

WEST LINN CITY COUNCIL MEETING MINUTES July 13, 2009

Council Present

Mayor Patti Galle, Council President Jody Carson, Councilor Scott Burgess, Councilor Teri Cummings, and Councilor John Kovash

Council Absent

None

Staff Present

Chris Jordan, City Manager; Gene Green, Public Works Director; Chris Kerr, Acting Planning Director; Richard Seals, Finance Director; Tom Soppe, Planner; Terry Timeus, Police Chief; Ken Worcester, Parks and Recreation Director; Kirsten Wyatt, Assistant to the City Manager; City Attorney Bill Monahan; City Attorney Bill Ramis; and Shirley Richardson, Minute Taker

Call to Order/Pledge of Allegiance

Mayor Galle called the meeting to order at 6:41 p.m. and led the flag salute.

Proclamations, Recognitions and Presentations

None

Community Comments

Alice Richmond, 3939 Parker Road reported the 4th of July event celebrated at Willamette Park was a huge success. Everyone had a great time. The 95 degree weather was great! Tree's provided shade, the river and pool kept the public comfortable. The

crowd enjoyed the band concerts and requested the same next year. The vendors reported they did well at the event. The only concerns raised were related to available parking. In the future there needs to be more parking spaces.

The fireworks were a bit of a disappointment; people really wanted the real thing. Hopefully there will be real sky-high fireworks in the future as the citizens deserve to celebrate one of our nation's most important events.

This was a positive event; in attendance were an Army Sergeant, Scott Bruin, State Representative; Mayor Galle; and many others. She thanked the many volunteers and sponsors who participated and assisted in the event.

Ms. Richmond voiced concern about the city budget and the proposal revealed at the last work session in regards to an in-house attorney/paralegal who would be answering directly to the city manager. She does not feel this is a good idea as it will promote unnecessary, wasteful and personal legal counseling. The same goes for a paralegal; she wonders what activities the city manager is conducting that require legal counsel. The City has a good police department, good fire and rescue services and currently has a good law firm which has served with integrity and is highly qualified to continue to manage the legal needs of the city. This law firm has tremendous knowledge of all city affairs and is equipped to meet City legal concerns. Other larger sources have been used to do City business such as Tualatin Valley Fire & Rescue who replaced West Linn's City Fire Department.

Ms. Richmond stated she is concerned about how the city administration lately is embracing important issues in an over-lordly manner without public hearings or public input. This issue was brought up in the Council work session and she feels it should be put before the public at a Council meeting so there can be public input.

Roberta Schwarz, 2206 Tannler Drive stated the 4th of July event was wonderful; she and her husband spent five hours there and the music was great. She thanked the City for the Street Dance; it was fun!

At the league meeting held last week they were allowed to go as a group with elected officials and concerned individuals to the proposed solar highway project location. It opened up a lot of good questions which they fielded right on the spot. It was a nice commingling of elected officials, citizens and city staff. She thanked those involved in this event.

Ms. Schwarz reported today the new field representative for Congressman Schrader toured White Oaks Savannah. She asked what she could do to help and came back later for a second tour with a stream restoration expert. He feels that the stream that is now underground (in pipes) could possibly be day-lighted. There could actually be a stream there. She would like to propose day-lighting the stream as part of phasing the White

Oak Savannah project in three steps (1) first 14 acres, (2) middle 5.65 acres and (3) possible stream. The restoration expert feels this is doable, would not be very expensive, and feels he can use the same mechanisms being used to restore the stream at Mary S. Young Park.

Ms. Schwarz submitted a copy of an article in the *CNN Money Magazine* which placed West Linn, Oregon number 64 on a list as one of the best places to live.

Carrie Scaife, WFTV. 709 Main Street, Oregon City stated she is the programming director and producer at WFTV. She has worked at WFTV for nine years, served on the Oregon City Board and is currently a middle school teacher.

She is here tonight to make a statement for WFTV quoting Virginia Sadler, "Feelings of worth can flourish only in an atmosphere where individual differences are appreciated, mistakes are tolerated, communication is open, and rules are flexible; the kind of atmosphere that is found in a nurturing family." WFTV is family to her; they have a small staff and everyone is close and open. They treat everyone who enters their facility like they are part of their family.

The mission statement of WFTV is to strengthen and enrich our community by providing opportunities for communication. Communication is the foundation of their facility. It is WFTV's hope to continue to provide a venue for the lines of communication between citizens and government to strengthen and not diminish. It is their strong conviction that the only way people can work cohesively is through constant and active communication between all involved parties. They sincerely wish to open the lines of communication between the City of West Linn, the City of Oregon City, community members, board members and WFTV staff.

Ms. Scaife voiced a need to initiate a joint work session. It is essential to create an environment where all of the stakeholders involved are on equal footing where voices can be heard and where every person can feel their opinion is a valid part of the decision making process. The changes that are happening in both cities and at WFTV necessitate this type of meeting. It is important to them that communication is achieved in an open community forum. They are open to discussion of any questions citizens or cities may have about the direction of WFTV. They want input, options and want to know what West Linn and Oregon City's plans are for the future of the community's media center and they want to present their own information.

A work session involving all concerned parties should take place as soon as possible. They want WFTV to be able to fulfill its mission of creating a venue for communication to the citizens and the government. They are here to serve, be relevant and create a sustainable resource. She thanked the Council for their time and looks forward to a productive conversation.

Consent Agenda

1. **Agenda Bill 09-07-13A** **Approval of Council Meeting Minutes of June 8, 2009**
2. **Agenda Bill 09-07-13B** **Contract Award - Janitorial Services**
3. **Agenda Bill 09-07-13C** **Contract Award - Between West Linn and Oregon City Regarding Senior Services**

Council President Carson moved to approve the Consent Agenda consisting of Agenda Bill 09-07-13B, Contract Award for Janitorial Services and Agenda Bill 09-07-13C, Contract Award Between West Linn and Oregon City Regarding Senior Services. Approval of the Agenda Bill 09-07-13A, Approval of Council Meeting Minutes of June 8, 2009 was continued. Councilor Kovash seconded the motion.

Ayes: Carson, Burgess, Cummings, Kovash, Galle

Nays: None

Abstentions: None

Motion carried 5-0.

Mayor Galle announced there are two Business Agenda Items that will not be heard tonight: Update on City Council Rules and Agenda Bill 09-07-13H, Ordinance No. 1587, Jeff Parker request to convert SDC offset/credit to cash for the Lorinda Ct. Paving project.

Report from the City Manager - None

Business from the City Council

- Appointment to the Public Safety Advisory Board

Mayor Galle opened the meeting to discussion of the appointment to the Public Safety Advisory Board. She nominated Ron Whitehead for the position.

Council President Carson moved to appoint Ron Whitehead to the Public Safety Advisory Board. Councilor Cummings seconded the motion.

Councilor Burgess thanked the other candidate that applied for this position; Council hopes she reapplies and the City will have an opportunity to put her to work in the future.

Ayes: Burgess, Cummings, Kovash, Carson, Galle

Nays: None

The motion carried 5-0

- **Appointment to the Economic Development Taskforce**

Mayor Galle announced this appointment would be continued. She introduced Danny Crossman and asked him to come forward and make a short presentation to Council.

Danny Crossman, 2098 Sunray Circle stated he has been a resident of West Linn since 1988. He started off in the 70's with Bank of America in California working with businesses as a business consultant. He moved to Portland in 1984 and managed the Small Business and Management Program at Mt. Hood Community College. He became involved with the local community when West Linn had its business group and served as the second president of the West Linn Chamber of Commerce. He moved his offices to Hawthorne Blvd and was involved in a lot of economic development in that area (transportation plan, recycling program) and working with other neighborhood business districts. He was hired as a consultant by Portland Development Commission to create a how-to book for neighborhoods and business districts to create a financing plan for their main-street programs. He has been working with small business in the Portland area since 1984.

Councilor Kovash noted Mr. Crossman's application lists quite a few community affiliations and activities. He asked what is the best part and hardest part of being a volunteer. Mr. Crossman stated the best part is feeling like he is making a difference in the community where he lives. The street your business is on, the town your business is in, the state your business is in all need to be viable business communities in order for an individual to be successful. Making a difference in that area has always been very important to him. The difficult part is that these are small business people and they tend to not want people telling them what to do. The fact that these people are volunteering their time is important that they are listened to. That is a big part of what he has learned to do over the years; listen and give credence to what a person is telling and let the group as a whole determine the best outcome.

- **Appointment of a Citizen Member to the Audit Committee**

Mayor Galle opened the meeting to discussion of the appointment to the Audit Committee. She nominated Nikki Kobliha for the position.

Council President Carson moved to appoint Nikki Kobliha to the Audit Committee. Councilor Kovash seconded the motion.

Ayes: Cummings, Kovash, Carson, Burgess, Galle

Nays: None

The motion carried 5-0.

Business from the City Council

Council President Carson reported the Regional Transportation Plan is going through a final refinement process. There are opportunities for public input. This plan will serve through 2035; it is important for the public to be informed. The purpose of updating these priorities is to focus on opportunities for regional partners to update their current federal priorities, to meet several planning requirements and to provide opportunity for all the original partners to identify any other priority projects. This is a critical process to make sure any regional transportation needs are identified prior to a decision on the regional needs that are on the priority list. She encouraged the public to look on the Metro website to find where and when the public hearings and open houses will be held. These are opportunities for residents to provide input into the final priority list. Project submittals are due no later than July 29th and the public comment period will be from September 15 through October 15.

Councilor Burgess thanked staff and community members and others who were involved in the Street Dance. The event was very well done, well attended and a lot of fun.

In regards to the testimony on the need for more parking spaces, he hopes that is not the trend in West Linn. He carools to these events and he hopes others do as well. It would be good for residents to start relying on something other than automobiles.

Councilor Burgess stated the city did not go to Tualatin Valley Fire and Rescue (TVF&R) because the City's fire department was inadequate. No one community can handle the fire situations that come up; when there was a fire in Barrington Heights there were five departments that showed up at the fire. West Linn's former fire department was excellent; one of the assistant chiefs now came from the West Linn's former fire department.

Mayor Galle noted that the Senior Center is considering getting a bus. This possibly could be used in conjunction with an agreement with Albertson's parking lot to transport people to and from next year's Street Dance.

Councilor Cummings stated she thoroughly enjoyed both the 4th of July celebration and the Street Dance. They were both great fun; it was good to see so many people turning out and having a good time. She stated she parked a ways from the Street Dance and walked to the event. She thanked staff for their work in putting this event together.

In regards to the testimony regarding an in-house attorney, she stated it is true there has not been a public meeting addressing this issue. She recommends that this issue be brought forward for public discussion. When there are policy changes, she feels the public should be allowed the opportunity to comment.

Councilor Cummings thanked Ms. Schwarz for all the work she has put in on the White Oaks Savannah project. She thanked the staff that put on the solar highway project tour. She noted she would like to have the public meeting and work session with WFTV as soon as possible. She feels it is important to honor WFTV's request.

Councilor Cummings updated the audience on the Urban Rural Reserves process. She has been attending the Policy Advisory Committee as a representative of the small cities at the Clackamas level and also serves as an alternate for Mayor Tim Knapp of Wilsonville at the Regional Metro Reserves level. The last part of the process was going through the rural factors. On June 23rd the Policy Advisory Committee was not in favor of Stafford having a rural designation. The Metro Natural Resources map shows (Wilson Creek area and Tualatin River) will be designated as a rural reserve designation. If an area gets the rural reserve designation it remains so for the next 50 years and not be subject to urbanization. The next topic will be an urban discussion to take place Tuesday night at 6:30 p.m. The Stafford will be one of the first ones under consideration. The meeting will be held at the Clackamas Development Services Building located at 150 Beaver Creek Road.

West Linn has entered into an agreement with Lake Oswego, Tualatin, West Linn-Wilsonville School District, and the Stafford Hamlet to maintain the rural character of the area. She asked the public to come forward and make every effort to contact Metro, go to the meetings and comment on your desires for the Stafford areas. The next meeting is scheduled for August 12, 2009 from 9:00 a.m. to noon.

Councilor Cummings stated she was in favor of having public input on the staff attorney/paralegal. Council received a memo on this proposed budget position in April and it was included in the proposed budget statement as part of the budget hearings in May. She assumed there would be more discussion on this position. She now would like to have public discussion, hear what the pros and cons are and let the public be involved.

Council President Carson stated she feels there should be an opportunity for the public to have input on this position. She would like Council to have further discussion in a work session to be clear on what their preferred option/policy change would be. The question is to have an in-house attorney or have an attorney hired by City Council. Council needs to make a decision which option they want to put forth for discussion so people have information or recommendations for feedback. Then Council can make a decision.

Councilor Kovash stated he feels hiring a city attorney is the prerogative of City Council. He doesn't see the value of having public testimony.

Councilor Burgess stated he does not feel there is action before Council on the in-house attorney. Council is not suggesting a change. There has been a city attorney on staff, there is a city attorney on contract and that was done without public input. He is not aware of making a change at this point. There was a presentation at their last work session; however, he does not feel there is a direction to offer to the public to comment on.

Councilor Cummings stated there is confusion on the language in the Budget Statement because it states the Council has made a decision to go to a staff attorney. Page 42 shows a chart that shows the staff attorney is under the direction of the City Manager and not off of the Council which the former chart showed. This is a departure from what was stated before. She feels it is important anytime there is a policy change, the public should be given the opportunity to understand what decisions the Council is making.

Councilor Kovash stated this issue is not on the agenda for tonight. It is a policy decision to be made by Council. The meeting should move on according to the agenda.

Councilor Cummings moved to have a public hearing put on the agenda for a future meeting to allow the public the opportunity to give input on the issue of a staff attorney. There was no second. The motion died for lack of a second.

Mayor Galle asked staff to comment. Mr. Jordan stated under State Law a budget message is a proposal from the budget officer (City Manager). This issue was discussed in budget committee hearings and it was included in the budget message. When Council adopted the budget and appropriations resolution, it is based on the policies that are articulated in the budget message and budget document. The appropriations to the City Manager's office are adequate for either in-house counsel or contracted counsel. The appropriation is what was adopted; the budget message is a proposal and does not need to be changed.

He believes a decision was made at the work session that Council as the arbiter of the Charter has indicated that the City Attorney reports to Council and Council will determine whether this position is filled in-house or contracted out. There is an existing contract with Jordan, Schrader, Ramis for city attorney services. That remains in place if Council takes no action.

Councilor Cummings stated from her recollection of the discussion at the last work session the City Manager indicated the Council had approved his hiring of a staff attorney as approved in the budget. Her concern is there has not been a public hearing

to address this issue. The public is not allowed to make comments in a work session. This item cannot be voted on tonight because it has not been noticed.

Councilor Cummings moved to place an agenda item on the next Council meeting regarding whether to hire an in-house attorney and if that position will be filled by the City Manager or Council. Mayor Galle seconded the motion.

Councilor Cummings asked that staff put on the agenda for a future work session to review the Charter language for clarity and/or changes.

Councilor Burgess stated he will not be in favor of the motion. At the time this was put in the budget message he feels the City Manager was clear. Concerns were raised at the time and he put his concerns in writing and responses were received. It is his recollection at the work session the City Manager proposed what he would like to do and asked for guidance before moving forward. The City Manager has indicated that he is not going to hire a city attorney unless he gets Council approval. It is up to the Council to interpret the Charter and authorize the City Manager what direction to move forward.

Councilor Carson stated she would like to have further discussion in a work session. If there is a decision to make changes to the current contract with the city attorney, then she would consider having this issue being put on the agenda for public comment. She will be voting against this motion.

Councilor Kovash stated that he would not be voting in favor of this motion.

Mayor Galle stated she is in favor of getting on record what the Council would like to do regarding the legal counsel position. She will be voting in favor of the motion.

Ayes: Cummings, Galle

Nays: Kovash, Carson, Burgess

The motion failed 3-2.

Business Meeting

A. Agenda Bill 09-07-13D Resolution No. 09-17, Temporary Signs

Mayor Galle opened the hearing to discuss temporary signs at 7:42 p.m. She introduced Daryl Winand, Portland Metropolitan Association of Realtors and asked him to make comments.

Daryl Winand, Governmental Affairs Specialist, Portland Metropolitan Association of Realtors, 5331 SW Macadam Avenue, Portland. He thanked the Council for the opportunity to speak on behalf of more than 6,900 members of Realtor Association. He

is here tonight to express appreciation for considering Resolution 09-17 temporarily suspending enforcement of the City sign code as it pertains specifically to temporary signs in the public right-of-way.

Everyday individuals and families in West Linn are trying to buy and sell property. In 2007 realtors helped with transactions totally more than \$287 million; in 2008 transactions totaled \$166 million and in 2009 year to date there are approximately \$64 million in property transactions. The length of time that it has taken to transact a home from a listing to closing has also increases significantly during this economic downturn. The average market time from the listing to closing in 2007 was 103 days; in 2008 it was 160 days and year to date, 2009 it is 207 days to transact. No one (sellers, neighbors, and police) want to have a home vacant, on the market for a significant period of time.

The placement of signs properly directs the public (perspective home buyer) to that property and underscores a vibrant economy and vibrant marketplace. The Realtor association appreciates Council's willingness to allow greater flexibility on how signs are used in this city (even temporarily). He urged the Council's support of this resolution and to offer assistance in any future endeavors and efforts to enhance the sign code to assist those citizens and businesses who conduct business here.

Questions from Council

Councilor Kovash noted the time on the market for homes have doubled in the last two years. He asked if these numbers are for the metropolitan area or just for West Linn. Mr. Winand stated these figures are for West Linn. The region as a whole is suffering the same situation. As of today there are 398 homes on the market in West Linn. They do not track foreclosure figures.

Council President Carson explained that this resolution will only be in effect for Sundays between the hours of 8 a.m. to 8 p.m. There are specific conditions on how these signs can be placed. She encouraged the public to check the website for answers to any questions they might have.

Councilor Kovash stated this is a temporary measure and there is no means to determine whether this will work or not. The criteria of success or failure will be determined on how the public reacts to this temporary flexibility.

Mayor Galle stated that she understands from businesses that signs are the pivotal point of success or failure. When there is no person outside waiving a sign, there is less business. The realtor was very clear that if people do not see the open-house sign, they have fewer participants viewing the home than if the signs were visible. There is a direct correlation to advertising through signage and getting business. Lake Oswego has a permanent sign code on Sundays because it is important to keep the inventory going.

Councilor Cummings thanked Mr. Winand for coming forward.

Staff Report

Chris Jordan, City Manager reported Resolution 09-17 temporarily suspends the sign code enforcement for specific signage. This change came from Council's request at their June 29th work session. It allows temporary signs to be placed in the public right-of-way on Sundays provided these signs meet certain standards for time, place and manner. Resolution 09-17 specifically states that City staff will not enforce Section 52.200(a) of the sign code on Sundays provided signs are of a certain size, placed in a certain location, and are only in the public right-of-way between the hours of 8:00 a.m. and 8:00 p.m. Specific language stipulating the time, place and manner of the signage is taken from the Lake Oswego sign code and is Attachment "A" to the Resolution. This is a temporary resolution and expires September 30, 2009.

Questions from the Council

Councilor Burgess asked how the enforcement portion of this resolution will be done. Mr. Jordan stated that enforcement will be complaint driven. The code states if permission has not been granted and a sign appears, the owner of the adjacent property may turn the sign down and flatten it on the ground. If there is any conflict beyond that, the City will proceed with enforcement. The property in front of which the sign appears can put the sign down and/or the adjacent property owners. Enforcement of the code will be complaint driven for not only real estate signs, but for any sign.

Council President Carson moved to approve Resolution 09-17, A Resolution of the West Linn City Council Directing Staff to Suspend the Enforcement of the Sign Code Related to Temporary Signs in the Public Right-of-Way for Specific Times, Places, and Manner Through September 30, 2009 per Agenda Bill 09-17-13D. Councilor Kovash seconded the motion.

Councilor Cummings stated she was in favor of this resolution. There is a lot of distress in the business and real estate community. The benefit is this is temporary, easily reversible, and changes can be made if it becomes overwhelmingly difficult for the citizens. These codes have worked fine in Lake Oswego and she is willing to give it a chance.

Councilor Burgess stated the Association person did not speak to signs; however the housing market situation is global. He does not feel that sales of a house have much to do with signs in a public right-of-way. Real estate seems to be the issue being discussed however these changes apply to all signage. This resolution comes from a request from Council. It is a temporary change and he is willing to allow it through September to see what the impacts are. He is concerned that this is complaint driven in terms of the impact on staff to follow up on the complaints.

Ayes: Carson, Burgess, Cummings, Kovash, Galle

Nays: None

The motion carried 5-0.

Recess was taken at 7:57 p.m. and the meeting reconvened at 8:11 p.m.

B. Agenda Bill 09-07-13E METRO Local Shares Projects

Mayor Galle opened the meeting to discussion about Metro local shares projects at 8:13 p.m. She asked for a staff report.

Ken Worcester reported in November 2006 voters approved a new Metro Greenspaces Bond Measure. This measure includes a "local share" component of \$872,000 for city projects. As part of the original IGA with METRO a project titled Future Property Acquisition in the Stafford area was identified at a cost of \$547,000.

Since the last project lit was originally submitted, the current economy has dramatically reduced the city's ability to fund projects. Coupled with the fact that \$547,000 is not going to buy much property anyway, staff is recommending to revise the project list to fund other in-city park projects which the community has expressed a need.

After working with the West Linn Parks and Recreation Advisory Board and the City Council to refine and prioritize the project list and recommends the Council add five projects as a substitute for the property acquisition project at the same cost of \$547,000. Those projects include:

- Douglas Park playground and parking
- Fields Bridge Park Restrooms
- Midhill Park Restroom
- Robinwood Park Restroom
- Robinwood Park Spray-ground

Councilor Kovash moved to authorize the City Manager to enter into an amended Intergovernmental Agreement with METRO, and acknowledging "Attachment A" represents the City's current priorities for projects in the Greenspaces Bond Measure Local Share Component per Agenda Bill 09-07-13E. Council President Carson seconded the motion.

Councilor Burgess asked staff to pursue all aspects of sustainability in terms of construction materials and systems used.

Councilor Cummings stated she previously brought up the issue of not feeling there was a public process regarding the capital improvement plan. However, it was part of the budget proposal. She would have liked to have heard from the public about the priorities; she doesn't agree with the Douglas Park Plan. It should not come ahead of

other projects that have been waiting a decade. She will be voting in favor only because of the local Metro share.

Mayor Galle asked for clarification of the connection between changing the IGA and capital improvement projects that are owned. Mr. Worcester stated the IGA refers to projects that are on the books or a part of the Parks Master Plan whether it is new property or an older property that has an uncompleted portion. A full list of projects were submitted in support of the METRO bond measure and that list was redefined based on priorities and things that have been established since the bond measure was passed.

Councilor Burgess asked if there are projects that have been submitted for the competitive portion of the bond measure. Mr. Worcester stated there are two projects in the competitive pool; to fund 1/3 of the acquisition for White Oaks Savannah and the other project is Trillium Creek Restoration. There are two grants totaling about \$450,000.

Ayes: Burgess, Cummings, Kovash, Carson, Galle

Nays: None

The motion carried 5-0.

C. Agenda Bill 09-07-13F

**IGA with West Linn and Clackamas County
Juvenile Diversion Services**

Mayor Galle opened the meeting to discussion of the IGA with West Linn and Clackamas County at 8:21 p.m. She asked for a staff report.

Terry Timeus, Chief of Police reported the IGA was initiated by Clackamas County as part of their Juvenile Crime Prevention Plan. The city has received funds from the County in the past and the IGA continues the City's participation in the Juvenile Crime Prevention Plan which offers a diversion program for at-risk youth that reside within the City of West Linn.

The Clackamas County juvenile system at times is overwhelmed by the amount of youth offenders. They can't offer treatment or have sanctions for youth who are displaying or participating in at-risk behavior (curfew, minor possession of alcohol, etc.) This diversion program has consequences the first time, monitoring by juvenile counselors, steps to complete the program, letter of accountability, choices, attend talk groups, attend support groups, pay restitution as well as pay community service hours. Last year, West Linn had 73 at-risk youth go through their program. Of those 73, 4 re-offended which violated the diversion agreement and they were put into the system.

Staff recommends Council approves the signing of this IGA. By doing so, West Linn will receive \$53,056 which will help offset the total cost of the City of West. If Council does

not sign the IGA, those grant funds are not available to the Police Department and they assume the entire cost of the diversion program (\$29,000). Currently they have \$23,591 budgeted for fiscal year 2010 for this program.

Questions from the Council

Councilor Kovash asked for the comparison of dollars to incarceration. Chief Timeus stated it costs \$294 per juvenile that enters the program compared to \$80-120 per day in a juvenile facility.

Council President Carson stated she supports this program and feels it is very critical to intervene early with the youth and provide this type of diversion program. It turns kid's life around when they have the access to some counseling and a structured program to help learn new behaviors.

Mayor Galle asked how to reach youth that are at risk who do not commit crimes. Chief Timeus stated that with all parts of the system some things work and some don't.

Councilor Kovash moved to approve the intergovernmental Agreement between Clackamas County Juvenile Diversions Services and the City of West Linn and authorize the City Manager to sign the IGA per Agenda Bill 09-07-13F. Councilor Cummings seconded the motion.

Ayes: Cummings, Kovash, Carson, Burgess, Galle

Nays: None

The motion carried 5-0.

D. Agenda Bill 09-07-13G

Resolution No. 09-18; Declaring Necessity to Condemn Property for a Public Purpose

Mayor Galle opened the meeting to discussion of Resolution 09-18, Direction to Proceed with Condemnation Process for Sanitary Sewer Easement at 8:29 p.m. She asked for the staff report.

Dennis Wright reported the City had a new sanitary sewer master plan completed in 1999. CIP Project-13 identifies the existing 12-inch diameter AC line as deficient and prescribes replacement with a 15-inch diameter line. Total length of the project is 2875 LF. The current SDC list shows the project cost at \$552,000 and it is 100% SDC eligible. The actual project design is for 2707 LF and the lowest responsive responsible bid price is \$540,540.

The project was designed by Murray, Smith and Associates in the spring of 2008. At that time there became a question of the actual location of the lien and the easement. The City's GIS team provided good field reconnaissance but cautioned that recorded plats and the county tax assessor records in the area have property boundary discrepancies

of up to 25 feet. Staff hired a registered land surveyor to professionally survey the site and determined the actual location of easement and line. This survey revealed that the line was outside the easement that was procured from PGE in the 1970's.

The City contacted the property owner, Tom Steinkamp, and attempted to negotiate an easement from him. The City offered a sanitary sewer hookup in exchange for a modified easement and concluded with an offer of \$15,000. Mr. Steinkamp's final request was \$76,000. A property appraiser was hired (Universal Field Services, Inc.) to perform a "before and after" valuation taking into account the vacation of the current easement and acquisition of the new easement. The appraiser valued the easement at \$150 and a copy of that valuation was provided to Mr. Steinkamp through his attorney. Staff was unsuccessful in any further negotiations.

Staff has considered purchasing the easement for a reasonable price, relocating the sanitary sewer line and easement condemnation. Relocating the line would cost well over \$100,000 in construction alone. The least preferred option, condemnation, is the City's most economical option at this point.

The City attorney has advised the condemnation process: (1) City adopt resolution; (2) City make written "initial offer," with appraisal; (3) City attempts to agree with owner as to just compensation and granting of easement; (5) City wait 40 days after making initial offer to file Condemnation action; then (6) the City can pursue immediate possession of the easement area at any time after the condemnation action is commenced.

Staff is requesting permission approve the resolution authorizing staff to commence the condemnation process to acquire the needed easement.

Questions from the Councilors

Council Burgess asked if an individual owns the property now, subsequently purchasing the easement from PGE. Mr. Green said that is true.

Councilor Burgess asked how many people this line serves. Mr. Green stated the line serves about 1,100 households; it is an important line.

Councilor Carson noted the property owner will gain some property, and vacate the current easement. She asked what will be the net property change for this property owner. Mr. Wright stated the net change as calculated by the surveyor is about 2,000 SF and the particular area of this line is very steep and unbuildable. There is a minimal impact to the property.

There was no public comment on this issue.

Council President Carson moved to approve Resolution 09-18, A Resolution Declaring Necessity to Condemn Property for a Public Purpose per Agenda Bill 09-07-13G. Councilor Burgess seconded the motion.

Councilor Burgess stated he will be voting in favor of this resolution. Condemnation is not something the City does often. The City has negotiated in good faith without success. There is a public health and safety issue involved and this is something that must be done.

Ayes: Kovash, Carson, Burgess, Cummings, Galle

Nays: None

The motion carried 5-0.

Adjournment

Hearing no further business from Council, Mayor Galle adjourned the meeting into Executive Session per ORS-192.66.02 at 8:36 p.m. She announced the Council would not be coming back into public session.

RESPECTFULLY SUBMITTED,

Tina Lynch /s/

Tina Lynch
City Recorder

APPROVED BY THE CITY COUNCIL
ON AUGUST 10, 2009

Patti Galle /s/

Patti Galle, Mayor