecessary, as parking is already ample in the area. It does not benefit the City and by admission of the applicant does not benefit them. Nor does it benefit the homeowners who stand to lose substantial amount of money and have less safe alleyways. Therefore, the petitioners feel that this whole process had been pushed through and not fully addressed. The reason for this belief is that as stated at the first Development Review Board hearing this project was supposed to be done in 2013 and nine years later in 2021 is not complete.

The petitioners feel the City put pressure on Costa Pacific Communities to finish this project and ignored petitioners concerns. Mr. Sandlin shared the reason for these feelings is because at the second Development Review Board hearing Michele Sandlin pointed out that the Mayor in a different hearing had said the City would listen to the residents regarding their concerns. However, at both Development Review Board hearings before the vote Dan Pauly, Planning Manager informed the members they did not have to listen to what was said by the public. This contradicted what the Mayor had said and was very upsetting to the petitioners. It was recalled at the second Development Review Board hearing before the vote two members apologized to the public and stated they had to vote this way, not that they disagreed with residents nor were compelled to vote this way but they had to vote this way.

In closing, Mr. Sandlin shared the petitioners had hired an attorney. Moreover, multiple petitioners wanted to skip the appeal and instead bring up a lawsuit on the item.

Following the appellants presentation City Council asked clarifying questions and reviewed the transcripts of the September 27, 2021 and October 25, 2021 Development Review Board meetings.

Michael Robinson, Land Use Attorney for the law firm of Schwabe, Williamson & Wyatt presented on behalf of the applicant Rudy Kadlub, Costa Pacific Communities. Mr. Robinson stated that Mr. Kadlub and other members of his team, which included Stacy Connery, Planning Manager and Kristina Koltavary, Landscape Architecture Manager both of Pacific Community Design, were available for questions.

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Mr. Robinson began his presentation by recalling the transcripts were included in the City Council packet. Moreover, had been part of the public record since the printing of the City Council agenda on the web. Hence, the transcripts were available for all parties to view.

Mr. Robinson then pointed out for City Council that the procedural objections by the appellant were not preserved and even if they were, they were not raised in the appeal. Therefore, while the applicant respects the ability of Council to discuss the matter Mr. Robinson does not think they are properly preserved appeal issues. He detailed procedurally the issues should have been included in the appeal. However, they were not included in the appeal. Mr. Robinson explained the applicant does not begrudge City Council for discussing these issues with the public. The applicant believes that it is important to have transparency and clarity.

Mr. Robinson then explained why Council should affirm the Development Review Board's decision. He described that Development Review Board has an obligation to make a decision based on the approval criteria if the applicant needs its burden of proof. Therefore, there is not a reason to reverse the Development Review Board decision.

Mr. Robinson responded to the appellant's question in their presentation, which was why were the parking lots proposed. He replied there is no need standard in the Development Review Board approval criteria for the parking lot. However, why the parking lot was proposed on the application was to improve the availability of parking in the area by dedicating the 24 parking space lot to area residents and retail employees. More available on-street parking supports the retail uses in the mixed-use area resulting in a stronger retail presence.

Mr. Robinson then spoke about the first appeal issue, which were the alley and the parking lot. He stated each met all of the relevant City standards and the alley is safe. He then instructed City Council to look at pages 74 and 75 of the Development Review Board decision. He noted those two pages alone explained why the alley is safe. Furthermore, DKS Associates provided testimony on the record that the alley was safe, meets City standards for width, site distance and other requirements.

He stated with respect to the alley itself and the parking lot; the evidence shows that the Development Review Board correctly made a decision that the alley was safe. In addition, the alley and parking lot both meet City standards. Furthermore, the Development Review Board was tasked with the issue whether a building had to be in this location or if a parking lot was a permitted use in this zone. Mr. Robinson pointed out that staff report notes it is a permitted use in the zone. The staff report also said that a residential building did not have to be built here, as the development is fully within the density range required for buildable.

In closing, Mr. Robinson stated the Development Review Board did the job the City Council requires it to do by looking at the evidence. The applicant provided the burden of proof and the Development Review Board found that the applicant met the burden of proof. Therefore, the applicant asked the City Council affirm the Development Review Board decision as it is supported by substantial evidence from the whole record and all of the conditions in the Development Review Board decision are feasible to be satisfied

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There were no follow up questions for the applicant.

In rebuttal to the applicants presentation Mr. Sandlin explained the appeal form only allows two sentences. He recalled the subsections brought up by the petitioners were sent in a letter to Development Review Board. Mr. Sandlin mentioned he brought up the subsections when he spoke at the second hearing. His understanding was that the Development Review Board did not have the prerequisite study and/or findings from the City Engineer needed to make their decision.

Mr. Sandlin shared this project had been changed three times. Initially, it was supposed to be a public parking lot and then a one-way, and now a two-way. He then pointed out that in the first hearing the applicant informed the Development Review Board the width of the alley was 18 feet. Mr. Sandlin stated that was not correct and that in the second hearing the applicant said they could widen it to 16 feet.

Mr. Sandlin reiterated the petitioners had been hearing many different things as things changed several times throughout the process. Mr. Sandlin recalled the petitioners mentioned issues of concern in their comments to the Development Review Board before the second hearing. He stated the petitioners felt the process was unfair and that the Development Review Board did not discuss and/or neglected their concerns.

Following the rebuttal staff answered City Council questions.

Seeing no further questions, Mayor Fitzgerald asked for a motion to close the hearing at 9:47 p.m.

**Motion:** Councilor West moved to close the hearing. Councilor Lehan seconded the motion.

**Vote:** Motion carried 5-0.

**SUMMARY OF VOTES**

Mayor Fitzgerald	Yes
Council President Akervall	Yes
Councilor Lehan	Yes
Councilor West	Yes
Councilor Linville	Yes

Mayor Fitzgerald then asked for a motion and a second for an order to either affirm, reverse or modify the Development Review Board decision, as a starting point. The Mayor noted once the motion was made and seconded Council would have a discussion. The Mayor reminded making the motion or seconding it does not bind either motion maker to voting for that motion. It is simply the mechanism for starting the discussion.

**Motion:** Councilor Akervall moved that the Wilsonville City Council order the decision of the DRB including all findings contained in the staff report adopted by the Development Review Board. We affirmed and further direct the City Attorney to prepare additional findings based on this Council's determination for review, approval, and signature by the Mayor. Councilor Lehan seconded the motion.

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The Mayor then opened up the matter for discussion.

Council President Akervall noted that the time was 9:50 p.m. and that a motion was required if the meeting was to go past 10:00 p.m. City Attorney Jacobson reported that Councilor Akervall was correct a motion would be required for the meeting to be extended past 10:00 p.m.

**Motion:** Councilor Akervall moved to extend the meeting until 10:30 p.m. Councilor West seconded the motion.

**Vote:** Motion carried 5-0.

**SUMMARY OF VOTES**

Mayor Fitzgerald	Yes
Council President Akervall	Yes
Councilor Lehan	Yes
Councilor West	Yes
Councilor Linville	Yes

Council discussion ensued. Following discussion Mayor Fitzgerald called for a roll call vote for the motion on the table.

**Motion:** Councilor Akervall moved that the Wilsonville City Council order the decision of the DRB including all findings contained in the staff report adopted by the Development Review Board. We affirmed and further direct the City Attorney to prepare additional findings based on this Council’s determination for review, approval, and signature by the Mayor. Councilor Lehan seconded the motion.

**Vote:** Motion carried 5-0.

**SUMMARY OF VOTES**

Mayor Fitzgerald	Yes
Council President Akervall	Yes
Councilor Lehan	Yes
Councilor West	Yes
Councilor Linville	Yes

Mayor Fitzgerald then read the appeal rights statement. Informing those that desire to appeal the decision to the Oregon Land Use Board of Appeals (LUBA), that they must make application, stating the grounds of the appeal, in the form and within the time prescribed by State law.

City Attorney Jacobson explained she would draft up an order, which would include the findings that City Council made and then present them to the Mayor for review and approval of the findings. Once, approved the Mayor would then sign the order. City Attorney Jacobson asked City Council if they would like to recess while she drafted the order.

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City Council agreed to have the order drafted the next morning and then sent to the Mayor for review, approval and signature.

**ADJOURN**

Mayor Fitzgerald adjourned the meeting at 10:13 p.m.

Respectfully submitted,

DocuSigned by:  
*Kimberly Veliz*  
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Kimberly Veliz, City Recorder

**ATTEST:**

DocuSigned by:  
*Julie Fitzgerald*  
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Julie Fitzgerald, Mayor