

WEST LINN CITY COUNCIL MEETING MINUTES October 26, 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; Peter Spir, Associate Planner, West Linn City Attorney Tim Ramis; and Shirley Richardson, Minute Taker

Call to Order/Pledge of Allegiance:

Mayor Galle called the meeting to order at 6:37 p.m. and led the flag salute.

Proclamations, Recognitions and Presentations:

- Clackamas Community Covenant Program

Mayor Galle read Resolution 09-23, supporting the Clackamas Community Covenant Program. The Community Covenant Program is designed to foster and sustain effective state and community partnership with the Oregon National Guard and other military services to improve the quality of life for soldiers and their families.

Council President Carson moved to adopt the Resolution 09-23, A Resolution of the City of West Linn Supporting The Clackamas Community Covenant Program per Agenda Bill 09-10-26A. Councilor Cummings seconded the motion.

Ayes: Carson, Burgess, Cummings, Kovash, Galle

Nays: None

The motion carried 5-0.

Consent Agenda

1. Agenda Bill 09-10-26C Contract Award for Operation of the Dan Davis Recycling Center

Acting as the Contract Review Board, Council President Carson moved to authorize the City Manager to Extend the Contract Award for Operation of the Dan Davis Recycling Center until July 31, 2010 and approve the change of ownership request per Agenda Bill 09-10-26C. Councilor Burgess seconded the motion.

Ayes: Burgess, Cummings, Kovash, Carson, Galle

Nays: None

The motion carried 5-0.

- Annexation Election of the Erickson Property

Mayor Galle read Resolution 09-22, proclaiming the results of the annexation election of the Erickson property into the City of West Linn. The City is in receipt of the certified election results indicating that a majority of citizens voting in the September 15, 2009 election approved the proposed annexation of the Erickson property, generally located at 1025 Rosemont Road and 20800 Hidden Springs Road. Approval of this Resolution proclaiming the results of the election is required by Council to annex the property into the City.

Community Comments

Frank Eaton, 4853 Coho Lane stated he is here to follow-up on his concerns expressed at the last Council meeting regarding illegal parking in Hood View Estates neighborhood. He received an email from Terry Timeus, Police Chief, regarding a proposed resolution. Mr. Timeus' resolution is to take a survey amongst the residents to decide whether to enforce illegal parking or not.

Mr. Eaton stated he is concerned about taking a survey for something that is illegal, especially when it is a safety matter. Mr. Timeus went on to say that he wanted to take a look at all those impacted and not just the 2-3 people who always call. Mr. Eaton stated that he can say from experience and comments at the neighborhood meetings there are many residents who are concerned and several neighbors have felt threatened or intimidated by the West Linn Police Department when they called. Mr. Eaton asked what the next step is in getting this issue resolved.

Mr. Jordan stated this is a law enforcement decision for the Police Department. What they are trying to do is involve the community and gauge what the issues are. The police have reviewed the situation and they don't see this as a major safety issue. If it were a safety issue they would cite the person involved. There doesn't appear to be an issue with fire trucks getting through at this time. The Police Department is trying to gauge how broad the concerns are. If there are broad concerns on this front and it appears that comments at the neighborhood meetings there are, this is good information to know. If it is just one or two people that are concerned they will try to figure out a way to deal with the situation rather than going out and slapping tickets on every single windshield in that neighborhood. The Police Department is trying to work through this with the neighborhood to figure out the proper solution that may help avoid just citing a bunch of people.

Mayor Galle stated she suggested a code enforcement officer as part of their duty pick a day once a month and rotate it so people don't get used to it and start getting some consistent ongoing enforcement. Mr. Eaton stated a year ago he contacted police and talked with an officer about the problem and in the matter of a couple of weeks the problem went away; it was cleaned up. This worked for a while. Last week he counted 13 illegally parked cars. He does not feel what the chief is proposing addresses the problem.

Mayor Galle stated she feels the warnings would be good to start out with. It will let people know there is a problem on the street.

Councilor Burgess stated he is glad this issue was brought to Council's attention. Council will have a conversation with staff in terms of learning more about whether this will work. He acknowledged Mr. Eaton's concerns; the concerns are valid in terms of safety and enjoyment of his home. He would like to talk to staff and get back to him in terms of where the Council is on this issue. There are law enforcement issues to resolve and resource issues that need to be discussed.

Councilor Cummings stated she too would like to hear from staff how much resources are being put into this survey, timelines, what that means, what kind of signage is there, and discussion about whether it is appropriate to be putting surveys out to people as to whether they want to follow the letter of the law or not.

Councilor Kovash asked if the same officer who solved the problem last time could do the same thing. Mr. Eaton stated the officer was instructed by his Captain not to take any action.

Mayor Galle asked Chris Jordan for a date when this issue will be back before the Council. Mr. Jordan stated the police chief is scheduled to attend the November 16th Council work session; that will be the appropriate time to talk to him about it.

Bob Thomas, 2563 Pimlico Drive, stated he has given the Council three submittals on the Solar Highway Project. It is his feeling that Mr. Frank is not giving out correct information. Some of the features of the solar panels reported by Mr. Frank do not allow what he claims will happen, "...the output of the solar panels will run up the hill and light West Linn." This is false; a PGE engineer confirmed this was not right. The September update gave the incorrect numbers for the amount of kilowatt hours it would be estimated to reduce annually. It gave the impression that the solar panels would light Oregon's transportation system which is a gross misrepresentation. These panels will only light a section of the freeway near the solar panels.

During the day the output of the solar array will be metered and at night the amount of power that PGE uses to light that section of the freeway will be metered. Then they will subtract the metered output of the solar array to credit ODOT with installation and the output of the solar array. These panels will not benefit West Linn; they will only benefit ODOT.

It is said that the panels will benefit ODOT to the tune of 8-10 percent per year; that figure cannot be confirmed because Mr. Frank has never told how much PGE charges ODOT for freeway lighting. In order to be able to calculate those figures you need that information. There is a lot of misleading information being put out about the solar highway and most of it is being told by Mr. Frank, the spokesman for ODOT.

Bernard Hartung, 5007 Territorial Drive stated he is here tonight to talk about the sewer advisory committee. He suggested Council put the issue on the ballot rather than Council making a decision. The Council would have a better chance of winning because most residents don't know what they are voting for in the first place. 15 to 20 years ago the Council decided to raise the water rates and it went out for a vote; most of the residents were unhappy. The Council is supposed to be representing the residents, not Clackamas County.

Karie Oakes, 1125 Marylhurst Drive stated she would like to address the Council tonight regarding a request by her to consider calling up for review the Planning Commission decision for approval of a Water Resource Area Permit and 6-lot PUD for 19650 Suncrest Drive. According to West Linn Code, Chapter 99 allows the Council to call up a Planning Commission decision if it regards policy. This decision does regard policy. The applicant and owner, Mr. Handris, said he would dedicate property to the public during annexation. The Planning Commission has decided by recommendation of staff that the water resource area not be dedicated and held in private home-ownership.

This is not for the Planning Commission to decide as it sets policy for the City. Chapter 99 of the Code does state that it is preferable that water resource area be hold in the public ownership. She is requesting that Council call up this decision for review.

Report from the City Manager - None

Business from the City Council

Councilor Cummings stated she feels that Council should discuss the policy issues regarding the City's responsibility to maintain dedicated property. Is it appropriate for the City to assume the responsibility for the maintenance of property without also requiring dedication? This is a new idea that needs to be reviewed at Council level. She thinks this action that took place without direction from Council and she would like to review it.

Councilor Kovash asked Ms. Oakes to submit her information in writing so the Council can review it in a work session. Ms. Oakes stated she would submit the information.

Mayor Galle asked staff to later comment on the policy and time frame for making an appeal and calling an issue up before Council for review.

Business Meeting – Agenda Items

1. Agenda Bill 09-10-26D Approval of Wastewater Treatment Capacity Advisory Committee Bylaws

Mayor Galle opened the meeting to discussion of the Wastewater Treatment Capacity Advisory Committee Bylaws at 7:03 p.m.

Staff Report

Chris Jordan reported this issue was originally presented to the Council on September 28th when by a vote of 3-1 the resolution was not approved. On October 20th the Council voted to reconsider the previous vote and directed staff to place it on this evening's agenda.

This evening Council has been provided with an amended version of the draft Bylaws and has some suggested changes by Milwaukie and Gladstone that were presented at the Provisional Advisory Committee last week. The members of that Committee did not object to those changes. In addition, Council this evening has a memo from City Attorney, Tim Ramis with an additional minor language change in Section 2.2, as the appointed representative from West Linn to the Provisional Advisory Committee. It is his belief that the Provisional Advisory Committee would not have any objections to that change.

Mr. Jordan introduced County representatives here tonight to answer questions; Commissioner Bob Austin, Commissioner Ann Lininger, Commissioner Steve Wheeler

and Mike Kuenzie, Director of Water Environmental Services. Mr. Jordan explained the Board of County Commissioners is the governing body for the Tri-City Service District and for Clackamas Service District #1. Mr. Kuenzie is the person directly responsible for the day-to-day management of both districts.

This Advisory Committee is on Wastewater Treatment Capacity only. It does not go into details on the discussion of collection systems, conveyance systems, etc. It is solely about wastewater treatment capacity.

Councilor Burgess asked if the version of the Bylaws that is available tonight is the final version. Mr. Jordan stated there have been several versions; the copy that has been given out in color tonight is the red-line version and clean version of what was received on Friday.

The memo from Mr. Ramis suggests applying additional language to Section 2.2 to reinforce the issue that each district or member is responsible for the cost of growth within their service areas. This language was added to clearly state growth is clearly paid for by the member of the district involved. This is protected under Chapter 451 of the Oregon Revised Statute. Staff recommends the Council go with option number one because it is more restrictive.

Mayor Galle asked staff to comment why the language "within the service area" was taken out of the revised document. Mr. Jordan stated there were suggested changes by Gladstone and Milwaukie and in the course of revising the language those words were deleted. It was not intentional; it has been very clear by all the members of the committee on several occasions that everyone recognizes that each district is responsible for the costs within their own areas. That is protected under Chapter 451 of the Oregon Revised Statutes.

Mayor Galle asked for staff to comment on the discussion around "can, will or recommend changes." Mr. Jordan stated this was a recommendation by Gladstone to point out recommendations to the Board of County Commissioners need to be voted on by a quorum of the group and make sure there are enough members there to make it a worthwhile recommendation. That is why they added the language, wastewater treatment, wastewater treatment assets and recommendations to amend the Committee bylaws.

Mayor Galle voiced concern about going into an agreement with one set of bylaws and then if one of the entities makes a revision, you have another set of bylaws. She is concerned that West Linn has no majority authority on the advisory group to lean toward a certain decision. If someone decides to make a change to the bylaws there is no recourse for West Linn to do anything about it. Mr. Jordan cited Section 3.2, "...minority reports and recommendations may be sent to the board..." West Linn is not bound by or required to support the decision of the Advisory Committee. West Linn is

allowed to provide a minority report should the City so chose. The City has the right at any time to withdraw membership without any penalty or obligation whatsoever.

Council President Carson asked staff to clarify that going forward these meetings will be covered under Public Meeting Law. Mr. Jordan said yes.

Councilor Kovash stated it is an assumption that if there were changes made it would be detrimental. He feels this is false; there could be changes made that West Linn would instigate. This is how to negotiate what West Linn wants. The Constitution of the United States has a provision for change. He is in favor of having provisions to change the bylaws to suit member's needs.

Councilor Cummings cited Section 3.3, "...if the membership of the committee changes due to the additions of new members or the withdrawal of any member as part of an action, the committee will reallocate votes on the committee in an appropriate manner to recognize the new member or loss of a new member..." and asked for clarification of that language. Mr. Jordan stated this language ensures that the two districts maintain equal voting rights on the advisory board. The idea is to adjust the voting accordingly to make sure there remains the balance so that Tri-Cities and Clackamas Service District #1 has equal votes at the table.

Councilor Burgess voiced concern the language reads Tri-Cities no longer functions as group; it implies West Linn is only participating in Tri-Cities to the degree of benefits or associated with growth of West Linn. Mr. Ramis stated his memo gives two options; one focuses on the districts and the other is more restrictive and says in making recommendations take into account the limitation that each individual jurisdiction would recommend a rate structure that deals with its own growth performance.

Mayor Galle asked if there was ever discussion at these committee meetings about Gladstone having no future growth and West Linn having very little future growth and how this doesn't even come to a fraction of the growth that is proposed for Damascus, Happy Valley, and North Clackamas County, not to mention the millions of dollars it will take to decommission Kellogg. Why is it necessary to ask these two cities to get involved when they have no need or desire to share the cost for regional sewer; why are these cities even at the table?

Mr. Jordan stated hypothetically 10 years from now Tri-Cities District has to expand the capacity of its treatment plant at the cost of \$10 million. Clackamas County Service District #1 at approximately at the same time is looking to do something similar and their capacity needs are greater and they will have to spend \$20 million; a total of \$30 million between the two districts. By combining forces and contracting together, the costs would be less and a savings to everyone. Each district would pay their proportional share of that expansion. The only way to have these discussions is to have an advisory committee looking at these issues and making proposals.

Mayor Galle stated this scenario is unrealistic; Tri-Cities capacity would never reach at the same time as Damascus, Happy Valley, or North Clackamas County. She is having a hard time finding a scenario that brings West Linn to an equal level of what's happening to these other cities, especially in terms of the need for growth. West Linn has no debt; this proposal talks to going into a bonding issue in phase II that this committee will be deciding on. There are funds in the bank for expansion for West Linn's own facility. What would be the cost savings to come into a group that have greater financial responsibilities when West Linn has money they are savings and are debt free.

Mr. Jordan stated when Tri-Cities has to expand, which it will have to within the next 8-12 years, the cost of that expansion will far exceed what the City has in reserves. The expansion will be due to needs of the Tri-Cities Service District, not Clackamas Service District #1. Clackamas Service District #1 is currently building approximately \$120 million expansion now for its own needs and West Linn is not responsible for any of the payments on those bonds.

Mayor Galle stated she was informed 3-4 months out of the year the Tri-City Plant is in violation for putting too hot of affluent into the river. The reason the plant hasn't been cited is that they have not been permitted by Department of Environmental Quality (DEQ). When the plant is permitted there will be two options; the cities can buy a cooling unit, join CCSD#1 and combine services. She feels the City is at greater risk now of loosing Tri-City based on this violation. It is her understanding the County is moving DEQ very swiftly to give Tri-Cities this permit. She feels the discussion tonight should be on this violation rather than the agreement.

Mike Kuenzie, Director of Water Environmental Services stated the Tri-City plant is not in violation at this time. They do not have permit requirements that would put the plant in violation. The permit is being renewed and they do not know what the conditions of that permit are at this time. The strategic planning process that is currently underway will address what that permit strategy will be based upon what the permit conditions may be. He is not sure where the proposed options are coming from; they have not reviewed the permit in detail. Tri-City Service District is not in violation on thermal discharge; there is no thermal discharge limitation in the current permit.

Mayor Galle stated she talked with Wade Byers, Mayor of Gladstone, who reported that the Tri-City Plant is in violation and it has been in violation since 2006. Mr. Kuenzie stated if the plant were in violation they would be absorbing fines from DEQ. Tri-City is currently properly permitted; they are operating and have been operating properly for the last ten years under one permit.

Point of Order: Council is asking questions of staff; this conversation should be under Council deliberations.

Councilor Cummings asked for clarification that there is room to expand at Tri-City but limited due to leasing of 15% of the space to CCSD#1. Mr. Jordan said that is correct.

Tri-City has been under a diversion agreement with Clackamas to lease space to CCSD#1 since 1990's; however, with the expansion by CCSD#1 they will no longer be leasing that space.

Community Comment

Thelma Haggenmiller stated she resides in the Oak Lodge area of unincorporated Clackamas County. She read a statement to the audience and submitted the statement into the record. Ms. Haggenmiller explained she has experienced the evolution of the wastewater process in North Clackamas County over the last 6-1/2 years. It is "knowledge by Osmosis." Some of the information presented and discussed at the many meetings she has attended during that period of time sank in and stuck with her.

Beginning in 2003 she started attending meetings of the Oak Lodge Sanitary District Board of Directors. After the Oak Lodge ratepayer voters turned down the County's Clearwater Project in the March 2005 election, three citizens in CCSD#1 circulated a petition to also require a vote on the Clearwater Project by their district's ratepayers. The County filed a lawsuit against these three citizens. As a condition of losing the lawsuit, the Board of County Commissioners (Board of Directors CCSD#1) appointed a 7-person citizen advisory council that included the three citizens from the lawsuit who were each appointed to a three-year seat on that advisory council. In addition to attending the Oak Lodge Sanitary meetings, she started attending the CCSD#1 Citizen Advisory Council meetings. The Board of County Commissioners (BCC) then appointed a site selection committee to look at places in North Clackamas County where a new wastewater treatment facility could be located. She attended most of the site selection committee meetings; the County then formed a group composed of elected officials from the North Clackamas County area, the seven cities and the Oak Lodge Sanitary District, plus a citizen from the unincorporated area. This was called the Community Partners Group and it was chaired by one of the County Commissioners. The purpose of the Community Partners Group was to help determine a direction for the Board of County Commissioners to take in regards to the future of wastewater treatment in North Clackamas County. She attended most of the Community Partners Group meetings. The Community Partners Group then morphed into the Regional Partnership Group composed of some elected officials and some city managers and a citizen from the unincorporated area that was appointed by the Board of County Commissioners. She attended most of the regional partnership group meetings. It was the regional partnership group that drafted the original wastewater treatment capacity partnership agreement which went to the seven city councils for their approval last June. After the councils did not approve that partnership agreement in June, the agreement was revised into the wastewater treatment capacity advisory committee bylaws that are before council this evening. She "knowledge by osmosis" is from sitting through these countless hours of sewerage meetings.

Mayor Galle asked Ms. Haggenmiller what she believed is the purpose of the wastewater treatment agreement. Ms. Haggenmiller stated she wanted to clarify a misconception that is prevailing right now by telling you, based on that "Osmosis Knowledge" I have, what Council is not buying into with the signing of the committee bylaws the \$95 million wastewater system revenue obligation bonds being issues for phase I of the wastewater capacity management program. It depends on who you are talking to if its \$95 million or \$120 million. The Phase I was referred to as the interim plan of the wastewater capacity management program and it has three components: treatment capacity expansion for CCSD#1 that includes the construction currently underway at the Tri-City plant; the necessary conveyance improvements to the interconnecting pipes to upsize and to upsize the Clackamas Pump Station; the necessary system maintenance improvements, upgrades and rehabilitation at the Kellogg Wastewater Treatment Plant. The phase I interim plan is sized to provide CCSD#1 with capacity to meet current needs and to meet their expected growth until a long-term solution can be built for the region. Water environment services is in the process of capacity management planning for long term wastewater treatment solutions for the entire north Clackamas Region or phase II of wastewater capacity management program. What will ultimately be committed to is the regional cost sharing of phase II regarding existing and future wastewater treatment capacity. This regional cost sharing includes the sharing of funding the regional master plans, sharing of funding for the collective future investments and or expenditures of land, capital facilities and equipment to implement the regional master plans, sharing of funding or major improvements or expansion of existing and/or new and additional regional facilities and related infrastructure contributing capital or physical assets as part of your share in the cost of major regional improvements or expansions of existing new and additional wastewater capacity including perhaps the potential \$50 million to fund a digester at the Tri-Cities plant. Lending or advancing funds for construction of regional non-treatment facilities. The bylaws provide for the establishment of a regional wastewater treatment capacity advisory committee. Their responsibilities will be to review and make recommendations to the Board of County Commissioners on setting wholesale treatment rates on a future regional wastewater treatment system and related capital facilities and equipment to implement the master plans. The Board of County Commissioners is currently and will remain your final decision-makers in all wastewater treatment matters. She suggests the Council consider what happens if the agreement is not signed at this time.

Mayor Galle stated she was very concerned as an alternate for the City to have Tri-City become a separate district, removing themselves from the County. She asked Ms. Haggenmiller to tell about her experience with Oak Lodge who did this and how she feels it compares to West Linn. Ms. Haggenmiller explained the differences in the management and governance structures between CCSD#1, Tri-City Service District and the Oak Lodge Sanitary District. All 3 of these districts are responsible for providing sanitary sewer and surface water management services to specific areas in North Clackamas County.

Clackamas County Service District #1 and the Tri-City Service District were both formed as county service districts under an ORS 451 State Statute. The decision making Board of Directors for both of these districts are the current 5-member Board of Clackamas County Commissioners.

Oak Lodge Sanitary District was formed as a Special Service District under ORS 450 State statute. This statute allows for a board or directors elected by and from the people within the district boundaries. An ORS 450 District is a district with a single purpose. The special service district for Oak Lodge was formed to provide sanitary and surface water services for the residential and business ratepayers within their district boundaries. Many factors entered into the 2005 decision of Oak Lodge ratepayers/voters to overwhelmingly turn down of the County's Regional Clearwater Project.

- The Oak Lodge water treatment plant was to be decommissioned and torn down as part of the project
- Our sewage was, forever after, to be pumped uphill to the Tri-City wastewater treatment plant in Oregon City
- Oak Lodge would have been required to assist in paying for the decommissioning of the Kellogg plant in Milwaukie
- Oak Lodge would have been required to assist in paying the infrastructure needed to provide sewer services for the development then going on in the Happy Valley and Damascus areas
- Oak Lodge could not get consistent straight answers to questions about potential future costs and associated rates
- Oak Lodge could not get straight answers to questions about the future governance of the district. Would it be turned over to the Board of County Commissioners? Would Oak Lodge end up becoming a part of the County service district and lose their local control.
- The Oak Lodge treatment facility is 50 years old but with some improvements and upgrades it could have another 50 years of useful life. The Oak Lodge Board of Directors put out a call for community members to help in the decisions of how to move forward with such a project
- A 15-member self-selected master plan citizen advisory committee (of which she was one of the 15) was established and they are moving forward with their rehabilitation project.

- There is currently a \$44 million general obligation bond measure before the Oak Lodge ratepayer/voters on their November ballot.

How does the Oak Lodge experience compare with what West Linn is facing right now? The citizens of West Linn will have very little say on what determines the future of their sanitary service. Right now, Tri-City Service District has an advisory board. It is composed of the city managers of West Linn, Oregon City and Gladstone. There is no citizen involvement or oversight of what happens to your current or future rates, facilities, regional involvement, etc. Under the wastewater treatment Capacity Advisory Committee Bylaws, will the citizens have more control over these issues in the future? If consideration is given to having 1-1/3 vote on the committee, a form of control, the answer would be yes. A teeny bit more than the citizens now have. However, remember the Board of County Commissioners is still the decision-making board of directors. If the City doesn't like their decisions, the only recourse is to recall the county commissioners. Personally, she would prefer to go after someone closer to home if she didn't like what was going on.

Ms. Haggenmiller stated she is not a resident of West Linn but she stated if she were, she would be wholeheartedly supporting the Mayor's efforts to consider pulling out of the County service district and forming a special service district.

Councilor Kovash applauded Ms. Haggenmiller for attending all of the wastewater meetings over all those years. The topic for Council decision tonight is whether or not to become part of an advisory committee to the wastewater service provider. The part of her statement that he is concerned about is where she says, "...you will ultimately be committed to the regional cost sharing, etc..." He asked that she make available to the County Commissioners a copy of her comments and let them address Page 2 of 4 under that section. Ms. Haggenmiller stated she would provide them with a copy. She explained before she wrote this commentary, she went back through her stack of materials from the past and brought the latest materials that address what is being discussed.

Mike Jones, 22860 Oregon City Loop, read a letter into the record to the Mayor and City Council. He lives in the best city in Oregon if not the United States. He loves and cares about the community, friends and neighbors, schools and many amenities they have and appreciate and support the city manager and city staff. Without their efforts the City would not be recognized for fiscal responsibility, parks, public safety and every other aspect of life in West Linn that sets it apart from most communities. He strongly supports and appreciates the contributions of the elected officials; their commitment of time, experience and energy enable the City staff to proceed efficiently and effectively.

At the same time citizens question some of the recent actions of their Mayor. The issue before the Council this evening is whether or not West Linn should be present on a county-wide wastewater advisory committee; a very straight-forward yet complex

issue. If West Linn wishes to be part of a larger government community, they should be on the committee. If not the offer should be declined. This is a policy issue that should have been settled in a Council work session several weeks ago. This would have happened if there were open and trusting dialog among all parties. Specifically they find some of the current behaviors of their Mayor be of great concern. These behavior patterns span many issues; their concerns are because the Mayor chooses not to seek compromise and/or seek and find the Council's policy direction. The Mayor, if she is a member of the minority had said she will send this issue to a vote of the people.

Point of Order raised; this comment is being directed towards one individual. Mayor Galle allowed the comments to continue.

Mr. Jones continued; in his considered opinion sending this issue to the vote of the people is a complete avocation of representative government where citizens elect a mayor and council to act on the behalf of the people and the Mayor is taking precious time on important but minor issues and neglecting the major policies on which the Council needs to be working.

Mr. Jones implored the Mayor in a positive manner to reach out to other members of the Council (specifically Council President Carson, Councilor Burgess, and Councilor Kovash). Citizens know and have worked with the members of this council and while aware they are individuals who represent the citizens with their individual voices, they also seek compromise and want to move the city forward. Citizens don't understand why the Mayor is unwilling to work with the Council as a whole. He thanked the Mayor and Council for their service to the city; and knows that the City and its leaders have the citizen's best wishes. They are proud of West Linn and wouldn't want to live anywhere else.

The letter is signed by Michelle Eberle, Mike Jones, Ray Kindley, Elizabeth Kieres, Norm King, Stephanie Nicolette, Jerry Offer, Ruth Offer, Dean Suhr, Gerry Switzer and Buffalo Zobel.

Matthew Green-Hite, 17940 Oatfield Road, stated he is a resident of Gladstone and a member of West Linn Chamber of Commerce. He was going to talk about thermal loading; however Mike Kuenzie states it doesn't exist. It would surprise Gladstone's city attorney (who represents several sewer and water districts) that it doesn't exist.

As Stafford becomes an area, West Linn will get point eight votes according to the current allocation and fewer votes in Happy Valley and Milwaukie. Right now there have been four meetings of this group; none of them have been televised or recorded. He reviewed the Oregon Public Meeting Law ORS-192.610, "...any public body that makes decisions or recommendations to a public body is covered by public meeting law..." All they have to do is record or televise these meetings.

Mr. Green-Hite stated the West Linn clause is great saying they should keep meeting with the Tri-City meeting group; however, there has not been a meeting in a year. The Charter stated there should be a meeting at least every quarter. He strongly advises there be a meeting of the Tri-City Advisory Group.

The County is wrong about the budget; he has copies of the budget with him if anyone wants the information. There is an allocation for Clackamas Sewer called District Miscellaneous Professional Services and no explanation. Trio-City has a management consultant contract for \$259,000 and it says it is for a bio-solids expansion project, growth related digester upgrades. He also has copies of related information on Kellogg treatment studies and he didn't see anything relating to the solid digester. He feels this is an incorrect use of the funds.

DCSD has authorized \$95 million; only \$70 million is listed for revenue bonds. Bonds may be needed for the \$20-25 million. He warned the citizens to not be surprised thermal loading will be a joint project between both groups.

Councilor Burgess asked what Mr. Green-Hite's comments that the rates would go up was based on. Mr. Green-Hite stated it was based on data he reviewed. The County data seems to vary by 100% on most of these items; he is basing his information on the County's data. Some of it is assumptions obviously because they don't know the total growth amount. It is assumed that Kellogg would close; that would be a \$5-6/month addition to pay for the decommissioning and \$7-8 if not a participating member. He bases his information on the wholesale rates and other projections. Clackamas Sewer District went up from \$26 in 2008, \$29.50 last year, \$35 this year, and \$41 next year.

Councilor Burgess stated Tri-City has an agreement with Clackamas Service District in terms of how the \$120 million will be used.

JoEllen Haggerty, 2237 San Words Loop stated there are a lot of people who have asked her to bring up subjects. There are several people in her neighborhood who have wanted to vote no on being involved with the advisory committee. She presented an article, "Sewer Debate Shows the City Council Still Doesn't Get It." She doesn't think anyone understands this totally. People are talking about the possibility of different figures. She is disturbed to find out that tonight the Council is not united together. She finds that disappointing; when the Council comes together in front of a community, members should compromise their own opinions to have a united approach to issues. There doesn't seem to be any connection between councilors.

Ms. Haggerty stated she was a Human Resources Director and she had to justify and have people merge their opinions. It takes a lot to do this; if someone is totally convinced they are right and someone else is wrong, these people should get together and hash it out between themselves. She feels West Linn is God's country of Oregon. She moved here from California and she has learned to be polite, friendly and happy. If

this is true of the whole community, everyone has to come together and not bash each other in public. There is a real need for coercion amongst the elected officers of their community. She objects to some of the things that are being hashed out here.

John Goodrich, 3170 Cottonwood stated he is here tonight to represent the Utility Advisory Board. He previously submitted a memo recommending the City of West Linn participate in the Wastewater Treatment Agreement.

Nancy G. Marquette was called but was not in the room. She indicated on her comment sheet that she wanted to talk about the wastewater treatment agreement and a recall.

Michael Monical, 18735 Nixon Avenue stated he too is on the Utility Advisory Board. He is an engineer and a LEED credited professional. He is in support of the resolution and he will speak to three points already brought up in opposition. In response to the comment that West Linn paid for the Tri-City plant so the City has earned their low rates and should protect them. The Tri-City plant was largely funded by a grant from the United States; the U.S. citizens paid for it. The balance of the cost was paid for from a fund by the State of Oregon. The City is paying the State of Oregon back for that loan. Everybody paid for the Tri-City plant. It was not just West Linn, Oregon City and Gladstone money that went into that plant. A lot more people paid for it and it is time to think about paying some back.

There seems to be some implication that West Linn is being asked to pay for Damascus. There are laws about who pays for development, who pays for capital improvements, who pays for capital maintenance, etc. As a member of the Public Utility Board he is familiar with the rates for the water system, sewer system, storm water fees, etc. The process is very detailed about who pays for what. There is the opportunity for a little of the cost shifting, but not that much. The best way to monitor that cost shifting is to be part of the organization that will be discussing and sharing these ideas and making recommendations to the County Board of Commissioners. He, too does not want to pay for Damascus, but if there is some cost sharing, maybe it is time to pay back some of the funds West Linn was loaned for the last 30 years. Some day the Tri-City plant will fail, get old; the City may need some help then.

The third issue is the idea that it is not West Linn's problem and there is no reason to be involved. He finds that scary and sad. Regional issues and challenges should be West Linn's issues and challenges. When has regional clean water not West Linn's problem; it was in the 80's before the Tri-City plant was finished.

Jim Knapp, Oak Lodge Water Board, stated he is a ratepayer of CSD#1. He has lived in CSD#1 since 1995. He is also an Oak Lodge Water elected official and sit on the North Clackamas Water Commission Board and understand the governance of the boards and the duties of an advisory board.

Mr. Knapp stated he is a community activist. He is one of the three people that Thelma Haggemiller reported on; he was the one that was sued by the County. CSD#1 did not have any representation. He is here tonight to encourage West Linn to join this organization as an advisory council to the county commissioners. The regime at the County has changed; the past administrator and the past commissioners are gone. The new commissions have let citizens come in and have asked for input on what needs to be done to move forward.

In the past he was unable to get information; it was hidden from him. He found out the mistakes that Clackamas Sewer District #1 made. It was the largest growth in Clackamas County's history. There were no rate increase, the interest rates were low and growth moved on. The County ran out of capacity. At the North Clackamas Water Commission the city that asks for grow pays for the cost. This has not yet been discussed at the advisory committee meetings; it is something that should be talked about.

Oak Lodge Sanitary District has a board of governors as well. That District lays in a basin independent from any other basin. He was the biggest activist against removing the Kellogg Treatment Plant; it cost \$350 million plus to demolish the plant. He did not want to pay for that; it is a public asset. People need to start looking at public assets a little closer.

Mr. Knapp said he read the contracts that say the plant needs to be expanded and they have the pipe down Kellogg Creek at 20 gallons a day. Things have changed today and there are ways to fix the Kellogg Plant and bring it up to date. Everyone is neglecting that plant because the big political football is to decommission the plant. Cities need to start using the assets where they are needed and making a master plan. Mike Kuenzie, the new Director has done a wonderful job. His hat is off to the County Commissioners; they have gone through a lot, learned a lot and he is proud of them. He sees a change to look at governance and regional issues and the advisory committee can look at that.

Dean Suhr, 21345 Miles Drive, stated he is in favor of the proposal. He emailed in comments to the Council and submitted a printed copy for the records. The primary objections against becoming members of this advisory committee are based on fear of sewage rates going up and losing control of what happens to West Linn sewerage, particularly with Tri-Cities and the Service District. He doesn't want any of these things happen, he doesn't like spending more money and he likes to have the local control of a facility that seems to be working. The question is not whether to succeed from the union and make Tri-City a separate district; the question tonight is whether to participate in an advisory committee. There are no financial obligations.

This is just not a capacity issue. Besides the sewage treatment, there are technology issues and age issues that will catch up with the City eventually. He was CEO of a firm last year that was involved with digesters; a new way of treating sewage. This is

expensive capital equipment which is much more efficient and has to do with green technologies. When these things will come around and across the county the City will want to deal with those issues. West Linn needs to be a part of the County advisory group to be able to do that effectively.

He is concerned about the agreement and the fact that it is changing. He cautioned the City about what changes are made and what is signed. He suggested the Council be cautious about Sections 42C and 42D which has a different requirement for new people joining the advisory committee that seems to be financially motivated. It is different from those who are the initial members; he feels these sections should be struck from the agreement that is approved. Mr. Suhr stated he is in support of legal counsel's suggestion on the language for 22A and 22D.

In terms of the rates going up; the rates for sewage are going up. The City has voted that into the utilities as part of the budget (5% in January and 5% next January). The County in terms of processing the City's sewage has a 3% increase in their budget. These things are happening and the sewage rates, just like water rates, power rate, electric rates, phone bills, etc. are going up. It is not just a choice of increasing rates or not increasing rates.

In response to putting this up to a vote of citizens; the citizens have elected the council and mayor by majorities to represent the citizens and he implores the Council to represent them. This is a complicated issue that when put out in front of the public could be very difficult to explain and support.

Ken Pryor, 2119 Greene Street, stated he was surprised by some councilors by their lack of trust, misunderstanding and miscommunication. His neighbors picked this up as well. He read a list of concerns expressed by his neighbors which shows the lack of public trust:

- Increase in fees for an individual to appeal a land-use decision (\$400-\$2,500)
- Mr. Jordan presided over the Holiday Inn project which was kicked down by LUBA
- Hood Street was an issue that citizens were in disagreement with but for some reason Council betrayed those feelings or misunderstood them
- Under Mr. Jordan's tutelage the City purchased land for a public park associated with Douglas Park. This is a PUD and is typically negotiated at very aggressive rates; the City paid \$953,000 for 1.8 acres
- Whenever citizens vote no on a taxation issue, they find the city manager manages to raise fees in defiance of that public will
- There have been mysterious changes in CDC's; no one knows how they became changes.
- The controversy over what the councilwomen from Milwaukie thinks is the ultimate goals of this whole process

Two of the City officials charged with maintaining the public trust and have played primary roles in representation and stewards of the best interest of West Linn are Councilor Burgess and City Manager Jordan. Where ever they have acted, it has not been in the best interest of West Linn. That is the perception, nor have they provided evidence to support their positions.

Councilor Burgess noted the city manager does what is directed by action of Council (purchase of Douglas Park, vote on Holiday Inn, Hood Street, fees, etc.) He is not acting on his own; he makes recommendations to Council and Council acts.

Mona LaPierre, 2795 York Street was called, there was no response.

Tom Neff, 671 Marylhurst Circle asked Tim Ramis if the change being suggested is on Section 2.2(b)(3). Mr. Ramis stated that is correct. Section 2.2(g), Rate Evaluation the language refers to recommendations "...on wholesale wastewater treatment rates to be assessed to all areas." If there is not a plan to equalize rates with those of outlying districts, shouldn't this clause read, "...rates to be assessed to each area calculated on a growth of service needs."

Mr. Neff stated he is not yet convinced that a majority of the Council is looking out for the interests of the citizens they represent.

Jim Pierce, 1785 Brittan Street stated all of the Councilors know he is in opposition to joining the advisory committee; he has sent letters to all of them. He is not going to speak this evening on details of why he feels this is not a good thing to do. There are others here who will speak to that issue. The testimonies, discussion among the Council, and the City Manager are more testimony to why the City should not do this.

He asked why is it so many people who have attended these meetings are expressing passionate or angry feelings. He feels it is simply because people do not trust the Council. Council has given no reason to trust but ample reason not to trust. This is distrust of city hall, not just City Council; that starts with city management. City Management has stated the City on a well-charted course that will get the City to a point where they sit on a committee where the sewer-less members of the committee outnumber and outvote the sewer-sufficient members of that committee.

One Councilor has said that the Manager proposes and the Council disposes. Three members of this Council have seemed to him to be all-to-willing to dispose exactly as the manager has proposed. He feels the Council's mind is already made up; he doesn't expect to change any minds. Three councilors and the city manager have consistently put the interest of the County Commission and the development interest ahead of the citizen's interest. If the Councilors can't vote against this committee, then at least pay the citizens the courtesy and respect of letting them vote. Do the right thing, let the people decide.

Lynn Fox, 2006 Conestoga Lane stated she is concerned there has not been enough consideration of alternatives that are available to the City. She just received a copy of the *Governing Magazine* and the feature article states that throughout the country counties and districts are moving away from regionalization. They are going back to the small districts like Oak Grove. They are moving away from what is being proposed because it is so expensive to transport sewerage over long distances and to chill it. So expensive to do these things that they can't afford it anymore and they are going back to the way it was before. She asked that Council reconsider and not do this. She wants the Council to put this decision burden on the citizens of West Linn. There are so many retired people who cannot afford the increases they are going to face if the wrong decision is made. She is asking that the City not join the club that is putting a restriction on the time the City can join. They are saying the City has to join by a certain date or they don't want you. What kind of a relationship is that when someone says they are going to be unreasonable, demanding and make you jump through hoops; but after we have a relationship, I will be nice to you.

Ms. Fox asked Council to think about what she has said and think about the things that have not been examined; please take more time to do that before a decision is made. She stated she would be happy to provide a copy of the article if the Council is interested.

Alice Richmond, 3939 Parker Road stated she is in favor of this proposal to join the advisory group. She has been a West Linn resident for 50 years and 2 months. She is also a 10-year West Linn Utility Advisory Board member. The issue tonight is the Tri-City Sewer Treatment Plant Advisory Group of which the City is a shareholder along with Oregon City, Gladstone and the County. The predicament of the sewer infrastructure facilities is in pressing critical circumstances and it is imperative to pay attention to its needs, current and future. The current infrastructures were built 50 or more years ago when the population in West Linn about 3,000; Oregon City 10,000; and Gladstone 2,000. She compared the current situation of capacity to filling an 8-ounce glass with 16 ounces of liquid.

She trusts the Council's understanding of the urgency to protect the City's interest by being included into the Tri-City Water Services advisory group so they can be included in future decisions, outputs and functions. The City needs to oversee their interest in our shareholdings. It is imperative that West Linn's procure a future position with Tri-City Clearwater Services and its advisory group and any document agreement. There is absolutely no room for arguments; West Linn must participate into any phase of our Tri-City plant. To not bring our dialogue to this table comprises a faulty belief that the committee actions won't affect West Linn; however, what it does is it puts the other cities and counties in an operative position.

It is clear that we all need expansions of infrastructure to accommodate our wastes. Therefore, she urged Council to safeguard the City's interest in this issue just as they would address or consider any other city infrastructure. It is essential to occupy our standing in this Tri-City advisory group. She noted she could speak more on why West Linn needs to be included and so could Council.

Ms. Richmond stated for the record she is submitting 221 plus signatures (6 pages) in support of the decision to proceed with a West Linn representative on the Wastewater Treatment Advisory Committee and any other group that is necessary to protect West Linn citizen's interests. She thanked Council for their conscientiousness and diligence. She asked that this issue not go before the voters as being on this committee is a necessity.

Kevin Bryck, 18840 Nixon stated he was here tonight to ask Council and the County to answer a list of questions he has asked before but have not gotten a straight answer for:

- Why does the City need to sign an agreement to advise
- Why is there a deadline for signing this agreement; the draft agreements he has read doesn't contain a deadline
- Are there other previously signed agreements or documents that have been agreed to on the City's behalf
- If it is true there is a state law to protect from transfer of funds between districts why did the earlier drafts specifically obligate CCD#1 to pay shared expenses
- Is there an agreement to transfer money from Try-City to CCSD#1 to help pay for the Kellogg Creek decommissioning study. Isn't that a violation; Kellogg Creek has nothing to do with Tri-City.
- What provisions in this draft specifically prohibit changes to the bylaws that change the City's obligations. Why doesn't Council and City Management insert the provision that no changes can be made to the agreement by the Advisory Group after it has been signed by the City. If there are changes, the agreement should come back before the Council for review and input in an open meeting.
- Why does the City want to have north county sewerage to be pumped miles upstream and dumped in the river above West Linn? There is a process where sewerage capacity is dumped with a dry-land treatment where it is incinerated rather than dump into a river.

This is obviously a very divisive issue. The City is wasting a good deal of good will on this that will be needed for other things like water, etc.

Curt Summers, 18490 Lower Midhill Drive stated he read the agreement several times and he is here tonight to urge caution; this agreement is vague enough to drive a truck through. He questions why this agreement must be signed by October 31st or else. He has asked several times what the City stands to gain or how the City will benefit from this action. He has yet to have a plausible explanation of why the City should enter this agreement.

Doug Anslie, 2951 Beacon Hill Drive stated Mr. Jordan pointed out at some point in the future if Tri-City wanted to do something big and some other city wants to do something big in the way of construction, they can get together on the cost. This would save a lot of time and energy; just pick up the telephone when it is time to do that and get together and have a conversation. Hopefully at that time the parties can get together, get to the point and not put either party in a position to be subject to unwanted costs.

Linda Neace – stated she is the Vice President of the West Linn Chamber of Commerce and she is here to represent the Chamber this evening. The Chamber opposes the cities participation in a venture such as the Advisory Committee. This would ultimately lead to major increases to our wastewater disposable bills and to direct benefit to the West Linn taxpayers. The vote from the Chamber Board was 8-0 with one person absent. They are in agreement to oppose signing the Wastewater Agreement and asked the Council to take this into consideration.

Paul Soloman, 3253 Wild Rose Loop stated he is the former vice president of Certified Fraud Examiners of Oregon. He finds the wastewater in-penetrated; he can't quite see through it.

Mr. Soloman stated he is thrilled with the discord of the Council. If you look at congress and senate there is discord about the health insurance. He feels all points of view should be expressed. Some people can express harder than others. Councilor Kovash's article in the West Linn Tidings was eye opening, he appreciated it; Councilor Carson has thought back and forth on this; Mayor Galle has had a very strong belief and has investigated a lot of things; and he praised Councilor Burgess for bringing the issue back up because the issue isn't settled. That's why there are so many people here making comments. Councilor Cummings has done a lot of studying, been to meetings and learned aspects of the issue.

However, the problem is no one seems to understand this issue; it has not been fed to everyone in a manner where there are pros and cons, right or wrong, and false or true. There are people who believe there is non-compliance and the consultant's report stated there has to be compliance before getting to the stage of raising money.

Mr. Soloman asked the City Attorney whether Milwaukie not paying their bill considered non-compliance. Is the Council voting on something that will never go forward because there is no compliance. There have been two different scenarios on the thermal heat coming out of the paper plants. He has talked to Steve Zellerbach who used to own these plants and was told the 100 plants they owned up and down the Columbia and the Willamette over the last 75 years required cooling or cooling ponds. The question of whether there is something going on here that needs to be rectified and West Linn pay for it; has West Linn been remiss in the paper plant's responsibilities. There has been testimony that the plant is in compliance, testimony that the new

regulations may take the plant out of compliance, and testimony that will be in compliance. The issue of compliance can make or break the decision.

Recess was called at 8:37 p.m. and the meeting reconvened at 8:46 p.m.

Arlene Ludwick, P.O. Box 322, Marylhurst, Oregon stated she wanted to address a few issues. She appreciates the Mayor because she is concerned about financial jeopardy. It was not the issue of joining or not talking, she has said several times that she would go to a meeting any time, any place she just didn't want all the legal language that could bind the City up and cost money getting in the way. Time after time the Mayor has paid due diligence and brought up fact after fact and presented those facts time and time again. She appreciates the due diligence and the many hours it must have cost to do that.

The testimony tonight on the history of the morphing of this committee shows the vagueness and the difficulties of an advisory committee. She asks if this is so complicated, so debatable and not understood by anyone, then why not start over. The issue has to be addressed; that is not the question tonight. It will be addressed. But she does not want someone else telling the City how to address the issues. West Linn wants to play fair, want to pay their part, but don't want someone else telling them what to do. The County Commissioners and Metro often get into the role of overriding the cities. She would like to see fairness and parity. A gentleman tonight said there would be a 5% increase in January 2010 and a 5% increase in Jan 2011. That is not the increase that causes concern; she is talking about an increase of over 100%. Good people can disagree; let the people decide. She would rather have it be decided here, but if it doesn't happen there are redresses the community the community can use. She says this not in a threatening fashion but as one who wants to see no financial jeopardy, due diligence, people who won't compromise when there is financial jeopardy possibility, and people who will keep talking until issues are settled. West Linn may be beautiful on the outside but it let it be just as beautiful on the inside.

Bob Thomas, 2563 Pimlico Drive stated he very much disagrees with Mike Jones who disparaged the Mayor and implied she and Councilor Cummings have to go along with the other councilors. He found that some of the people who signed Mr. Jones' letter to be some of the worst public servants he has known in West Linn.

Councilors and the Mayor were not elected to represent the Clackamas County commissioners and their growth agenda requiring much major infrastructure of which sewer would be one of the biggest issues. The elected officials were not elected to represent Milwaukie, Happy Valley nor Damascus; they were elected to represent to represent the best interest of West Linn. Anyone who votes to support signing this wastewater agreement is voting against the best interest of West Linn. Clackamas County created their own predicament by promoting such growth while knowing it didn't have money to fund the infrastructure needs that such growth creates. That is

why they would like to entrap the tri-cities into subsidizing that growth by imposing greatly increased sewerage rates on their residents through beguiling those cities to join as County Wastewater Treatment Capacity Advisory Committee under the false banner of benefiting them while actually financially obligating them through its associated costly bylaws. If the County had long-ago instituted what's known as full-cost sewer charges on developers to pay for any and all sewerage capital improvements, it wouldn't have to be trying to entrap the ratepayers of the Tri-City to help give its growth and expansion aspiration a subsidized free ride through imposing much higher sewerage rates on the tri-cities. The County has extremely inadequate sewer SDC's over the years it didn't put in place any full-cost SDC's for any kind of infrastructure. The SDC's they have for sewer are a joke. That is why the County doesn't want to do that because it would risk antagonizing developers for fear developers will sue them or give campaign money to others to replace them.

Mr. Thomas stressed that in his opinion Mayor Patti Galle and Councilor Cummings are trying their up most to serve the best interest of West Linn citizens and he hopes the other three councilors will do the same by following their lead and not go ahead and advocate signing this agreement.

Alan Rosenfeld, 19615 Derby Court stated he wanted to make a couple of points that have not been mentioned this week or last week about the concept of the advisory agreement. Metro and Clackamas County have a problem. Approximately 22,000 acres were brought into the urban growth boundary in the past 5 to 6 years. Currently there are at least 20,000 acres of that land that are not developed. They have not been developed because infrastructure costs are so expensive. Sewer treatment is one of the most expensive infrastructure costs. The developers would end up paying less than half of that.

Mr. Rosenfeld stated he has asked at multiple reserves meetings how these infrastructure expenses will be paid for. No one can answer that question for him at those meetings and the implication is always that it is not their job. Their job is to find the acreage and someone else decides how it is paid for. His concern about this advisory agreement is this could well be a mechanism for this infrastructure to be paid for and West Linn will end up subsidizing other counties. Damascus is a perfect example. To him this fits into a scheme; there is a problem with the Metro County reserves issue and this is a potential answer to that problem. He does not think West Linn should pay for it. He hopes the Council will not vote in favor of the advisory agreement.

Karie Oakes, 1125 Marylhurst Drive stated she left the meeting to go home and get a copy of her testimony. She submitted a letter that states the 7 reasons why she feels the Council should vote no on this agenda bill. She has also provided documents in support of her arguments and reasons. One document is from the Clackamas County Board Chairman, Lynn Petersen and Commissioner Bill Kennermer and Martha Schrader dated June 9, 2008. The second document is excerpts from a study done by Donavan

Enterprises completed for the Clackamas Service District regarding a study in solutions for their wastewater treatment problems. She has highlighted in these documents where she finds evidence why the Council should not support this wastewater agreement. Here reasons to not support this agreement are:

1. Tri-City Wastewater Treatment District has service capacity for build-out by 2030. It makes no sense to involve West Linn in planning for something it does not need. Tri-City has the capacity to serve all three cities.
2. Benefits and costs to West Linn cannot be ascertained using the information given. The task force used a representative model system to analyze the benefits of working together but gave no details of the direct cost benefit to West Linn. If the benefit to West Linn is assumed to be to meet future environmental regulations then Tri-City should provide a cost analysis to meeting the environmental regulations. She would like to see what would happen if West Linn just improved their system to meet the environmental regulations.
3. Tri-City has not explored forming a special service district independent of Clackamas County. The benefits and costs of this operation should be compared to those of number three above.
4. The bylaws as revised do not adhere to all the foundational assumptions upon which the provisional partnership is built. Clackamas County board requires West Linn to embrace the foundational assumptions as a condition of entry into the provisional partnership.
5. Revisions to the bylaws by West Linn should not be considered permanent since they can be changed.

Mayor Galle informed Ms. Oakes her time was up.

Gail Holmes, 801 Wendy Court tuned in comment sheet but did not wish to speak. She indicated that she does not agree with the City council's vote to be on the Clackamas County Sewer Board; it does not serve West Linn's interest.

Bob Austin, 2051 Kaen Road, County Commissioner stated he has heard a lot of testimony tonight and it is obvious there is a lot of history, passion, and caring. One of the good things about being new is that he and Ms. Lininger were not involved in the many years of these issues being discussed at the County level. He has some ability to deal with these issues when he was mayor of Estacada for about 10 years. He has had experience with water, wastewater, transportation, etc. They had high passions and they got through the issues. They did so by listening to all sides of the arguments. He hears the Council listening to all sides of the issues here and things get heated at times. One of the things he is not here to do tonight is to try to rebut someone else's testimony because they did not have it beforehand. They can review Ms. Haggemiller's testimony and bring back a response. He is not prepared to do that tonight.

Tonight he encourages this Council to consider being a member of the advisory group. They were at a council meeting in Milwaukie last week; they agreed to do so. There will

be another council meeting at Gladstone tomorrow night for the same thing. Their role is one of encouragement; if more people are at the table, there is more of an opportunity for everyone to discuss the issues together about the future of wastewater. They don't have the answer, but the more people they have, the more ideas, the diversity will help to wrestle through these issues over time. They don't have a silver bullet; he is not sure what that would be right now. Unless everyone is working together there is no opportunity to get there; his plea is for this Council to consider joining this group.

Ann Lininger, County Commissioner stated she has had the pleasure tonight of listening to two hours of public testimony on passions, concerns and interests in the future of wastewater treatment, the financing of wastewater treatment, the autonomy of wastewater treatment for this community and she is thankful to hear those voices. She and the Board of County Commissioners now cares very much of hearing the perspectives of people in the community and that is why they are hopeful the City of West Linn will participate in the advisory group that is coming together. The County Commissioners know they will be best able to make decisions in their representative form of government if through West Linn representation help the County know the perspectives of the community and in addition she would like to hear directly from the perspective of the community. That is why she is so happy to be here tonight.

Ms. Lininger stated she understands challenging things have happened in the past 8 years on sewer and wastewater issues in the County; she is not here to suggest the rumors are not true but she is here to express there is a County Board. They have no stake in saying everything was perfect before but they do have a stake in making things better for the future. She wants to make things better in the future and she wants to do it by hearing the perspective of people in the community. That is why she personally, and part of the Board of County Commissioners, she encourages Council to participate in this community advisory board.

Mayor Galle asked Ms. Lininger if this could be done without signing the bylaws, just let West Linn come to the table and be a part of the discussions; hear West Linn's voice and concerns without forcing the City into what has caused an issue of mistrust. Ms. Lininger stated the West Linn Council will have the opportunity to make a decision on whether or not the bylaws are something the City will feel comfortable with.

Mayor Galle stated she has not had a chance to talk to either one of these commissioners on this issue before, but on any issues before they have been good. They are driven on a job tonight to encourage joining the Committee.

Councilor Cummings stated she has been involved in a number of advisory roles and committees. She has never had to sign anything in order to participate in those groups. She asked why people have to sign to be able to advise. Ms. Lininger stated her understanding is these bylaws have been crafted over the course of a year of very arduous meetings with people from the table of all the jurisdictions and they feel that by

coming to some kind of consensus of what the rules of conversing were, they could feel most comfortable that their time would be well spent if an advisory body were formed. She has not personally said the jurisdictions have to live by these bylaws; she was in a meeting observing last week and people around the table, including a representative from the West Linn City Council were crafting, responding to and commenting on terms of conversation that they seem to be coming to a consensus on. This is an opportunity to help frame productive conversation not a way of stifling dissent or any kind of comments.

Councilor Cummings asked as far as signing on in order to be a part of that consensus, she does not understand the necessity of a signature is. Mr. Austin stated no one at the table wanted to spend a lot of time needlessly. He thinks there was a shared need for a commitment amongst all of the players here to work together, to work through these difficult issues and try to come up with viable alternatives and hopefully solutions for the future for wastewater capacity treatment. People wanted to feel like they weren't wasting their time. Getting a commitment from each of the entities seemed to be a good starting point. The bylaws are rules that govern mostly the process in terms of how the group will work together; it doesn't deal at all with committing anyone to any costs or particular solutions. It just refers to the process that will used to come up with recommendations for the Board of County Commissioners to consider.

Councilor Cummings noted some of the wording looked like it was committing to a great deal of financial obligation. That was her concern. With the foundational assumptions has also been an issue that has raised a lot of questions. The June 9, 2008 letter to West Linn City Council contained the foundational assumptions that were the basis of forming this partnership seemed to make it clear there is an objective for some collective rate paying, etc. She is not comfortable signing onto something without knowing what it was going to entail. The bylaws were going to be constructed later, the rates were going to be constructed later and the letter indicated the decisions of the permanent partnership will be binding on all partners. When she has been involved in other advisory committees people show up or they don't; those who participate get to learn and talk about issues. It is a choice by the committee member. Mr. Austin stated the way the bylaws currently read, there is nothing in them that would be binding. He was not on the Commission at the time the June 2008 letter was sent out. He realizes the series of meetings and event led to this final version of the bylaws. As far as his understanding of the bylaws there is nothing in there that reflects the binding language being referred to.

Councilor Cummings asked if it would be possible to wait and give the City something that makes it clear these are not the foundational assumptions anymore. West Linn has completed about five drafts of the bylaws but she has never seen anything that changes these foundational assumptions. Mr. Austin stated the current version of the bylaws have been several revisions, however, at the last work session, this was the latest and best version that seemed to reflect most all of the ideas around the table for all the parties that have been participating. This is the best document thus far and it will be up

to West Linn Council to see where they want to go with their recommendation to join the advisory committee or not.

Council President Carson asked the County Commissioners to be clear with the public that have provided testimony that there is no financial commitment to anything in the bylaws. Ms. Lininger stated there is no financial commitment to anything in these current bylaws; in fact, the ultimate decision makers on allocations of financial commitment remain the board of the service district which is comprised of the Board of County Commissioners. They do have an ultimate accountability. They have an opportunity for people in the community who may feel dissatisfied by an outcome to make their voices heard at the ballot box and bring in new county commissioners if they feel like it. There are different county commissioners at the table now than they had in June, 2008. Folks who watch what unfolds as they work in genuine good faith to do the best they can to secure a cost-efficiency river health and public health and don't feel like what they are doing makes sense, have the opportunity, thankfully, to invite them to not come back. If that decision is made they will honor that and respect the democratic process has carried forward. There is no financial commitment in this document. The Board of County Commissioners as it sits as the Board of Directors for the Tri-City and CCSD#1 are ultimately accountable and citizens may hold them accountable for decisions they make.

Council President Carson stated it is her understanding that currently each of the service districts has a unique rate structure. The rate structures will continue to be separate and unique and based on the capacity of the service district and their needs. There will be no combination of rates to give Tri-City a super rate that would offset some of the costs for Clackamas Service District One. Mr. Austin stated that is correct; it is based in state law. They cannot transfer someone's responsibilities to someone else. It is not legal to do so.

Councilor Kovash stated the decision making body on rates today is the Clackamas County Commissioners, Mr. Austin, Ms. Lininger and three others and asked if West Linn joins this committee, approve the bylaws, who then is the decision making body on rates?. Mr. Austin stated the Board of County Commissioners would be the final rate-making body. They take all the advice they receive and hold public meetings but they would be the ultimate party having that decision-making authority. They would be accountable for that decision. The decision-making body remains the same whether West Linn joins or not.

Councilor Kovash asked if there is any way if West Linn joined, somehow this will facilitate paying the rates for of increased capacity to places like Damascus. Ms. Lininger stated should West Linn join they would be taking a seat at the table on the advisory committee to the Board of County Commissioners acting in the capacity of the Boards of the service district. They will still be the ones making the final decision. West Linn will not be making the final decision by virtue of joining, issuing recommendations or

descending from recommendations that others may issue. The 5-person Board of County Commissioners will be the ultimate decision-makers.

Councilor Kovash asked if joining the committee the law that prevents West Linn from paying for infrastructure for Damascus will remain in place. Mr. Austin stated that is state law. He attended meetings where this was discussed in detail. State law forbids the transfer of that type of fiduciary responsibility to some other party. If Damascus is growing they pay for their growth; if West Linn grows, they pay for their growth. It is covered in State statute and will remain so.

Councilor Burgess stated by joining this advisory body West Linn has the opportunity to participate in the larger group. The City will still be involved with the Tri-City board and if they join this committee they will be able to participate in larger discussions with the other communities at the table. Tri-City remains the same and Clackamas Service District remains the same; the advisory committee would make recommendations independently, directly or through the committee if necessary.

Council Burgess noted that legal counsel has suggested two changes in the current language. The Tri-City board has acted as a group for the benefit of whole district. It is implied that it is each member of the advisory committee's obligation to pay for the cost associated with the growth of its own service district. How would that work given this is a part of a county service district. The other language suggestion is each member's obligation to pay for the cost associated with growth of its district's service needs. Testimony has been heard and this has been the concern. Kellogg is not in West Linn's district, Damascus is not in that district, and Happy Valley is not in the district. West Linn is concerned about what goes on in the three cities that comprise Tri-City and have been since formation. He asked the Commissioners to comment on these two changes. Mr. Austin stated they could work with their staff, Mike and others. This language has gone back and forth a couple of times and he feels the City needs to be comfortable with whatever language you think best serves the understanding of your district. Once these bylaws get approved or accepted by all of the entities, most likely everyone have a little nuance difference. Everyone will get a chance to look at them again and it will be the final housekeeping and there will probably still be agreement.

Mike Kuenzie stated Tri-City has been the three musketeers; one for all and all for one. He has some concern with the language. The important point is that it has been the partners at the table who have crafted this document and it is really the partner's responsibility that are at the table to go back and discuss those items and see whether it is acceptable to the committee. The County has been one player at a table of 8 people. It absolutely needs to be discussed.

Councilor Cummings pointed out that none of the current commissioners were here in 2008. It would be nice for Lynn Peterson to here because other than that Mr. Kennermer and Martha Schrader have moved on. In the third bulletin in the

foundational assumption the concerning language says, "...existing advisory structures will remain in place as demanded by law or until partners choose to establish a new system of governance." She is concerned about the "or until," once there is a new form of governance wouldn't the separation that state law guarantees dissolve. Mr. Austin stated that page 2 of the current version of the bylaws, under general duties (B)(2) refers to following the requirements of ORS Chapter 451; that is the chapter that prevents transfer of responsibility from one entity to another. That is the state statute that would be followed.

Councilor Cummings asked the Commissioner to comment on the wording in the bylaws that imply becoming regional. Ms. Lininger stated the languages require close interpretation of a document that neither Commissioner Austin nor she has had the opportunity to study in preparation for this conversation. She does not feel it is appropriate to discuss the legal interpretation on the language of a 2008 document.

Councilor Cummings voiced concern about being rushed to sign this document and this may be a decision that they may regret later down the road. Ms. Lininger stated when the Council votes on this will have the opportunity to make the decision about whether they feel like it is an appropriate organization to join. She can represent to the Council that in good faith, she is working hard to try to move toward a fair and reasonable partnership with all the jurisdictions and she trusts wholeheartedly that Commissioner Austin and the other members of the Board of County Commissioners are trying to do that. The City is charged with trying to do what is best for the residents of West Linn. She honors that and looks forward to hearing how West Linn decides to make their choice.

Councilor Cummings stated that bullet number four says, "...the goal of the partnership is to move toward a common treatment rate after capacity parity is achieved..." yet there is no definition of that statement. Parity implies the equivalence in value, the state or condition of being the same in power, value and rank. She asked the Commissioner to comment on that statement. Ms. Lininger stated that reasonable people could probably offer a range of interpretations. She is not here to do that. The City is in a position to decide whether or not they are comfortable with this language and if not, there will be an opportunity to vote not to join in the conversation. The ultimate decision-making authority rests with the Board of County Commissioners who will be accountable to all voters throughout the community. The goal language there frames how the members talk to each other about the advice to give the Board of County Commissioners. However, at the end of the day, it will continue to be decision by County Commissioners sitting in their capacity as the board of the service district and everyone will have the opportunity to let them know if they don't feel good about how they are trying to use that authority.

Councilor Cummings voiced concern about the language, "...the regional partnership will be organized along the lines of the Washington County Clean Water Services Advice

and Consent county service district model, but modified to respect Clackamas County traditions.” The thing that is different is consent; she wonders if it would be possible to bring back the concept of consent. Mr. Kuenzie clarified that what Councilor Cummings is reading from are the recommendations that came from the stakeholder group that Councilor Burgess was on to the County Commissioners in terms of how to go forward. The direction to the group of partners who are sitting at the table was to come up with the operating agreement. That is what is in front of the Council now. There has not been any discussion about consolidation or discussion about moving to a common rate. There was a lot of heated discussion about the thought of moving to a common rate. As a manager of two different districts, he does not see how it can be done because the debt that CCSD#1 has taken on prevents it. Their wholesale rate is twice what Tri-City’s is. These were the foundational recommendations, but that is not essentially what the task was for this group in putting what is before the Council today for a vote. Unfortunately the two commissioners here tonight came in after that group deliberated and made their recommendations so he is not sure they can really answer some of those questions.

Councilor Cummings asked what the County will lose or what will the City lose by waiting. Mr. Kuenzie stated the group that is putting this agreement together set the date of October 31st. It was set by the group, not set by the County.

Mr. Jordan stated the date was set by the group about a month and a half ago when they went around the table and everyone gave a status report as to what their process was and when they would be bringing it forward to their City Councils. The City of Milwaukie representative at the time said they would discuss it but they don’t plan on taking any action on it. The rest of the group (7 jurisdictions) said that was not acceptable; if you want to be a member of a committee and if all the other members are going to be asked to support, endorse or appoint an individual to the committee, at some point there needs to be a decision on whether to be in or out. The group at that table that day decided based upon where they were in the process, that October 31st would give everyone adequate time to thoroughly review the issues and make a decision. That was the group collective decision at that time.

Councilor Cummings asked if the urgency of time frame had anything to do with securing a second bond. Mr. Kuenzie said absolutely not; the second bond is being floated by CCSD alone. The County has raised their rates by another 15% to cover the revenue in order to go out for that bond sale. The bond sale is set for November 10th and it has nothing to do with Tri-City.

Council President Carson stated after reading the current version of the bylaws she has a little confusion about how the bylaws will be changed after October 31st and everyone has signed on for this committee. There has been some language added in regarding the process to change the bylaws. Mr. Kuenzie stated several of the jurisdictions approved the bylaws without changes; the process used when jurisdictions came up with changes

was to talk about these changes in a meeting with all participants to see if it would be acceptable to amend the bylaws later. What will happen after they find out at the end of the month who is in and who is not in is they will go back and have a discussion about those specific changes, amend the bylaws and the bylaws will then be recommended to the Board of Commissioners as the foundation for the advisory body. There is one more meeting with this group to go through all the changes to make sure everyone is comfortable with the final version. The County Commissioners will be the final signoff on the bylaws based on recommendations from the group and if there are any future changes to the bylaws those will also go through that similar process. Anytime you have bylaw changes it has to go through the Board of County Commissioners.

Mayor Galle noted the County has paid a consultant \$700,000 for their PR campaign. Mr. Kuenzie stated Conklin Fisk through a competitive process was awarded a contract to do communications associated with the phase I program for CCSD#1. During that process the Board of Commissioners started a stakeholder process and asked Conklin to help facilitate that process. The firm was doing a dual scope at this point. Once that stakeholder process was done, the County issued a second contract to have Norm Meter who was participating in that process facilitate the group that Mr. Jordan has been working on. Mr. Kuenzie stated he has one additional contract with them that is not connected with the districts at all. Mayor Galle stated after searching the internet on this firm she found they won four awards last year for cheese. They are a public relations firm and make \$300 an hour. She is concerned that the County paid a large amount of money to get people to come into this regional group and only two have showed up so far.

Mayor Galle asked if there was a motion to put out a ballot measure to have the citizens of West Linn vote on whether to join the wastewater treatment advisory committee. There was no response.

Councilor Burgess moved to approve Resolution 09-20 and the Advisory Committee Bylaws dated October 22, 2009. Councilor Kovash seconded the motion.

Councilor Burgess moved to amend the main motion by changing the language in Section 2.2(b)(3) to read, "Each member's obligation to pay for the costs associated with growth of its district's service needs." Councilor Kovash seconded the motion.

Councilor Kovash explained the attorney proposed two versions of language changes: (1) "its own service needs" and (2) "its district's service needs" and asked the City Attorney to explain the difference between the two versions. Mr. Ramis stated the first one refers to a cost associated with a growth of its own service needs. Commissioner Austin described a principle that each city would pay for its own cost; each city would be accorded a rate based upon its own growth. That scenario reflects the first version of

revisions; each jurisdiction would be responsible in the rates for the costs associated with growth within its boundaries. The second option is one that would require each district to cover its costs of growth on a per district basis rather than a jurisdiction by jurisdiction basis.

Councilor Kovash noted the sentence above this revision is the requirements of ORS Chapter 451 which deals with districts and the restriction of moving money from one district to another. Mr. Ramis agreed. Councilor Kovash stated the revision moved would be legally defensible and is in conjunction with ORS Chapter 451 and asked if the City, being responsible for their service needs, is legally defensible. Mr. Ramis stated he feels it is; there is nothing in the statutes that would prevent a district from having a tiered rate structure. There could be a rate that covers the basic cost of operation and another component of the rate that is associated with additional capital investment necessary by sub area.

Councilor Cummings asked for clarification of the difference between the city and district and how will the City be protected from paying for Oregon City growth. Mr. Ramis stated that historically the jurisdictions acted together. The other language would require components of a rate that reflected variable growth within the jurisdictions. The first option for a revision is the most restrictive language.

Councilor Burgess stated over the years the City has worked with Gladstone, Oregon City and Tri-City and no one has objected to the benefits that have resulted in that participation with those three communities. All three cities have grown and have worked together. There is a major cost or lack of revenue to Oregon City because the plant is located in Oregon City. They have disincentive in terms of this participation. Historically the three cities have worked together and have dealt with sewer as a district. That is why he feels this is the best language change to make.

Councilor Cummings asked if Mr. Ramis felt adding language about Estimated Dwelling Units (EDU) would be a better way of defining growth units. Mr. Ramis stated that either approach would use the standard methodology for measuring the impact of growth and that is the EDU standard. If you want to create a system based upon the growth of each individual jurisdiction, then the most restrictive language would establish that principle.

Councilor Kovash called for the question and then withdrew.

Mayor Galle stated there is no question in her mind that you don't evolve from a collective regional sewer concept down to this. After reading about the cost of infrastructure and the need to do it, she found that regionalizing sewer is out there and it is not a bad concept for cities that need to do it. She applauds anyone wanting to do it. She is concerned about thermals. She has talked to enough experts and people she trusts and West Linn has an issue with thermals. She is concerned about having to sign

to join a group and concerned about governance and the aspirations of the original agreement that may put the City into having governance changed.

Councilor Burgess raised a point of order; the Council is voting on the amendment, not the main motion. The arguments should be made to the main motion when it is up for a vote.

Vote on amendment:

Ayes: Carson, Burgess

Nays: Kovash, Cummings, Galle

The motion failed 3-2.

Councilor Kovash noted there was only one alternative left regarding the language of "its own service need" which will give the City option. This may have some disadvantages. If the City could benefit by being part of the regional solution, that may be best. The way this is written without a change, the requirements of Chapter 451 already gives regional protection. As it is stated now, "...obligation to pay for the cost associated with growth of service needs" and it doesn't say City or regional because regional is implicit in Chapter 451. He is satisfied with leaving the language as it is.

Councilor Cummings stated she would advocate for the language that says, "...each member's obligation to pay for the costs associated with the growth of service needs..." She would like to see "its each members own service needs" that gives each member the opportunity to assess their service needs. It would not limit each member from joining into any collective or group if that all want to go in on some new equipment for their plant. She would like to retain the ability to keep each member accountable to their own members.

Councilor Burgess moved to amend the main motion by changing the language in Section 2.2(b)(3) to read, "Each member's obligation to pay for the costs associated with growth of its own service needs." Councilor Cummings seconded the motion.

Councilor Burgess stated there has been enough discussion that people understand the concerns. If nothing else it sends a signal from this community what their concerns are for the debate in a larger group. He does not feel this community is interested in paying for growth of service needs outside West Linn or Tri-City. West Linn representatives will be clear in terms of what the residents are saying.

Council President Carson stated she will support option one. She appreciated Councilor Burgess' argument relating to looking at it as a district but I definitely want to make sure it is clear that West Linn does not want to pay for growth in the Damascus and other service areas. By putting in this language it is very clear that West Linn is

interested in focusing on the obligations to pay for the costs associated with the growth of West Linn's service needs. She will be voting in favor of this motion.

Vote on the amendment:

Ayes: Carson, Burgess, Cummings, Kovash

Nays: Galle

The motion carried 4-1.

Councilor Cummings stated she wants to make it clear what is they would have to see in the agreement. She is not so sure it will be agreeable to the county. Questions have not been answered. If this document does prevail she would like to see language in Section 3.3 the ability to maintain equal voting rights. Mr. Jordan suggested changing Section 3.3 to read, "...the new member or loss of a new member to maintain equal voting status for CCSD and Tri-City Service District."

Councilor Cummings moved to amend the main motion by changing Section 3.3 to read, "...the new member or loss of a new member to maintain equal voting status for CCSD#1 and Tri-City Service District." Councilor Kovash seconded the motion.

Ayes: Burgess, Cummings, Carson

Nays: Kovash, Galle

The motion carried 3-2.

Councilor Cummings moved to add a provision in this partnership that it follows the advice and consent model of the Washington County Sewer District.

The motion died for lack of a second.

Councilor Burgess stated this is a significant issue, he has put a lot of time in over years. This issue been around long time, commissioners have changed, cities have changed, and the county has changed. West Linn has a good service district in Tri-City and Service District One has been using that facility for a number of years to the benefit of West Linn. The sewer rates have been down to \$2 a month since 1996/98. Now this is being turned into bricks and mortar for \$120 million. He read all the comments from citizens; most were based on a memo that went out that he feels is incorrect. A lot of the issues that came up tonight in terms of \$60/\$80 are not in the resolution. The region is already regionalized because Tri-City is three cities and the county is not any more regionalized than it is today. He does not want to lose the foundational issues; they were very clear at the table that they will not pay for growth. There are costs of growth that the City does pay; but where they can charge they want to charge. West Linn needs to be at the table making sure the county is doing as good job. The City is very proud of the fact that they receive an award each year for having the highest SDC's in the region and would like this position to be adopted by the county. There is no way West Linn is interested in paying for the decommissioning of the Kellogg plant; that was another

foundational issue and they will hold on to that. There is nothing in the bylaws that go away from that; it allows the City to continue to push for that.

West Linn does not own the Tri-City plant; it is getting old and will cost money in the future. In West Linn if it is not growing existing residents will have to pay for those improvements. If somehow West Linn can tie improvements to growth, he is for it; he is not interested in paying for Happy Valley although he feels there is a regional responsibility to work with everyone. That doesn't mean West Linn has to pay for it. It has been testified that Tri-City will be out of capacity in 8-12 years; that is not very long when you are talking about sewer expansions.

There have been issues raised in testimony; Mr. Suhr had concerns about language in Section 4 regarding parity. Parity has been a very big issue for Tri-City; it is the best game in town. Everyone would like a piece of it. They are charging to come to their party; whether it is champagne or not, they are holding the party and have the best plant around. If someone wants to use it, they will have to buy in. The people already in this party are doing that: \$4 million to Tri-City for what Service District #1 is building now, paying for the use of that property. When new people come in they want to make sure they are at parity in order to get the same number of chips in the game.

Another issue raised by former Councilor Neff was rate evaluation. There are two issues; what the City charges. The other issue is about wholesale; where it is treated and distributed. The language is saying that West Linn will be involved in the wholesale wastewater treatment. The City is not involved in that now. The City would like to be involved in how that is going to be assessed in the future. He will be supporting the motion.

Councilor Kovash stated he has heard a lot of concerns about rate paying but there is nothing to indicate that joining this advisory will facilitate an otherwise avoidable rate increase. He feels West Linn should be talking to the other cities in our district and to the governing body. It is a lot better to negotiate than to feel left out. This is not a contract, the City can walk away from this any time they want.

Council President Carson thanked everyone that has sent emails, testified tonight, because the input has been helpful, raised a lot of good issues and she hopes that people have gotten their questions answered.

Mayor Galle voiced her concerns that once the City is involved and something bad happens (like coming to an agreement to regionalize and split the costs) what then. An answer is to sue the County; what will she say to the Judge when she knew from the beginning that this was not a good choice. She would like to say no, I'm going to stand on the outside. Even if she gets rates imposed and she sues the County she can tell the Judge she stood by, I did not go in there. I did not on any level support putting her City, her taxpayers in a position to be taxed for growth outside of her City. She feels she

stands a much better chance before the Judge doing that than if she has to explain why she even got involved to begin with.

Mayor Galle stated if the City approves this advisory committee representation, it becomes the responsibility of the entire Council to see that it doesn't happen. Someone will be and advisor to the board and she assured the audience that she and Councilor Cummings will be at every meeting. The citizens will be communicated to about what is going on.

There is a serious problem of public trust of their local government. How they begin to repair that is to continue to communicate and share with the citizens everything she knows about what is going on. She will invite citizens to come and be at the table because that is the only way she knows to repair that public trust. She will be telling everyone what she hears, sees and hopefully there will be a good outcome.

Councilor Cummings stated one of the earlier opinions gave a document saying this issue should have been settled in a Council work session several weeks ago. Mr. Jones leveled some criticism about this. She stated she has learned more in the last two weeks than she ever had a chance to learn prior to that. The Council only received legal opinions on this issue in July. And yet, there have been city representatives going to these meetings for the last year and a half. The Council was not told about these things when they were elected. There were meetings when they were elected to apprise them of what was going on in the city. There have been work sessions about goals. Back then there were no conversations taking place about wastewater information and they needed that. She is sorry this has come so little so late. It wasn't until late July that the attorney advised them on this issue. These documents the City is being asked to sign do assign fiscal responsibility in wording that says, "...terms that would be yet to be defined." How do you sign a contract with terms yet to be defined; she is not, not for her City and not for herself.

Councilor Cummings says as this goes forward she will try to build trust with the citizens, with each other and with the County. It is going to take talking to each other, sharing information with each other and checking back and making sure that citizens understand and people have a chance to give input. She stated she is uncomfortable with this issue feels under pressure tonight; it has gone way too fast. Why approve a partnership when this City is not ready. She will not be voting in favor of this motion.

Vote on the main motion:

Ayes: Kovash, Carson, Burgess

Nays: Cummings, Galle

Motion carried 3-2.

1. Agenda Bill 09-10-26E ORDINANCE No. 15-89, Final Platting
Extension (Continued from August 10, 2009)

Mayor Galle opened the meeting to discussion of the Ordinance 15-89, a final platting extension.

Council President Carson moved to continue Ordinance No. 15-89, final Platting Extension to the November 23, 2009 City Council meeting. Councilor Burgess seconded the motion.

Councilor Cummings stated she would like to vote on this issue tonight. She will be voting against this issue; too much time has been spent on it. When it was before Council last fall there was no hurry on a decision and continued for a year. Now there are 200 pages, a lot of staff time has been spent on it, and there has Planning Commission time put into this issue. She doesn't feel she would be closer to amending this next meeting than she is now. There is a current 3-year limit in West Linn which is more than they used to have and she feels it is sufficient to help maintain the integrity of the land use codes. She does not see a reason to extend it any further than that so there is no need to spend more time on it.

Council President Carson stated the agenda notes that this item will be continued until a date certain and asked the Mr. Ramis if this item could be heard tonight with proper notice. Mr. Ramis stated if someone came, saw the agenda and believed it would be continued and then left they would be prejudiced.

Point of Order: Ms. Oakes stated that the revised agenda was not posted of the continuation with sufficient notice. Mr. Jordan stated the revised agenda was posted on the internet last Friday, it was posted last Friday and distributed last Friday. Ms. Oakes disagreed.

Councilor Kovash suggested discussing this issue at a work session to get a consensus and then vote on the issue at the November 23rd meeting.

Councilor Cummings noted that action is taken at hearings. At work sessions they talk about what they might do when there is a hearing and take action. Mr. Jordan stated that the direction from City Council at the work session was to continue this to a date certain this evening. The petitioner was contacted and they suggested November 23rd as a time they would be available. That date was put on the agenda so Council and public would be aware so they wouldn't show up expecting to testify on this item this evening. They would know in advance this item was continued.

Councilor Burgess stated whether this item is acted on it tonight or continued tonight it was on the agenda. Staff has indicated that the applicant was contacted and did not plan on being here tonight.

Vote on motion:

Ayes: Carson, Burgess, Kovash, Galle

Nays: Cummings

The motion carried 4-1.

**Councilor Burgess moved to extend the meeting to no later than 11:00 p.m.
Council President Carson seconded the motion.**

Ayes: Burgess, Cummings, Kovash, Carson, Galle

Nays: None

The motion carried 5-0.

3. Agenda Bill 09-10-26F Step One Street Vacation

Mayor Galle opened the hearing to discuss the vacation of a portion of the Leonard Street Right-of-Way at 10:41 p.m.

Peter Spir, West Linn Associate Planner reported the applicant proposes to vacate an undeveloped portion of the Leonard Street Right-of-Way (ROW) between Grant Street and Exeter Street. There is a steep slope at the east end of the ROW making it impassible to cars and also excessively steep for pedestrian route. Per ORS 271, the City Council must decide if the proposal merits a full hearing. Typically this is done at a consent agenda item.

Three adjacent property owners next the ROW have proposed the vacation. The area is comprised of 1,200 square feet, 240 feet long by 50 feet wide. 75% of the property owners within the affected area support the street vacation. Engineering and Planning Departments support the proposal. The vacation would not compromise vehicular connectivity due to the steep slopes adjacent to Grant Street.

There could be a 20-foot wide access easement which would overlay on a utility easement from Exeter to Grant Streets. This would protect the sanitary sewer line that runs through this ROW. This would also provide an opportunity for future development of a path.

Councilor Cummings stated she was not clear about the difference between ROW and ownership or not of the property. This is simply about having a ROW on property that is privately owned. Mr. Spir stated the original plat the owners conveyed to the City for

the purpose of street improvements. Since there is no need for that street, it is not unreasonable for the City to return it back to the original owners.

Councilor Cummings moved to set a hearing date of November 23, 2009 to consider this street vacation at a City Council meeting. Councilor Burgess seconded the motion.

Ayes: Cummings, Kovash, Carson, Burgess, Galle

Nays: None.

The motion carried 5-0.

Adjournment

The October 26, 2009 meeting of the West Linn City Council adjourned at 10:48 p.m.

RESPECTFULLY SUBMITTED,

Tina Lynch /s/

Tina Lynch
City Recorder

APPROVED BY THE CITY COUNCIL
ON JANUARY 11, 2010

Patti Galle /s/

Patti Galle, Mayor