

**West Linn City Council Meeting Minutes
September 8, 2008**

Council Present: Mayor Norman B. King, Council President Michele S. Eberle, Councilor Scott A. Burgess, Councilor Jody Carson and Councilor Mike Jones

Council Absent: None

Staff Present: Chris Jordan, City Manager; Chris Kerr, Senior Planner; Tom Soppe, Associate Planner; City Attorney Bill Monahan; and Shirley Richardson, Minute Taker

Call to Order/Pledge of Allegiance

Mayor King called the meeting to order at 6:40 p.m. and Council President Eberle led the flag salute.

Proclamations, Recognitions and Presentations - None

Community Comments

Trish Scheller, P.O. Box 405, Beaver Creek, OR 97004 stated that she sent emails to Mayor King and Chris Jordan on the issue of the West Linn Library charging the \$75 for the meeting room if you do not have non-profit certification (5013C). She feels this is an unreasonable expense. Her group is non-profit and they cannot afford to get a 5013C. She asked that Council revisit the current policy and allow small groups without a 5013C.

Council President Eberle asked what documentation is used to verify that a group is non-profit. Ms. Scheller stated that they are a small bible study group and possibly they could get some type of non-profit verification. She is asking for this change so it will benefit all small groups, not just hers.

Lynn Fox stated she is speaking on behalf of the Hidden Springs Neighborhood Association regarding a communication received from a title company demanding that she produce the CC&R's for a specific address within her association. She does not have specific CC&R's; they are supposed to come from the title companies. She does not have the resources to provide that service for a title company nor for the members of her association. Since the Planned Unit Development that requires these CC&R's are set up by the Planning Commission, she suggests there be a process established where the records can be kept at City Hall. When realtors, title companies, or homeowners have questions, they will then have a place to get their information.

Ms. Fox stated when she became president of this neighborhood association Mr. Atkins stated there were two associations within their 3,800 members. It turns out there are over 20 associations. Some of these associations are functioning and some are not. Because some associations do not function, the functioning ones are deciding they don't want to participate either. Associations do not want to collect the fees, do the work, maintain the streets, maintain the open spaces, pay for the sidewalks, etc. This lack of consistency is leading to less participation. The homeowner associations are a value to the city and she feels this issue should be addressed by Council and staff.

Consent Agenda

1. Agenda Bill 08-09-01 Approval of the City Council Meeting Minutes of July 28, 2008
2. Agenda Bill 08-09-01 Approval of the City Council Meeting Minutes of August 18, 2008

Council President Eberle moved to adopt the consent agenda consisting of approval of the City Council Meeting Minutes of July 28, 2008 as revised and August 18, 2008 as revised.

Ayes: Burgess, Jones, Eberle, Carson, King

Nays: None

The motion carried 5-0.

Report from the City Manager -- None

Business from the City Council

Mayor King asked what the price is for rental of a meeting room at the West Linn Library. Mr. Jordan stated that he believes the cost of the room is \$25.

Council President Eberle asked if there is currently a process where the City maintains CC&R records. Mr. Jordan stated that the homeowner associations are private organizations. Title companies should be aware that homeowner associations and CC&R's go along with the title. There should be no question from the title company. It is up to the homeowner association to enforce or not enforce CC&R's.

Council President Eberle moved to approve an additional budget item of \$1,100 for the Lock Fest Event scheduled for this weekend. Councilor Carson seconded the motion.

Council President Eberle explained that in the past neighborhood associations have helped contribute towards the cost of this event. However, this year a new

purchasing system for neighborhood associations went into effect that eliminated the ability to fund the event this year.

Councilor Burgess stated he will be voting in support of this motion because this City has been a long-supporter of this event over the years. It is a community-wide event and certainly well-worth the support.

Ayes: Jones, Eberle, Carson, Burgess, King

Nays: None

The motion carried 5-0.

Mayor King asked if the CC&R's are attached to the deed. In his case, the CC&R's are not valid because they were never adopted by the homeowner association. Mr. Monahan stated the decision of the CC&R's are a determination that is made by the title insurance company and attorneys for individual buyer/seller. The City does its obligation by requiring the formation of the CC&R's and the initial recordings of those with subdivisions or planned unit developments.

It is then up to the people who are subject to those CC&R's to go ahead and actually form the association and if they make changes to record those changes. The city would be in a difficult situation to keep up with CC&R's as they are modified through the years. The city is not responsible for enforcing the CC&R's.

Mayor King asked if homeowners have responsibilities for infrastructure. Mr. Monahan stated it depends on what the obligations are when the homeowner's association was formed. They city can be responsible for infrastructure. Mr. Jordan cited privately owned open space that is owned by an association as an example of Homeowner's responsibility for infrastructure.

Councilor Burgess stated years ago there were CC&R's in the statutes and it was removed. It is not a relationship between the City and the homeowner association; it is an internal issue. In the land use process the City does not enforce CC&R's whether they are written or not unless there is a legal obligation. CC&R's are a legal document among private parties unless there are specific issues involving the City. It is not the neighborhood association's obligation to have CC&R information; Ms. Fox can refer the title company to the City if there is legal action that relates to the neighborhood association.

Councilor Carson stated she will be on vacation the week of September 22nd.

Mayor King asked what happens to an asset (open space/right-of-way) if a homeowner's association ceases to exist. Mr. Monahan stated that the assets stay with the fractional shares of the common area. Each of the properties that were in the original development still has responsibility for the maintenance of that property. In order to get out of the obligation the homeowner's association would have to

reform and make a determination on how they are going to dispose of the property. It does not automatically revert to the City/County.

Business Meeting - Agenda Items

1. Agenda Bill 08-09-03 Ordinance - Wildlife Habitat Inventory;
Continued from August 11, 2008 Meeting

Mayor King reopened the public hearing for the adoption a Wildlife Habitat Inventory and amendments to the West Linn Comprehensive Plan at 6:58 p.m. This agenda item is a continuation of the public hearing from August 11, 2008. The proposal includes a Wildlife Areas Map and Inventory with associated text changes related to providing habitat friendly development practices. This is an update of the 2002 inventory that was completed by Winterbrook Planning, but never adopted by the City.

The Planning Commission voted unanimously (6-0) to recommend approval of this proposal with two changes. These changes are supported by staff and have been incorporated into the revised document.

At the August 11th hearing there were public testimony and staff responses. The public hearing was left open to allow additional testimony.

Mayor King asked if there were any additional comments or presentations. There were none. Mayor King closed the public testimony portion of the hearing opened it to discussion among the Councilors and staff.

Chris Kerr stated that staff agrees with a recommendation made in an August 25th memo addressed to Mr. Jordan regarding an additional action measure. This request came about from comments received at the August public hearing from Gregory Morse.

The recommended additional action measure #12 reads, “Utilize a professional to provide technical expertise and review statutory regulations with recommendations to the City Council on the various policy options related to providing additional protections that threaten wildlife areas identified on the City’s Wildlife Habitat Areas Map. Recommendations shall address protection, preservation options, and shall include at a minimum the following protection options:

1. Relying on existing regulations
2. Implementing full protections
3. Providing additional limited protection”

Mayor King asked if there were any additional correspondence received. Mr. Kerr said there were none.

There was no testimony on this issue.

Councilor Burgess read the title and moved to approve Ordinance No. 1572 Adopting a Wildlife Habitat Areas Map and Inventory with Associated Text Changes into the City of West Linn Comprehensive Plan (PLN-08-02) per Agenda Bill 08-09-95 with the addition of the 12th Action Item as read by staff at tonight's meeting. Councilor Carson seconded the motion.

Ayes: Eberle, Carson, Burgess, Jones, King

Nays: None

The motion carried 5-0.

Councilor Burgess read the title for the second time and moved to approve Ordinance No. 1572 adopting a Wildlife Habitat Areas Map and Inventory with Associated Text Changes into the City of West Linn Comprehensive Plan (PLN-08-02) per Agenda Bill 08-09-05 with the addition of the 12th Action Item as read by staff at tonight's meeting. Councilor Carson seconded the motion.

Ayes: Carson, Burgess, Jones, Eberle, King

Nays: None

The motion carried 5-0.

2. Agenda Bill 08-09-04 Ordinance - CDC Amendments to Chapter 27 and 28 Tualatin and Willamette River Protection; CDC-07-04/CDC-07-06 (Planning) Continued From August 11, 2008 Meeting

Mayor King opened the public hearing on an ordinance to bring the Willamette River Greenway and the Tualatin River Protection Area standards into agreement with Title 13 of Metro's Urban Growth Management Functional Plan at 7:03 p.m.

Councilor Carson moved to continue the CDC Amendments to Chapter 27 and 28 until September 22, 2008. Councilor Burgess seconded the motion.

Ayes: Burgess, Jones, Eberle, Carson, King

Nays: None

The motion carried 5-0.

3. Agenda Bill 08-09-05 Resolution - Imagine West Linn Update

Mayor King opened the public hearing on a proposal to update the Image West Linn vision document at 7:05 p.m. This proposal is one of City Council's top priorities for this year. The document is not part of the Comprehensive Plan so it may be adopted

by resolution rather than by ordinance. There are no particular approval criteria or land use procedures. He explained the hearing process and asked for a staff report.

Chris Kerr, Senior Planner reported the Imagine West Linn document was approved by the City Council in 1994. This update serves as a general representation of the City's vision for its future and is used to guide the City in terms of identifying its values and establishing long-term goals. The City hired Siegel Planning Services, LLC to assist with updating this document in terms of formatting, making necessary data/statistical updates, listing accomplishments that have taken place since 1994 and to recognize the significance of "sustainability" in the City's future. Comments received from the various City Boards and Council has been incorporated into the updated document proposed for adoption.

Some of the changes noted were:

- (Page 7) Data was updated in terms of staff support, 2008 City Council and background in terms of citizen involvement
- (Page 11) Second bullet under Growth Trends, change the first sentence to read, "West Linn is likely to continue growing at about 1% annually recognizing the city is getting closer to build-out."
- (Page 17) Fifth paragraph, change first sentences to read, "Through a participatory process that includes the property owner, the surrounding neighbors and the City, a master plan was created for the mill site to support the existing businesses and effectively transition to the surrounding uses." The future master plan identifies a successful gathering place with offices, ..."
- (Page 17) Last paragraph, second sentence will be changed to read, "Consequently, the mixed-use commercial centers of Willamette, Robinwood, Bolton, and Tanner Basin."
- (Page 18) Second paragraph, second sentence changed to read, "The area of the paper mill reflection ponds have been redeveloped, when they are no longer needed for industrial operations."
- (Page 18) Fourth Paragraph, delete the last sentence which begins with, "Our elected officials..."
- (Page 23) Correct the last word in the first item from "need" to "needed housing."

Councilor Burgess thanked Mr. Siegel and staff for a well-written document; it is easy to read and very clear. He suggested an addition to the Resolution: "Section 2: The Image West Linn vision document shall serve as an important guide and reference for the City's decision makers when determining goals and policies for the City, particularly as they relate to the Comprehensive Plan and implementing ordinances."

Mr. Siegel reported the core of the document is the same as developed in 1994. The committee did an excellent job in expressing the community's values in bringing this document up to date. The updated document covers the sense of community, land use, quality of life, community institutions, cultural diversity, education in the arts, and

sustainability principles (economic, environmental and social). The sustainability component is fused throughout the plan.

There was no testimony on this issue.

Council President Eberle moved to adopt Resolution No. 08-39, Imagine West Linn Update per Agenda Bill 08-09-05 with the amendments discussed by staff. Councilor Carson seconded the motion.

Councilor Burgess moved to amend the main motion to add to the Resolution:

- **“Section 2: The Image West Linn vision document shall serve as an important guide and reference for the City’s decision makers when determining goals and policies for the City, particularly as they relate to the Comprehensive Plan and implementing ordinances.”**

Councilor Jones seconded the motion to amend.

Ayes: Eberle, Carson, Burgess, Jones, King

Nays: None

The motion to amend carried 5-0.

Councilor Carson stated she is very pleased with the updated document. She is in full support of this document with the changes discussed tonight.

Poll on main motion with the amendment:

Ayes: Jones, Eberle, Carson, Burgess, King

Nays: None

The motion carried 5-0.

4. Agenda Bill 08-09-06 Ordinance - Right-of-Way Vacation -
 Lorinda Court and Lorinda Lane

Mayor King opened the public hearing on a proposal to vacate Lorinda Court and a portion of Lorinda Lane at 7:29 p.m. The streets are located to the west of Beacon Hill Drive and Barrington Heights neighborhood. The street vacation was initiated by the City of West Linn as required by Oregon Revised Statutes (ORS) 271.130. He explained the hearing process and asked for a staff report.

Tom Soppe, Associate Planner reviewed the staff report with the Council. The entirety of Lorinda Lane and Lorinda Court were intended to be private streets. The plat for the sections to be vacated accidentally included a section dedicating them to the City. These public sections constitute a right-of-way “island” that does not connect to other City right-of-way except via the private section of Lorinda Lane. The streets have not been built to city standards and are not legally accessible by the City. The City intends to preserve a utility easement over the entire right-of-way to

be vacated. The City will be released from maintenance and repair responsibility for the area of right-of-way to which it has no legal access.

Mayor King asked if staff received additional correspondence or any objections in writing to the proposed street vacation. There were none. He asked if objections had been received from abutting property owners that have value of their property that is substantially affected by this street vacation. Mr. Kerr said there were no objections received regarding this matter.

Councilor Burgess asked if a fire engine can assess this private street. Mr. Jordan stated some gated communities such as this are required to have specific codes that the Police and Fire Department are aware of and can be accessed immediately when necessary.

Mayor King asked if this association legally adopted their CC&R's and if they were properly organized. Mr. Jordan noted that generally speaking homeowner association CC&R's are held in the ownership of the developer until a certain percentage of the lots are sold. This association may not have met that percentage yet.

Council President Eberle asked if any roadway maintenance has been done to the public right-of-way portion of this street. Mr. Jordan said probably not because the street just went in a couple of years ago.

Testimony in Opposition

Ed Bennett was called; however he was not present.

Neutral Testimony

Alice Richmond, 3939 Parker Road, stated she is in favor of this proposal. This should have been caught when the road was put in.

There were no further comments from staff.

Councilor Burgess asked staff to take notice of the subdivision (Vineyard) to the southwest of this site has a right-of-way intended for a pathway. He suggested that the access be reviewed to allow for this pathway which allows for access to the rest of the city.

Mayor King closed the public testimony portion of the hearing and moved into deliberations among the Council.

Councilor Jones read the title for the first time and moved to adopt Ordinance No. 1573, vacating Lorinda Court and Lorinda Lane Right of Way in the City of

West Linn, Oregon per Agenda Bill 08-09-06. Councilor Burgess seconded the motion.

Ayes: Carson, Burgess, Jones, Eberle, King

Nays: None

The motion carried 5-0

Councilor Burgess read the title for the second time and moved to adopt Ordinance No. 1573, vacating Lorinda Court and Lorinda Lane Right of Way in the City of West Linn, Oregon per Agenda Bill 08-09-06. Councilor Jones seconded the motion.

Ayes: Burgess, Jones, Eberle, Carson, King

Nays: None

The motion carried 5-0

Adjournment

Hearing no further business from Council, Mayor King adjourned the City Council meeting of September 8, 2008 at 7:45 p.m. into Executive Session pursuant to ORS 192.660. He announced that Council would not come back into public session after Executive Session.