

WEST LINN CITY COUNCIL MEETING MINUTES November 9, 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, John Sonnen, Planning Director; City Attorney Tim Ramis; and Shirley Richardson, Minute Taker

Call to Order/Pledge of Allegiance:

Mayor Galle called the meeting to order at 6:48 p.m. and led the flag salute.

Proclamations, Recognitions and Presentations:

None

Community Comments:

Gail Homes, 801 Wendy Court stated she attended a meeting Thursday, November 5th in Oregon City. This was a working group that was discussing regional sewer. She wanted to inform the City of several concerns she came away from that meeting with:

- The Milwaukie City Manager stated the Board of County Commissioners promised the City of Milwaukie that the Tri-City District would help pay for the decommissioning of the Kellogg Treatment Plant in Milwaukie
- With an Intergovernmental Agreement, all jurisdictions that benefit from a regional wastewater treatment plant will have to pay for this expense

At the last West Linn City Council meeting two County Commissioners came and spoke to this issue. Many residents are concerned about the expense of this regional system. The Commissioners had said that the money from the Tri-City District would not be used for the decommissioning of Kellogg.

As a citizen of West Linn she is really confused of what is fact and incorrect. If Tri-City is not paying, why does Milwaukie think it is going to be paid for. If Tri-City is not committed to paying for the decommissioning of Kellogg Plant, why hasn't that been stated ahead. Mr. Jordan was at this same meeting and she would like him to comment on this.

Steve Garner, 3525 Riverknoll Way, stated he wanted to speak on the solar highway. He works in the wind-power industry and his clients have received hundreds and millions of dollars from this kind of boon-dog. The solar project he learned in a long conversation with the primary point-man from Portland General Electric (PGE) has very little financial merit. ODOT has told PGE they estimate the solar project will save ODOT \$180,000/yr. This is a project that will cost Oregon taxpayers \$20 million according to PGE. Simple division gives you 111 years to pay this money back.

No one would invest their money into a stock that returned its value in 111 years. No corporation does that, no government does that. Why would the City of West Linn raise its hand and say waste our citizen taxpayer's money. This project will generate roughly 600 kilowatt hours. According to PGE there is a capacity of 3.2 kilowatts if the sun erupts at 6:00 a.m., stays through high noon, the day stays clear, proper humidity for 12 hours and then descends at 6:00 p.m. It doesn't operate that way; these solar panels yield roughly 20% of their capacity (600 kilowatts). If the street lights around the 10th Street exit are roughly 400 watts and they run 12 hours a day, there will be power for 125 street lights for \$20 million.

Mr. Garner submitted to Council his written suggestion to both ODOT and the City of West Linn. He suggested an alternative to save power, save carbon (PGE generates the bulk of its electricity through a coal plant), and save electricity. This would save the City \$81,000 a year just to run its street lights at a cost of about a little under a quarter of a million of dollars which gives less than a three-year payback. Included in his submittal is the name of the company that could do the project and there is a full financial analysis for the City.

Mayor Galle read into the record a statement from Steve Galle, P.E., regarding the solar highway project. The email stated he recently retired from Pacific Gas and Electric Company, the largest utility in California. For many years he was a senior engineer in both nuclear and fossil power plants. It has been said that nothing is stronger than an idea whose time has come. There are many who hope that this is the time for solar power. Perhaps it is, but not for West Linn. The solar highway project is being pushed

for the wrong reasons in an inappropriate location. And, don't get him wrong, he is a big fan of renewable energy, in the right location and for the right reasons.

There are a few misconceptions that need clarification:

1. True power out power. The proposed solar panel array will have an electrical output of 3.2 megawatts. This megawatt is the rated capacity; that is the most power that can be gotten under ideal conditions. Because this is Oregon where there is not an abundance of sunshine, because these will be fixed panels that do not trap the sun, and because no electricity will be generated at night the average true electrical output is only about 20% of the rated output or about 600 kilowatts. This would power about 600 homes or 7% of 9,000 households in West Linn.
2. Where would the power go. Only a miniscule amount of the power would go to ODOT or West Linn. The power will go into the grid and then the power will be drawn off the grid wherever it is used. Example, the grid is like a big river; if a small stream trickles five gallons a minute into the Willamette River in Molalla and there is a pipe in West Linn that diverts five gallons a minute from the river, the pipe flow probably contains only a few molecules per gallon from that stream in Molalla out of the billions of molecules present in that same gallon of water.
3. ODOT Street Lights. Only a minuscule amount of power will go to ODOT. The reality is that since the solar panels produce electricity during the day and since the ODOT lights are on at night, for all intents and purposes there is no connection between the power produced and the lighting of the ODOT street.
4. Reasonable Cost. The return on investment without tax credits would be over a hundred years. Considering the solar panels have an expected life of only 25-30 years with 20% degradation in output near the end of the life, the real return on investment is probably more like several hundred years.

Hopefully, in the future efficiencies increase and costs decrease. It is still hard to comprehend how this will be a viable, without a miracle, breakthrough in technology or much higher electricity retail rates. The tax credits proposed to help finance this project are not free. This is money that would have otherwise been paid to the state which must be offset by other sources such as higher income tax.

In conclusion those who are serious about large-scale power installations put them where efficiencies will be the highest in the desert. The solar highway project is really just a demonstration project. As such, it could be located almost anywhere. Locating it on very prominent visible hillside in West Linn is inappropriate. This would be an industrial installation, not pretty and most would consider it ugly. If built the solar highway project in West Linn will be an eyesore for a decade. The City would never consider building a conventional power plant in this location because it would be obvious to everyone that it just wouldn't be right. Jumping on the solar tower bandwagon to put a solar plant in this location just wouldn't be right either.

Consent Agenda:

1. Agenda Bill 09-11-09A Approval of September 28, 2009 City Council Meeting
2. Agenda Bill 09-11-09B Housing Authority of Clackamas County Letter

Council President Carson read the two items above and moved to approve the consent agenda. Councilor Kovash seconded the motion.

Ayes: Carson, Burgess, Cummings, Kovash, Galle

Nays: None

Abstentions: Carson on minutes of September 28, 2009

The motion carried 4-1 with 1 abstention on the Minutes of September 28, 2009.

Report from the City Manager - None

Business from the Council

Mayor Galle moved to delay the appointment to the Economic Development Taskforce. Councilor Cummings seconded the motion.

Ayes: Burgess, Cummings, Kovash, Carson

Nays: Galle

Motion carried 4-1.

Council President Carson moved to delay the appointment of the Wastewater Treatment Capacity Advisory Committee and asked staff to advertise for a citizen representative to serve as the primary or alternate. Councilor Burgess seconded the motion.

Ayes: Cummings, Kovash, Carson, Burgess

Nays: Galle

The motion carried 4-1.

Council President Carson asked staff to respond to Ms. Holmes comments regarding the meeting she attended regarding the Milwaukie sewer plant. Mr. Jordan stated Ms. Holms commented that Milwaukie seems to be insisting Tri-City would be a part of paying for the decommissioning of Kellogg Treatment Plant. Milwaukie has changed its position regarding the Kellogg Treatment Plant; they are no longer requesting decommissioning. They would welcome decommissioning the treatment, but it is not what they are requesting at this point. Milwaukie is requesting that the footprint of the

plant be decreased and that the plant become a better neighbor to those around it. They are no longer specifically requesting decommissioning of the Kellogg Treatment Plant. There was a letter handed out signed by the Milwaukie Mayor stated this.

The second issue was regarding an IGA being mutually beneficial and that Tri-City could end up paying for it. The IGA cited in this case was between Clackamas Service District #1 and Tri-City that was approved a year ago by the Board of County Commissioners, governors for both CCSD and Tri-City. In that situation, CCSD is not allowed to expand the Tri-City treatment plant with approximately \$1 million investment in the treatment plant. As part of that investment CCSD#1 is required to pay Tri-City \$4 million for the opportunity to use Tri-City property and expand the plant. That will be an example of funds going from one district to another district. This is considered to be mutually beneficial because Tri-City is actually receiving \$4 million in return for allowing CSD to use the land. That was the example used as to a mutually beneficial IGA.

Council President Carson asked if there were discussions of the County Commissioners expecting that West Linn would be paying for upgrades to the Milwaukie Plant. Mr. Jordan said not at this time at all. The upgrades would be CCSD's responsibility; West Linn does not utilize that plant. There has been previous discussion that the permitting for the two plants may be combined into one permit; however, this was very preliminary discussion and there has been no research as to legality, DEC approval, etc. If the two plants were tied together, it would only happen if it was mutually beneficial; Tri-City and CCSD would benefit from having a joint permit. It has not been explored, but has been discussed as a possibility.

Councilor Kovash asked staff to comment on Ms. Holms' concern there would be money exchanged between districts. He explained the IGA has the stipulation that if the districts agree it is beneficial (financial benefit), it is allowed. If both districts can mutually agree there is an advantage to an IGA, those districts involved can say yes/no. Mr. Jordan agreed.

Mayor Galle noted an IGA could allow the mixing of funds. Ms. Holms was correct in what she heard that the IGA would allow that to happen. Mr. Jordan stated that mutually beneficial money can exchange hands from one district to another district.

Mayor Galle reported after the last West Linn City Council meeting she received a call from a Milwaukie Councilor called who asked if West Linn was prepared now to share costs. She said no. The Milwaukie Councilor then went on to say that the County had promised Milwaukie that West Linn would not help pay for the decommissioning if that is what it ended up being, but they have changed their minds and what they now want to do is upgrade the plant. Mayor Galle said she informed the Milwaukie Commissioner that West Linn was not going to pay. The Milwaukie Councilor said she will write her Board, their attorney and City Manager.

The Milwaukie Councilor made it clear that the upgrades to the carbon footprint of the Kellogg Plant will cost millions and millions of dollars. They do need shared costs for these upgrades; they cannot afford to do what they need to do.

After that conversation Mayor Galle said she called Commissioner Lininger because she was at the last meeting saying West Linn would not pay. Commissioner Lininger stated she never said that West Linn wouldn't pay in a different way; she said West Linn wouldn't pay through the agreement. Mayor Galle responded that West Linn residents would differentiate between an agreement, bylaws, rate increase, IGA, etc. It lends to the idea that Ms. Holmes brought forward that this will really begin more discussions on how these issues are funded. It is important to her that West Linn has a person at the table who knows these issues because they are going to have to help protect West Linn from getting into something they don't want to be involved with. This will come down to more discussions on funding IGA, costs association with upgrades and maintenance, etc. The residents will need to be patient and know that the City is paying close attention.

Councilor Burgess stated he believes that kind of discussion should be going on now; that is why he feels West Linn should be at the table so discussions are not going on between the same County Commissioners speaking on behalf of CCSD#1 and Tri-City District. The City needs to be at the table to find out what is being discussed and be able to raise issues and if there is something that is not to the City's benefit they know about it.

Councilor Burgess reported there is a current IGA between CCSD#1 and Tri-City. Kellogg is not in that IGA. It is possible through an IGA to have an agreement where two districts would work, i.e., the agreement with CCSD#1 and Tri-City for the benefit of those two districts as it related to excess capacity. If there is something else with a new issue, a new IGA could be formed. There could be an interchange of funds between two districts that are deemed beneficial to those two districts in some future IGA; there is no IGA on the table at this time. Mr. Jordan stated there is no IGA on the table right regarding the Kellogg Plant.

Councilor Cummings asked who gets to decide the definition of "beneficial." Mr. Ramis stated there are two levels of review of that question. First the Board of Commissioners would make a judgment and findings on that because they are serving as the Board for both jurisdictions. That decision would then be subject to judicial review if someone challenged it.

Councilor Cummings voiced concern about the foundational language referring to the "greater good" and is uncomfortable that West Linn might be swept up into something they may not want to be involved with. She feels the voters should decide what is beneficial or not.

Councilor Cummings moved to put before the voters whether West Linn should be involved in the Advisory Committee or not. Mayor Galle seconded the motion.

Councilor Kovash stated the decisions about wastewater costs, etc. are made by Clackamas County Commissioners. They are West Linn's provider. They will make decision whether West Linn is on or off committee whether or not the citizens take a vote. The advantage of the Advisory Committee is that West Linn will be in attendance to talk to them when they discuss rates. Who makes the decision is not affected.

Council President Carson stated her concern is that West Linn needs to be at the table to express concerns directly to the County Commissioners and other players and try to work things out. If at some point there is an IGA that leads to the concerns raised by Ms. Holmes about the Kellogg Plant that is the time to discuss whether or not there is a methodology to influence an active role to the County Commissioners related to that issue. That is the time when you want to focus on a proposal that West Linn doesn't feel is beneficial to the city. She is not in support of not being on the advisory committee.

Councilor Burgess stated the County Commissioners hold all the cards. This council has voted to participate in the Advisory Committee. If the motion is to put before the voters to take West Linn off the Committee, he is not in support. The Commissioners make the decision; he would like the City representative to be there to try to influence in any way possible. It is in the best interest of West Linn and Tri-City.

Councilor Cummings noted at a worksession a few weeks ago she asked for information about exploring alternatives and protecting West Linn's interest. She has not seen any information telling her this is possible. That information is important to her as she would like to see alternatives that could be offered to the voters.

Mayor Galle reminded the audience that West Linn has no majority vote, only an equal vote on this advisory committee. The county holds the cards. Being on the committee without a majority vote, especially given that the bylaws can be changed, West Linn could get involved in a situation of shared pay. She wants to make the impression that she clearly does not want to be involved in regional sewer. The best way she can do this is to say no from the beginning. She noted she can call and meet with the County without sitting on a committee spending time, energy, and money.

There is no reason for West Linn to be on this committee except to spend taxpayer's money trying to figure out what will be done for Damascus. The City Attorney has not completed information on becoming a separate district. Tri-City is in thermal violation as soon as the permit is issued. There are only two alternatives; pay for refrigeration (millions of dollars) or join CCSD#1. The time West Linn spends time on should be a committee on how to handle thermal violation. The City has a 22-year IGA with CCSD#1 which is inputting a lot of the affluent and raising the thermals.

There is a bigger issue of waiting on all of this discussion to be completed. She is one person on this Council and she doesn't get much support on this issue. It is the public that is going to have to do it. The way the public can do it is to have a vote on it. The first vote is to vote no for the City to be on the committee and the second vote is to form a separate district so the City can deal with its own problem. She is voting yes on this proposal.

Councilor Burgess called the question. Vote on the motion:

Ayes: Galle, Cummings

Nays: Kovash, Carson, Burgess

Motion failed 3-2.

Mayor Galle asked staff for an update on the separate district. Mr. Ramis stated they are working on a revision to the draft; hopefully it will be available soon.

Councilor Cummings moved to call up PUD-09-01/SUV-09-01/WAP-09-02 for 29650 Suncrest Drive decision.

This issue was brought up by Kari Oakes in her testimony. There are policy issues that she feels council should address.

Mayor Galle asked if there were any other councilors interested in this issue as well because it takes two councilors to call an issue up.

Councilor Kovash stated he talked to Ms. Oakes and the Planning Director. The issue is whether open space that is being developed next to it should be dedicated to the City if it is offered or should the City should have conveyance on it. The Planning Commission deemed there is conveyance on the property so it can't be developed. Ms. Oakes said she will send to him clips of how this property was dedicated to the City. It is his understanding that the person who made the dedication was not authorized and there could be litigation if the City persists. Ownership should be a part of the conditions of approval. He will review the materials it is received.

Councilor Cummings stated her issue was policy concerning property could be deeded to the adjacent homeowners association with adequate dues in place for maintenance and management. The city doesn't keep track of the homeowners associations and have no sense what adequate dues are. She would like to see the management of the City's resource property into homeowner associations. The other concern is Condition #14 and #15. She doesn't want to see this kind of constrained land managed by homeowner associations.

Mr. Ramis stated the history of calling up an issue is that the Council has interpreted the section of the code to allow two members of the Council to bring an issue forward. Legal

such a trail if there was a design that was acceptable to the community. Mr. Jordan stated the objective would be to be able to go for additional grant funds (Federal, Metro, State funds) for the regional trail system for funds to actually construct the preferred design as a result of this process. At this point, the City does not have adequate funds to do this. It would be the goal to find another source of revenues for this. The funding is for design work of determining where the trail will go, what the trail will look like, etc.

Councilor Cummings stated the City authorized \$70,000 to do a trail master plan for the entire city and asked why this portion is \$250,000. Mr. Jordan explained these funds will be used for the actual design of a trail; the other is a master plan citywide. This plan gets into engineering, landscape architecture, design work, geotechnical studies, etc. for a specific trail.

Councilor Cummings asked if these funds were committed to this location. Mr. Jordan explained that these funds would be used for any location of the solar highway project. Exhibit A shows points to be connected, beginning and end points. In between those points is what will be determined as an outcome of the work performed as outlined in the agreement.

Councilor Kovash noted the same drawing discussed at a previous meeting is still in staff report. He does not feel there was ever intent to study this and look at exhibit A. The intent here is to explore a trail that everyone can live with. A master plan is coming up and how will this area fit in with the master plan for the trails and what would work best for transportation as well as the trail.

Councilor Burgess stated he understands the concerns expressed. The language to him is broad. This is part of a larger project and there will be a public process. It is clear the trail has to be determined from one point to the other. There are benefits for the trail being higher on the hillside and lower by the highway; both will be studied. Whatever the design is it will have to go through a land use process.

Council President Carson asked if an amendment can be added that the map on Exhibit A does not reflect the actual path, or if Exhibit A can be amended showing only the beginning and terminus of the trail without a line connecting the two dots. This will insure the public that this dotted line is not the trail. Mr. Jordan stated it would be very difficult to amend ODOT's IGA. Any trail will still have to go through complete review before the trail is adopted. That is why the City will do a public outreach process and make sure there is plenty of input before it is determined where the exact location of the trail should be.

Councilor Cummings stated she is not comfortable because this Exhibit A was not available when the solar highway hearing was held. A trail is a form of transportation which is sustainable. A trail to look at solar panels does not seem right; it might be a novelty to begin with but the City is creating a trail that will not be the best route from A

to point B. It will disturb valuable habitat area, the sense of safety and security the adjacent residents have enjoyed, and the proposed trail will not be the best place to view these solar panels. She asked what the City has paid ODOT to do this work. Mr. Jordan stated the City paid ODOT \$8,000 to-date to do the initial feasibility study.

Councilor Burgess noted the agreement before the council tonight is not shown on a detailed map. The purpose of Exhibit A is to illustrate the points of where the trail could be located. The City is not held to anything, just trying to connect two points. The agreement says the only thing specific is what is to be connected.

Council President Carson clarified this project includes a public information process with people from the parks, neighborhoods, and other stakeholders giving input. She assured the public that a public process will occur.

Councilor Cummings stated Mr. Frank relayed to her when they were taking the tour that ODOT could do this project anyway. She asked why ODOT couldn't also do the trail. Mr. Jordan stated ODOT could do the trail; however, West Linn would like to be able to facilitate the project and control the process used. The City has taken a very conservative interpretation of the Code to insure the trail goes through a land use process. In terms of the solar highway, it is very clear in the Code because of the transportation purpose in the public right-of-way; it is not required to go through a land use process.

Mayor Galle stated she doesn't have good feelings about an organization that spends \$20 million for a minuscule amount of electricity that puts people at risk. Why \$250,000 to design a trail along the solar highway. There is no assurance in this document that the trail will be anywhere other than what is indicated. There is no clause that says there is public input. She is confused as to who is doing what and why. She cannot support anything on this issue because it leads her to a disgraceful way of using citizen's money, \$20 million for this because it is green.

Councilor Cummings asked the city attorney if there will be a land use hearing only on the trail and not on the use of the land. Mr. Ramis stated they have not been asked to comment on this issue; they will if Council requests it. Mayor Galle and Councilor Cummings both asked for the City Attorney to prepare a comment on a land use hearing only on the trail and not on the use of the land for ODOT.

Councilor Kovash asked if the City Attorney was asked if the request was to see if West Linn can do a land use hearing on the ODOT property where solar highway is proposed. Mr. Ramis stated the presumption is that if it is within the jurisdictional city limits, the City would have land use authority over it. He will also review what the code says about how to deal with that authority.

Public Testimony

Lisa D'Amore, 4137 Imperial Drive stated she could save everyone a lot of money, there is no need for a landscape designer or \$250,000. She lives on Imperial Drive where the trail is proposed to go and if you sit out there, you can't hear yourself talk. She finds it hard to believe that anyone wants to walk on a trail located here. She loves trails and feels they are great, she feels a trail would improve her home's value, if her home wasn't running parallel to Highway 205.

Ms. D'Amore said she can't imagine why anyone would want to get on a bike or on foot to be a trail seeing cars rushing by, hear the noise, the smell and etc. She can't talk to her neighbor in her back yard and she is farther away from the highway than the proposed trail. It is a waste to citizens. She has lived here 11 years, love her house, it costs less because she is in the cheap seats there, but you can't hear yourself think.

If people want to see the solar panels put in, fine; get in your car where it is quiet and listen to the music without the smell and noise bombarding you. Just look up at the solar panels. She hopes people will not be doing they are not suppose to on this trail her family will not be able to hear what is going on because of the drone of the traffic. This is not fair. If she lived somewhere else she would welcome a trail because she thinks it would be a wonderful thing to have. Put the trail another place, a trail along Highway 205 doesn't make sense.

Steve Garner, 3525 Riverknoll Way stated he had a series of questions and requests. It seems like clarification on the wording with respect to Exhibit is needed regardless with the roadblock that may be encountered with ODOT. Mr. Jim Whitty, ODOT, stated ODOT is attempting to obtain a categorical exclusion on all of this property for the solar panel system. He suggested Council ask the City Attorney to find out how that affects Mr. Jordon's assertion that there will be a land use process on just this trail portion of that project.

Mr. Garner stated he will ask the questions and asked that he receive answers in writing:

1. How is ODOT or anyone's work to date on the trail design funded
2. How much cost is been incurred by ODOT or anyone else to date on this trail (\$8,000?).
3. How much has ODOT been paid to date or anyone else doing work on this trail. This includes the Director of Parks and Recreation, Mr. Worcester's time, effort and staff.
4. When and how were these funds that have been expended or incurred the City approved and when.
5. Can these requested funds be used for construction costs or just for preconstruction and design.

6. Why were Barrington homeowners as the directly impacted citizens not specifically alerted at the very beginning phases of execution on this trail design?
7. Why does the city not specifically, personally target effected parties with respect to issues like that.
8. When you read the resolution it says the City is liable for all damages resulting from grade changes. There will be immense grade changes in this trail if it is kept up above.
9. What is the City's provision for handling, fixing and compensating should damage occur.
10. There have been suggestions that a bond be set aside for fire damage as a result of people using the trail, causing a fire and burning down the homes.
11. Exhibit A shows the trail much closer to Barrington homes than on the map provided to Barrington Heights, Tanner Woods and Hidden Creek Estates neighborhood associations on October 13th by Mr. Worcester and ODOT. He will make available to Council a copy of that trail.
12. Why is this trail location different, why is the map in this resolution different from what the City (Mr. Worcester) is promulgating to the citizens.
13. At the October 13th meeting, the citizens stated they were not in love with this trail but if there is going to be a trail they suggest the City (Mr. Worcester) and ODOT look at three other locations around the solar panel system and contact both ODOT and PGE.
14. On October 27th he asked what happened with a request. He was told that day OTAK requested from ODOT and PGE some kind of a response to a modified map. It took two weeks to modify the map. Did a portion of the \$8,000 go into the map modification?
15. He has still heard nothing and it has been 13 days since that request.

There is inertia going on here in the Parks and Recreation Department and OTAK with respect of concerned citizens that are trying to cooperate and ask for alternative solutions and not getting feedback.

The resolution says the City must conduct the necessary field surveys, environmental surveys and traffic investigations. He would like the City to provide him with copies of the plans to execute or the actual studies they intend to use to meet the obligations on these three issues.

Even if ODOT gets a categorical exclusion on their property, the City must go through full environmental analysis and assessment. He understands that Mel Sewey, the Metro Trails Supervisor, has said that streets are perfectly acceptable alternatives to building trails. Imperial Street parallels this trail and Riverknoll Way parallels this trail; why not just call those streets part of the trail system? Why spend \$250,000 designing something that is going to cost the City at least a million dollars to build.

Either City Code 28 or 32 requires 100-foot setback for development from the high water mark of any streams, creeks, rivers and waters in the City of West Linn. If you look at one of the trail access points on Imperial Drive, when you come from the right of the picture to the left, it goes through three undeveloped lots where Tanner Creek empties out into this area. There needs to be a 100-foot setback from the high water mark to meet the codes.

Mr. Garner requested again the City set up an advisory committee/task force on the solar highway and if this resolution is approved, on the trail system so citizens can formally participate in these decisions and extract this information from the staff and the City so it is an open, transparent process. He submitted the questions, pictures and exhibits to the Council to be entered into the record.

Steven and Nancy Inman, 354- Riverknoll Way was called but did not want to comment. They are not in favor of either the trail or the solar project.

Margaret Tolan, 3410 Riverknoll Way, read a comment into the record: She is here to comment on the proposed trail associated with the solar project currently in the works just off Highway 205. She would like to speak to the fire hazards that the trail represents to this community. After a letter from Tualatin Valley Fire and Rescue (TVFR) to ODOT was released to the media and to the City of West Linn, the City posted the letter and hailed it as support for the project. She found this disingenuous. She contacted Chief Dike and asked for clarification. In paragraph four of his response to her (each Councilor have a copy that has been highlighted in yellow) you can see that he specifically says the Fire District has no formal role or official standing on this project. The City and ODOT assumed the fire district is in support of these projects, but he makes it clear they are neutral. It is her believe and the Chief agreed that a presumption that a comprehensive scientific study on the fire hazards of this property had been conducted. In fact, no study or even a site visit had taken place when the original letter the City touted as support for the project was released.

Subsequently at the urging of many of her neighbors Deputy Fire Marshall Ed Banollo took a Saturday morning and trekked the land with her and neighbors. Prior to that only maps and aerial photos had been used by the Fire Department. Mr. Banollo walked less than 1/3 of the land before the going became too difficult to walk due to overgrowth, vegetation, and the steep and torturous conditions. Access was most definitely an issue. Those who live above and adjacent to the proposed trail, knowing a gravel road far below is the only access for firefighting is woefully inadequate.

She lives, and continues to live on ridge above the proposed project and happen to be home the day a wildfire was accidentally set on a hot August day in 2004. The fire was set by an ODOT maintenance worker down on Highway 205 and it raced up the hill. It was terrifying; it was pure luck that the fire started as far west that it did and the fire trucks were able to fight the fire from a vacant lot at the west end of Barrington Heights.

According to the Fire Marshall at the time, had that fire been any further east many homes would have been lost because there was and still is no access to the land behind their homes where fighting fire. Fighting fire from below is a losing proposition; all the firefighters agree on that.

The access and visibility of that entire slope is so poor because of the terrain that that day the Fire Marshall requested he be taken up in a news helicopter in order to direct the firefighting efforts that day. Embers from fires can fly one to three miles or more and are a threat to other structures. The winds happen to be in their favor that day; she invited each and every one to trek that land all the way from Salamo to Imperial and see for yourself how difficult fire fighting would be. She has been told repeatedly by Ken Worcester that trails are not a problem for criminal behavior in this City. She has three teenagers (17, 18 and 19) who have lived their entire lives here in West Linn, went to the high school here, have lots of friends and teenagers know what goes on in the City. They found that comment laughable and laughed out loud. Most teenagers in this town know if you want to drink, smoke, or do anything else without being caught you do it on the trails and parks. A very good example of this took place in another community less than a month ago. In Hillsboro's Bethany Park teenagers smoking pot set fires that got out of control and threatened several homes. Please ladies and gentlemen lets learn by history and not repeat it. She does not believe this slope is a safe place for a community trail.

Douglas Ainslie, asked if it has been determined how long the trail will be. He is trying to get a sense if \$250,000 for three-quarters of a mile normal, average or high. Mayor Galle stated the City just paid a consultant \$75,000 to develop a whole city-wide master plan of trails.

Mr. Ainslie stated these funds are not obviously coming out of anyone's pocket and yet it is coming out of everyone's pocket. He would like to charge City with the idea of really being a little more fiscally responsible to not just grab for money. Thousands of municipalities thinking it won't cost anything are not getting the money expected. Looking ahead to the next year and expecting that tax revenues will be down, how is the City sitting for using the money they have well. Is the City in the position financially to do this?

When you put 5-1/2 football fields of hard surface next to that highway, he would love to know what the engineers have to say about what the actual noise level will be then. That is not like the reflective light that will go off somewhere else and really not be a problem; this will bounce up the hill to everyone who is uphill from that.

Mayor Galle closed the hearing to public testimony and opened discussion among the Councilors.

Council President Carson asked the City Manager to comment on the cost of the actual design of a trail. She also asked if this is something that needs to be approved tonight or whether councilors can get answers to some of the questions that have been asked tonight postponing a vote to a later meeting. Mr. Jordan stated this is not time sensitive that it needs to be done tonight. In terms of the \$250,000 ODOT tried to make sure they have a grant for enough money; \$250,000 may be more than is needed. They didn't want to leave anyone shorthanded and have the City pick up some expenses in order to complete the design. The normal cost for a new construction project such as this, 20% or so of the cost would not be surprising for design, engineering, landscape architecture, and environmental studies are all the different pieces that may be needed.

In terms of possible postponement to get answers is fine. The policy question for the Council is two-fold; do you want to pursue the trail or not and if the Council does, then the City will have to pay for the design or look for outside sources and this is an outside source.

Councilor Kovash stated in terms of the process, the idea of looking at trail now was because ODOT said if in conjunction with solar highway we will pay for the trail. Mr. Jordan stated ODOT said they may have access to funds for the trail at some point but certainly they would provide the City with an easement for trail purposes through their property. The Parks and Recreation Master plan identifies this site as a possible trail site. In terms of funding, they will help the City try to get the funds to do it.

Councilor Kovash stated it seems to him that this agreement is heavy on the design part and weak on the location part. The City does not know whether they want a trail or not or where the trail should be. If the City wants a trail, how do you get to agreement on where the trail should be? The City needs to look at alternatives to decide where the trail will be. Mr. Jordan stated this is the process where the City goes out and speaks to the neighborhood and citizens at large to get input where the trail should be. If ODOT does the solar highway, the City wants to make sure the trail and trail easement is a part of that project at that time. Otherwise the City could lose the opportunity to put the trail in whatever they believe is the best location. Once the location is determined and the entire \$250,000 has not been spent, the rest of it would not be spent.

Councilor Burgess moved to authorize the City Manager to enter into the Intergovernmental Agreement with Oregon Department of Transportation, to Receive ARRA Funds for the Design, Study and Development of the Oak Savanna Trail per Agenda Bill 09-11-09D. Councilor Kovash seconded the motion.

Councilor Burgess stated the solar highway is not a done deal. The proposed trail (Exhibit A) was proposed to be in this area before Oaks Savanna and the solar highway project. It is still in the exploratory portion. He feels this is a separate issue from the solar highway, although the City Manager points out it is good to have someone else help pay for things rather than asking the citizens for funds. The City has been offered

the possibility of \$250,000 public funds for the design and assessment of trail, a public process, the viability of any and all alternatives, possible location and proposed cost.

The analysis of this trail will involve public. \$250,000 is available to the City now. Without this, some time down in the future, the City will use their funds to determine the same thing; is a trail possible, what it will look like, how much does it cost, etc. And the City may still find out that they don't want a trail, but it will be City funds used to do this.

The comparison of \$75,000 for the entire city trails master plan is not a reasonable comparison. The \$75,000 was to create a process for the City; this is a design study in terms of how much cut and fill, stability of soils, drainage, how to get across waterways, etc. That is a much more detailed analysis than a process to connect from point A to point B. He doesn't see a loser in terms of \$250,000 to determine whether it is feasible or desirable to have a trail.

Cummings stated she feels like the City is being pulled along. She has heard more than once that a categorical exclusion is a way of getting around environmental protections. This is an area that is being used as a wildlife corridor and has a wetland. To be told that the solar panels can be done whether the City agrees or not makes her feel uncomfortable.

When she attends meetings with ODOT she continually asks why Highway 43 updated for safety. There are plans for a large facility in both Oregon City and Lake Oswego; Highway 43 will be the pass-through. That's where she would like to see the money go. When she was on Council several years ago, they were begging ODOT to fix 10th Street; they won't. This is frustrating to her because she did not ask for this. Of all the trails she can think of in this City, this trail is not that important. She can think of a lot of trail locations that would be nice to have. She is not interested in having a trail here now. She will not be voting for it.

Council President Carson noted this is a trail that has been in trails master plan for a number of years; the exact location has not been determined. This give the City an opportunity to study the best location and address some of the environmental issues to see if this is a good location for a trail. She appreciates the questions and they should be answered and all options reviewed. These funds will provide the City the opportunity to do all this planning with the neighborhood, parks board and others who have interest in this trail. If all the money is not spent, great; however there will be enough funds to do a thorough study and address the issues. These funds are not saying there will be a solar highway; it is saying to study a trail location and make a determination about whether there is a feasible site for a trail that meets design requirements. She feels it makes sense to get the funds for the design development and assessment of the trail.

Mayor Galle stated there has been a lot of discussion about the trails master plan tonight. She does not know if this particular trail, given the location on a side of a hill was going to come up in our lifetime. There are huge amounts of trail to deal with. The issue that it is already on the master plan and should go ahead and do it does not sit with her. If funds are going to be spent it should be on trails that have come up and are before the City. She is not sure there are that many people who will want to walk along this trail. This is not a critical trail in the master plan that has risen up to the top and has to be done.

The City was promised that this would not cost the City anything. It is not just the \$8,000; there has been a lot of staff time, brochures, ad campaign, flyers, mailers, etc. put into this project. She should have known you get nothing for free. There is no economic sense for the product. There is no benefit to any taxpayer at \$20 million at 600 kilowatts of electricity. It doesn't make sense to her. There is no assurance the City will get input on the trail location. This agreement does not indicate that it will be so. This solar project and wastewater treatment committee representative has taken so much time, energy and money; two issues that have nothing to do with West Linn. There have been so many broken promises when the time, energy, and funds could be put into Highway 43, a new police station, getting the aquatic center on the ballot, etc. She would like to start a beautification committee just to clean up the weeds when you come into West Linn. ODOT won't do it; the City should put in a few hundred dollars and hire someone to do it. The City has no money for these types of things.

Mayor Galle stated ODOT promised they would study Savanna Oaks; she feels they sold her a bill of goods. Already there is the exclusion of any environmental studies. She says no trail and no solar highway. If there is a vote approving this she will ask for a taskforce. The proposed taskforce has proven they are bright, intelligent, have the issues down, and have the ability to guide this City. She wants to have the taskforce involved.

Poll on the motion:

Ayes: Kovash, Carson, Burgess

Nays: Cummings, Galle

The motion carried 3-2.

Recess was taken at 8:40 p.m. and the meeting reconvened at 8:58 p.m.

3. Agenda Bill 09-11-09E IGA, Conservation Easement for Oak Savanna Site

Mayor Galle opened the meeting to discussion of the conservation easement for Oak Savannah site.

Chris Jordan, City Manager reported this is the grant from the State Parks and Recreation Department providing the City with \$333,000 grant to complete the

acquisition of the Oak Savanna property. It also includes a conservation easement for park and recreational purposes over the property just to insure the City utilizes it for the purpose that is stated in the grant. Staff recommends Council approve both the grant and conservation easement.

Council President Carson asked for clarification of page 2 of 6 of the Grant Agreement which states, "...project terms and amendments. The sponsor shall have six months from the date of authorization of this agreement to commence substantial work." She asked what "substantial work" is considered to be in this particular contract. Mr. Jordan stated it is completion of the sale of the property. Council has already approved all of that and this is just the last piece to finish it up. They will be closing within the next 30 days.

Councilor Burgess moved to approve the grant agreement and the conservation easement with the Oregon Parks and Recreation Department and authorizing the City Manager to sign both the Grant Agreement and the Conservation Easement. Councilor Cummings seconded the motion.

Councilor Burgess stated the conservation easement is general; however, in developing a recreation site there are things that may need to be included (trails, trail heads, etc.). It doesn't have to be left as blackberries. Mr. Jordan noted that under Permitted Uses, it states, "...grantor shall use property for those public outdoor recreation uses described in the grant application..." and under Access it states, "...grantor shall make the property available for recreational use by the public."

Public Testimony

Alice Richmond, 3939 Parker Road stated this is the result of a lot of hard work from the Savanna Oak volunteers. She encourages Council to approve the agreement and proceed with what it was meant for.

Poll on the Motion:

Ayes: Kovash, Carson, Burgess, Cummings, Galle

Nays: None

The motion carried 5-0.

Mayor Galle recessed into Executive Session at pursuant to ORS-192.610(2) (e) to consider property transactions. She announced that the Council would be coming back into public session. The meeting reconvened at 9:35 p.m.

4. Agenda Bill 09-11-09F Annexation Initiation

Mayor Galle opened the hearing on the annexation at 9:35 p.m.

John Sonnen, Planning Director, reported the Council has expressed an interest in having the 6.7 acre property located at 3332 and 3151 Parker Road annexed into the City. The property is currently owned by the West Linn-Wilsonville School District. State law allows the Council to initiate annexation with a motion. Due to the procedural requirements associated with annexations, Council will need to initiate annexation within the next two weeks in order to have an election on the matter in May. The next opportunity for election will not be until September.

Staff is recommending Council direct staff to initiate an annexation for the subject property and adjacent right-of-way.

Council President Carson moved to direct staff to initiate an annexation petition for the School District property located at 3332 and 3151 Parker Road, including the adjacent right-of way. Councilor Kovash seconded the motion.

Councilor Burgess noted this is property that is surrounded by the City. There is no question that the intent is for it to be in the City someday. West Linn does not own the property; it is owned by the School District. They do not object to the annexation. Initiating this annexation will allow the two-step process. He will be voting in favor.

Poll on motion:

Ayes: Carson, Burgess, Cummings, Kovash, Galle

Nays: None

The motion carried 5-0.

Adjournment

The November 9, 2009 meeting of the West Linn City Council adjourned at 8:04 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