

**West Linn City Council Meeting Minutes**  
**September 22, 2008**

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

Council Absent: Councilor Jody Carson

Staff Present: Chris Jordan, City Manager  
Peter Spir, Associate Planner  
Bill Monahan, City Attorney  
Shirley Richardson, Minute Taker

Call to Order/Pledge of Allegiance

Mayor King called the meeting to order at 6:31 p.m. Council President Eberle led the flag salute.

Proclamations, Recognitions and Presentations

Mayor King introduced Carlotta Collette, a Metro Representative who came tonight to inform the Council of a series of conferences to be held by Metro over the next couple of months.

Ms. Collette stated she is here tonight to invite the public and engage everyone into the process that Metro, the three counties and the whole region are meeting to discuss ways of making this region the greatest place it can be. Discussions will include:

- Expanding the Urban Growth Boundary
- Urban Reserves for the coming years
- What residents want their communities to look like, feel like and live like 20, 30 or 40 years from now

After meeting with local county coordinating committees, Metro Policy Advisory Committee (MPAC) and many others Metro has come up with six goals for the region:

- Vibrant walking communities
- Sustained economic competitiveness and prosperity
- Safe reliable transportation choices
- Minimal contributions to global warming
- Clean air, water, and healthy eco systems
- Distributing growth fairly throughout the region

Ms. Collette submitted documents to Council outlining the steps to build the communities that meet the needs of their citizens. She invited Council, the Planning Commission, neighborhood leaders, CEO leaders, and people cities turn to when they want their city to grow to attend these upcoming conferences along with Metro and other groups. The following meetings are scheduled:

- “Future is Here, is Business as Usual good Enough” to be held October 8, 2008 at the Oregon Convention Center from 4:00 – 7:00 p.m. Moderator Gail Ackerman, Director/Institute of Natural Resources at OHSU and Keynote Speaker Chris Nelson, University of Utah will set the context for how national and global issues affect economy and growth. Other speakers will include mayors from several cities explaining how they want their cities to grow.
- “Scenarios on Land Use Planning,” Joint MPC and JPAC Meeting to be held on October 22, 2008 at the Oregon Convention Center.  
This is a meeting to present the results of a number of scenarios that Metro has been running on different approaches to land use planning and how they will effect the future growth of the communities (not moving the Urban Growth Boundary, investing more money in downtowns to build amenities, things people say they want like open space, etc.).
- “Scenarios on Transportation” a joint JPAC and MPAC Meeting to be held on November 12, 2008 at the Convention Center.  
A new Regional Transportation Plan is being drafted. Scenarios have been done on investment in transit versus investment in roads, local transportation networks versus transit, etc.
- “Bringing it All Together” to be held on December 10, 2008 at the Oregon Convention Center,  
This meeting will begin to tie all the issues together and bring everyone together to make decisions collaborating as a region (counties, businesses, communities, elected leaders) looking at what is the best package to move forward to manage population growth. There will be a lot more people and a need for more jobs and ways to place these people.

Next year there will be meetings to refine choices made and make additional choices about urban reserves and rural reserves. Our cities cannot do the kinds of growth, infrastructure, maintenance, repair and building out that need to be done unless there is collaboration. This is an opportunity to get everyone together to do detail planning on how the cities want to grow.

Mayor King noted the Highway 43 sidewalks and bike paths project for West Linn ranked very low on Metro’s list of projects. He asked since those decisions are already made, does it limit the possibilities for growth and higher density in West Linn. Ms. Collette stated the intention was to focus growth around regional centers, town centers and downtowns and try to relieve the transportation issues in those areas. The next stage will be the state budget and that project may or may not be listed on the same level in the next planning process. There is still an opportunity to move that process forward.

All of the communities will be dealing with constrained funds. They are at a \$7 billion shortfall with the list they went forward with. Not everyone is going to be on the list of projects that go forward. The three counties have been meeting and looking at a regional transportation package that will bring more projects in. Projects will still have to be prioritized at the regional level.

If the cities go beyond the urban growth boundary, it will cost more to do any of the development they want to do. It costs twice as much to build out than it is to rebuild in existing communities. People are going to be encouraged to stay closer to their local shopping areas, places they can walk to so they don't have to get into cars and drive everywhere they need to go. The cities do not need to build the street network to help everyone drive to those places. There is a need to accelerate compact community building rather than expanding beyond the urban growth boundary.

Councilor Jones noted that West Linn has one of the higher percentages of people who work from their home. He asked how this is taken into consideration when dealing with issues that create the traffic infrastructure that other people are using. Ms. Collette stated population has grown 24.83% since 1994. She doesn't know how West Linn would credit their community for not making impacts on the transportation system. There are no bonuses for not using the system.

Councilor Burgess stated he was excited one of West Linn's projects made it through the county consideration only to get lost at the Metro level. He recognizes that West Linn doesn't stand out in terms of density, bus traffic or transit centers. However, Highway 43 is the only bus route. This city loses by not getting improvements to the state highway running through the town. It is difficult to get people out of their cars, walking to shopping, when there are no improvements. There is no way this city can do all the improvements themselves.

Ms. Collette stated this is an MTIP project and they came to Metro with a short list. She will find out the status of the Highway 43 project and get back to the Council.

Mayor King expressed his disappointment with the decision to transport garbage to Arlington by truck rather than by barge. Ms. Collette stated the problem with the barges is they have to dock down on the Columbia and trucked up the hill anyway, so it was not more cost effective to barge and truck than to truck.

### Community Comments

Thomas Stiglitch, 6591 Failing Street, stated in October 2005 he applied for a boat dock, boat house and fishing shelter. He paid \$1,700 in fees and was denied. He felt that a specific staff member was not truthful in every issue related to his application. There are 15 boat houses in his area. He had a neighbor come out and testify about how his boat house was approved by the same staff person who denied this application.

Mayor King asked that Mr. Stiglitch to not make accusations about a specific employee but refer to the employee as staff or the city. Mr. Stiglitch continued to make statements about a specific employee and Mayor King asked him to step down. He suggested that Mr. Stiglitch take this issue to the City Manager.

Alice Richmond, 3939 Parker Road pointed out the Council meeting announcements do not indicate the time of the meeting. She reminded everyone that the October Fest is coming on October 4, 2008 from 2:00 to 7:00 p.m. at Hammerle Park. There will be music groups, a soloist, and an Alpine horn player along with food, beer, dancing, prizes, and lots of fun. She invited all to come out and enjoy.

Linn Fox, President of Hidden Springs Neighborhood Association, announced that her Neighborhood Association hosted a candidate's picnic on September 12<sup>th</sup> at the Adult Community Center. There was over 50 people signed in and probably 25 more who forgot to sign. All the candidates were invited and most appeared.

Ms. Fox stated she had a number of calls and emails from neighborhood residents with inquiries about some of the events that are happening related to the current election. City funds have been granted to certain candidates who are using them to support their campaign and residents are questioning whether this is consistent with Oregon Election Law. She expressed concern that the advertisement for the October Fest is being produced at taxpayer expense and provided by City staff on staff time. Some candidates have received significant staff support. A previous candidate recused himself because he was admonished by the State Elections Board for offering alcohol to potential voters. She would like to see this issue reviewed before the event takes place to make sure there is fairness in this situation.

Another issue of concern expressed by the residents is that Patty Galley, candidate for mayor, received a \$1,000 grant and they would like to know if that taxpayer funds are being used to pay for her advertisements in the *Tidings*. Also residents question if Ms. Galley is using any of those funds for an event this October where she is a producer and vendor at that event. Is this appropriate use of taxpayer money?

Terry Pennington, 19065 Trillium Drive stated he is here tonight to thank everyone who participated in the City's purchase of the property on Cedar Oak that Trillium Creek meanders through. He cannot remember a time in his 22 years as a resident of West Linn when both city governess and the citizenry worked so hard for such a good cause. Mr. Pennington thanked several Council and City Staff members as well as Neighborhood Association Representatives and his community at large for their hard work and dedication to this issue.

Terri Cummings, 2190 Valley Court stated she wanted to speak on growth in the Stafford Triangle and the impression that some people have that West Linn needs to do their part to increase density. She read from her article in the August 7, 2008 *Oregonian*, "Metro's Pressure on West Linn not Justified." She does not understand the notion that West Linn needs denser housing and should accommodate growth in



encouraged to wear clothing of the appropriate colors and refrain from crossing the bridge (unless business requires) until game time.

**Councilor Burgess moved that City Council request and authorizes the Mayor to send a letter to LCDC (Land and Conservation Development Commission) stating that West Linn is designating the Planning Commission as the Citizen's Involvement Committee for land use issues in compliance with Goal 1. Councilor Jones seconded the motion.**

Councilor Burgess stated his motion recognizes a successful Citizen Involvement Program which resulted from work by the Planning staff in terms of education, working with the attorneys, neighborhood association participation in pre-app conferences and other processes.

**Ayes: Jones, Eberle, Burgess, King**

**Nays: None**

**The motion carried 4-0.**

Council President Eberle asked whether the October Fest is a city function and whether this is a place where candidates can campaign. Mr. Jordan stated that the October Fest is a city-sponsored event (city resources are used to help with the event). There are numerous events that go on and the city sponsors some of these events. Many of the events rely on significant amounts of private contributions as well as a lot of volunteer assistance. When an individual decides to run for office it doesn't mean they have to stop their volunteer help. However, as a volunteer, while that candidate is working on that city-sponsored project, they are not allowed to participate in political activity while they are volunteering for an event.

Councilor Jones asked how to appropriately report the possible misuse of public funds. Mr. Monahan stated that issues of alleged election violations are filed with the Secretary of State's Office, Election's Division. It is always good if there are issues that appear to be concerns to be brought to the attention of administration so they can look into it to make sure that someone who may be inadvertently crossing the line is in fact aware of the regulations before something becomes a larger problem.

#### Business Meeting - Agenda Items

Mayor King announced that Agenda Bill 08-09-05 will be heard first.

1. Agenda Bill 08-09-05                      RESOLUTION – IGA with TVF&R re: Fire Stations

City Attorney Bill Monahan made the declaration that the law firm that he works with have as a partner Bob Blackwell who has served Tualatin Valley Fire and Rescue as their district counsel for many years. For the sake of full disclosure, this is a potential conflict of interest because the firm is involved on one side of this proposed

transaction (IGA). Mr. Monahan stated that he has not been involved at all in the negotiation of this IGA; it has been handled entirely from the City side by in-house counsel, Gordon Howard who is not affiliated with his law firm.

Mayor King asked for a staff report.

Chris Jordan reported this is a proposed Inter-governmental Agreement (IGA) between the City of West Linn and the Tualatin Valley Fire & Rescue District (TVF&R), provider of fire and emergency services to the City. This IGA would amend provisions of a 2003 agreement between the City and the District regarding transfer of City-owned fire stations and city-owned sites to the TVF&R District.

The new agreement will allow the City of West Linn to:

- Retain ownership of the Sunset Fire Station
- Authorize a property "swap" in the vicinity of the Bolton Fire Station whereby the City would retain ownership of the existing fire station site in return for transferring to TVF&R property that the City owns to the north of the existing fire station along Buck Street between Falling and Elliott Streets.
- Construct a new modern fire station at the new location which has better access to Highway 43 and will greatly benefit emergency services

Mr. Jordan reported there is a pending land use application involved with this fire station. The discussion this evening will only be in regards to the IGA and the transfer of property; not specifically the fire station project itself. He introduced Gary Wells and Alex Jenson, representatives from TVF&R to discuss further details of the IGA.

Mr. Wells reported the Bolton Fire Station is one of two fire stations the District will begin construction early next year. He showed an elevation of the proposed fire station. This design of this fire station is based on the input received over the last two years from the Bolton Neighborhood Association.

This station and the Willamette Station are scheduled to start construction in the first quarter of next year. Because the City had not made a decision regarding their development, TVF&R agreed to include a large community room in the fire station. By putting in this community room, it increased the requirement for property to accommodate the parking. With the vacation of Hammerle Street, the property will be distributed to the adjoining property owners equally. Because the TVF&R is technically the owner of most of the adjoining property, most of the property accrues to the Fire District. The properties the City is exchanging amount to 26,111 square feet which includes 550 feet attached to Hammerle Street.

The TVF&R District Bolton property, along with the Hammerle Street property, amounts to 20,392 square feet. With the addition of the 550 feet, the total is 20,942 square feet or roughly a 5,060 square feet differential in the properties being exchanged. There is 10,804 square feet attached to the Sunset Station. The map

showed the TVF&R ownership in yellow and everything in green (plus small yellow section) indicates ownership by the City.

Councilor Burgess suggested adding new language to Page 2, new language (J), granting an easement instead of the good faith language. Mr. Wells stated that he would be in agreement with the additional language on the access easement. They are willing to work with the City.

Mr. Jordan suggested adding language to Page 2 of the IGA, Section J, "If the City determines to redevelop the existing fire station site with a new use or structure the TVF&R District shall grant an access easement if necessary and shall work with the City in good faith to develop and implement reciprocal parking agreement for both the fire station and city property."

There was no public testimony on this issue.

Mayor King closed the public testimony portion of the hearing and opened the meeting to discussion among the Councilors.

**Councilor Burgess moved to approve the proposed IGA between the City of West Linn and the Tualatin Valley Fire and Rescue District per Agenda Bill 08-09-05 with the following revision proposed tonight to Page 2, Section J, with language to the affect that TVF&R District shall grant an access easement and shall work with the City to develop and implement a reciprocal parking agreement for both the fire station and City property. Council President Eberle seconded the motion.**

Councilor Burgess stated the City bought three lots to make this happen recognizing the difficulty of putting a fire station on the existing lot on Bolton. The intent was to have a joint police and fire station on these lots; however, maybe something can be worked out for the police station in the future. This is a good parcel for the fire station. He thanked the TVF&R District for their perseverance and cooperation.

**Ayes: Eberle, Burgess, Jones, King**

**Nays: None**

**The motion carried 4-0.**

2. Agenda Bill 08-09-02

ORDINANCE – CDC Amendments to Chapters 27 & 28 Tualatin & Willamette River Protection; CDC-07-04/CDC-07-06 (Planning) – Continued from 8/11 and 9/8

Mayor King opened the public hearing at 8:03 p.m. to consider changes proposed by city Council members(s) to amendments to Community Development Code (CDC). The amendments will create one chapter that integrates Willamette River Greenway (WRG) and Tualatin River Management Functional Plan.



Peter Spir, Associate Planner reported on August 11, 2008 city Council held a public hearing on this issue, taking public testimony and then left the record open through August 18, 2008 for the submittal of written testimony. Staff received only one submittal and that was from Councilor Scott Burgess. Staff made changes in response to that submittal.

Staff has submitted comments on Councilor's Burgess' comments and language for possible amendments resulting from comments made at previous hearings. Some highlighted changes include:

- In the proposed language for West Linn, the 5,000 square feet would apply to all building footprints and non-permeable hard-scapes such as a driveways and patios.
- Property owners are guaranteed a minimum 5,000 square feet of impervious surface for development of a house, garage, driveways, patios, etc. However the property owner must first direct development towards the least constrained areas: "not affected by recommendation," "allow development." After that, the building must be directed towards the Low HCA then Moderate HCA areas. Only after those areas are exhausted and when the 5,000 square feet allowance has not been exhausted could the house extend into the High HCA area.
- The proposed language has a setback of 15 feet from the top of the bank. The current WRG language only requires a 35 foot setback from ordinary high water mark (OHW). The OHW is typically well below the top of bank. For most properties along the Willamette River, the current 35 foot setback does not even reach the top of the bank. By proposing a 15 foot setback from top of bank, the proposed language exceeds the current language by significant measure, often by 50 feet or more.

Properties that lack a distinct top of bank must keep development 15 feet back from the edge of the "allowed development" area closest to the river. On the Tualatin River, the existing setback requires that all development must keep above the 100 year floodplain elevation.

- There was a proposal to change the word "enhance" to "expand" in the purpose statement, "...protect, preserve and enhance legal public use and access along the waterfront.
- The incentive to allow developers to construct a 6-story building if they provided a public access easement for construction of a 24-foot wide pathway was seen as excessive. PUD developers would be allowed use their open-space as incentive for a footpath along the river.

Mayor King explained this is a continued hearing and asked Council members for any objections to not reopening the hearing to public testimony. There were no objections.

Mayor King asked if there were any additional comments or questions of staff from the Council. There were none.

Councilor Burgess stated that he understands the issue of 35 feet, however, in reference to the language “typically the ordinary high water is well below the top of the bank...,” typically can mean in some cases the ordinary high water is not well below the top of the bank. In those cases, what is the setback? Mr. Spir stated that these types of instances are best represented graphically. There was not enough time for staff to provide graphic scenarios of the setback issues regarding Ordinary High Water (OHW).

Councilor Burgess made suggestions to other terms used in the Ordinance:

- P-7, “enhance” doesn’t fully explain the intent to increase public access to the river where possible. He suggested adding the term “expand” instead.
- P-11, Incentives that would be more relevant to single-family enhancement under a PUD rather than commercial
- P-12, a 24-foot pathway does not seem reasonable; it is more excessive than requirements in the past.
- Questions the need for non permeable surfaces to allow heavy equipment (D9-Cat) in a Habitat Conservation Area. Mr. Spir stated there is a possibility of building of an access road which would require the use of heavy equipment.

Mayor King asked when it would be allowable to build in the 100-year floodplain. Mr. Spir stated there could be a lot of record can be HCA in the 100-year floodplain. The code does allow building of one house on that parcel. There house would have to be designed to allow the natural flow of the floodplain and approved Flood Management Permit.

Councilor Jones asked with the proposed changes, does every lot have a clear setback from the river. Mr. Spir said no, 95% of homeowners along the Willamette River will have a clear definition of their setback on the river.

Mr. Spir stated the issue of setback from top of bank comes up where it is not clear where top of bank is. There is no language to tell what the setback is if there is not a clear top of bank. Setbacks for ill-defined embankments are still an issue.

Discussion followed on ways to clarify the language for the setbacks for HCA development. Concerns were raised about:

- Ordinary High Water Mark
- 100-year floodplain
- Encroachment into transition areas
- How wetlands factored into consideration of setbacks
- Inclusion of HCA’s in riparian areas
- Development of lands that are designated ACA
- Width of public pathways

- Territory between low and high water mark that is publically accessible
- Docks and ramps that block public access along the beach
- Is there a law that defines the public access of a waterfront
- Permits required on HCA properties
- Buildable footprint regulations for HCA development

**Councilor Burgess read the Ordinance by title only for the first time and moved to adopt Ordinance No. \_\_\_\_ Complying with Title 13 of Metro’s Functional Plan Amending the Willamette River Greenway Chapter of the West Linn Community Development Code by Incorporating Provisions of the Tualatin River Protection Chapter per Agenda Bill 08-09-02 (Version 9/17/08). Council President Eberle seconded the motion.**

**Councilor Burgess moved to amend the motion to include:**

- Changes suggested by Councilor Burgess and agreed upon by staff (Memo of 9/10/08 from Peter Spir)
- P3 – include language suggested by staff in C-3 (Page 19, 9/10/08 Version), “For properties that lack a distinct top of bank the applicant shall identify the boundary of the area designated as “allowed development” or “not affected by recommendation” which is closest to the river. A structural setback of 15 feet is required from that boundary. That 15 foot measurement extends from the boundary line away from the river at-grade water permeable patios or decks within 30 inches of grade may encroach into that setback 10 feet but must keep 5 feet from the boundary and cannot cantilever into the 5 foot setback area.”
- P7 – Add the word “expand” to legal access
- P-8 – staff will modify
- P-9 - staff will modify
- P14 – second paragraph to read, “...survival guaranteed for a minimum of two years for vegetative improvements.”

**Council President Eberle seconded the motion.**

**Ayes: Burgess, Jones, Eberle, King**

**Nays: None**

**The amendment to the main motion carried 4-0.**

**Poll on the Main Motion:**

**Ayes: Burgess, Jones, Eberle, King**

**Nays: None**

**The motion carried 4-0.**

**Councilor Burgess read the Ordinance by title only for the second time and moved to adopt Ordinance No. \_\_\_\_ Complying with Title 13 of Metro’s Functional Plan Amending the Willamette River Greenway Chapter of the West Linn Community Development Code by Incorporating Provisions of the Tualatin River Protection Chapter per Agenda Bill 08-09-02 (Version 9/17/08) with the amendments made tonight. Councilor Jones seconded the motion.**

**Ayes: Jones, Eberle, Burgess, King**  
**Nays: None**  
**The motion carried 4-0.**

3. Agenda Bill 08-09-03 ORDINANCE – Hammerle Street Vacation

Mayor King opened the meeting to discussion of an ordinance adopting the vacation of Hammerle Street at 9:29 p.m. He asked for a staff report.

Chris Jordan, City Manager reported this is a correction to a previously approved Ordinance (No. 1566, adopted April 28, 2008) which vacated Hammerle Street between Elliott and Failing Streets. This street vacation was city-initiated.

The Ordinance approved included a condition that the City has permanent access to the storm drainage line under the current right-of-way. However, State law states a property owner cannot grant an easement to itself. In this situation, the property owner must transfer the property and “reserve” an easement as an integral part of the transfer.

Staff investigated whether this error could be corrected administratively, but because it is an ordinance and involves a property transfer, adoption of a corrected ordinance is being requested to dispel any possible “cloud” on the property in the future.

There was no public testimony on this issue.

**Council President Eberle read the ordinance by title only for the first time and moved to approve Ordinance No. \_\_\_\_ Vacating a Portion of Hammerle Street Right-of-Way Within the City of West Linn, Oregon per Agenda Bill 08-09-03. Councilor Burgess seconded the motion.**

**Ayes: Eberle, Burgess, Jones, King**  
**Nays: None**  
**The motion carried 4-0.**

**Councilor Burgess read the ordinance by title only for the second time and moved to approve Ordinance No. \_\_\_\_ Vacating a Portion of Hammerle Street Right-of-Way Within the City of West Linn, Oregon per Agenda Bill 08-09-03. Councilor Jones seconded the motion.**

**Ayes: Burgess, Jones, Eberle, King**  
**Nays: None**  
**The motion carried 4-0.**

4. Agenda Bill 08-09-04 ORDINANCE – Alarm Ordinance  
Amendments

Mayor King opened the meeting to consideration of an ordinance to amend the West Linn Municipal Code section related to false alarm fees. He asked for a staff report.

Chris Jordan, City Manager reported that this ordinance is to amend the West Linn Municipal Code Section 7.230 regarding False Alarm Fees. Council, when reviewing the Master Fee Resolution approved a fee for false alarms that would be free for the first two false alarms with a fee beginning with the third false alarm.

Staff found that a previous West Linn Ordinance which indicates that a charge cannot be imposed until after the fifth false alarm. To bring the Municipal Code in line with the Council's policy in the Master Fee Ordinance there needs to be an amendment to Code Section 7.230 to charge following the 3<sup>rd</sup> false alarm.

There was no public testimony on this issue.

**Councilor Jones read the ordinance by title only for the first time and moved to approve Ordinance No. 1575 Amending Section 7.230 of the West Linn Municipal Code Relating to False alarm Fees per Agenda Bill 08-09-04. Councilor Burgess seconded the motion.**

**Ayes: Burgess, Jones, Eberle, King**

**Nays: None**

**The motion carried 4-0.**

**Councilor Burgess read the ordinance by title only for the second time and moved to approve Ordinance No. 1575 Amending Section 7.230 of the West Linn Municipal Code Relating to False alarm Fees per Agenda Bill 08-09-04. Councilor Jones seconded the motion.**

**Ayes: Jones, Eberle, Burgess, King**

**Nays: None**

**The motion carried 4-0.**

Councilor Burgess asked staff to clarify whether a candidate can knock on a door that has a sign posted, "No Soliciting, Municipal Code Section..."

Councilor Eberle asked staff to provide Councilors with an update on Council goals in October.

### Adjournment

The September 22, 2008 meeting of the West Linn City Council adjourned at 9:38 p.m.