

WEST LINN CITY COUNCIL MEETING MINUTES November 23, 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; Chris Kerr, Senior Planner; Peter Spir, Planner; Dennis Wright, Acting City Engineer; City Attorney Tim Ramis; and Shirley Richardson, Minute Taker

Call to Order/Pledge of Allegiance:

Mayor Galle called the meeting to order at 6:55 p.m. and led the flag salute.

Proclamations, Recognitions and Presentations:

Mayor Galle introduced the Mayor of Gladstone, Wade Byers and Terry Junket. She explained that Mayor Byers is now the President of the Clackamas County Historical Society. Council had an opportunity to take a historical boat tour put on by Jerry Herman down the Willamette River; the tour was fabulous. There were historians there talking about the history of the River. Council decided to give the proceeds of that tour to help history projects.

Mayor Byers stated there have been tough economic times and it has affected the cultural and historical groups in our area. He and Mr. Junket were at a meeting last

night working to develop a membership phase for the Clackamas County Historical Society.

The original Clackamas County covered parts of four states and British Columbia. The central part of the history of the western United States is centered on Clackamas County. Pioneers came here, the fur traders came here, trackers came here and merchants came by sea. The British had a spy go through Oregon City before the Civil War. There is an unending amount of history that has occurred in this area. The Clackamas County Historical Society is charged to perpetuate the history and to facilitate other cultural groups in the area and provide programs for their members.

On behalf of the citizens, Council, and the City of West Linn, Mayor Galle presented Mayor Byers with a \$500 check to go towards the Clackamas County Historical Society activities. She also gave both gentlemen pins that say West Linn so whenever they look at these pins it will remind them that West Linn was 100% behind their efforts. Mayor Byers stated he has history here in West Linn as he went to West Linn High School.

Mayor Galle stated everyone on the Council is very much behind promoting history in Clackamas County and thanked him for all the volunteer work he has put into this. Mayor Byers thanked West Linn for their graciousness.

The Historical society is actively seeking members and volunteers. If people are interested in being involved with the Historical Society, he asked that they contact their website or attend their meetings.

Community Comments:

Steve Garner, 3525 Riverknoll Way resubmitted his email which contained questions he posed to the Council at the last meeting. To date he has received no response. He asked when he can expect answers or someone tell him that they will not be addressed so he can move on. He represents several hundred homeowners who are deeply interested to the answers to these questions and others. They respectfully ask for a response.

Chris Jordan, City Manager stated some of these questions were answered during that meeting; the others answers will be available to Mr. Garner by the end of next week.

Mike Jones, 22860 Oregon City Loop, stated he was here tonight regarding the retention of the City Manager. Mayor Galle interrupted saying the subject matter of Mr. Jones' testimony was inappropriate for a public meeting.

Bob Thomas, 2563 Pimlico Drive, stated he wanted to address what he felt was a gross absence of information for the audience to know what the Council was looking at when they were considering voting for or against joining the Wastewater Advisory Committee. There was nothing out on the information table and he couldn't follow the

council discussion. The audience did not have the information to know what was being voted on.

Mayor Galle apologized to Mr. Thomas for how the discussion took place. There were motions and amendments to motions that were not clear. Council has decided to have the City Manager and Legal Council repeat the motion that is on the table for voting so everyone is clear.

Mr. Thomas stated it is difficult for him to follow what was being discussed when he does not have the same information that Council has. He would like to know what Council was looking at in writing when they were voted.

Mayor Galle asked staff to give Mr. Thomas a copy of what was originally in front of Council and what was voted on for the bylaws.

Gale Holmes, 801 Wendy Court voiced concerns with the land (landscaping) on 10th Street where Blankenship and Salamo come together. There is a brick triangle that is for traffic direction. She brought this issue to the Willamette Neighborhood Association because they oftentimes go out and clean up planters, etc. but this area is ignored. It bothers her because she gets off the freeway there and takes a left onto Blankenship. Anyone coming to City Hall should be concerned; there are weeds three-feet tall. The brickwork was lovely at first but now there is green moss growing between the bricks and there is rubbish along the curbing.

This weekend was the clean up for Willamette neighborhood and so she decided to clean up that portion of the street. She was told that this is ODOT property; she doesn't know who it belongs to but if it is going to be an area that is left in disarray there should be a City letter to ODOT stating they need to take care of their property. If they are not in agreement of maintenance of that property then the City should have authority of it.

Mayor Galle stated she too would like to know the history of the contact with ODOT regarding maintenance. She too is told this is ODOT property. The property in from Highway 43 off Highway 205 is also not maintained. She asked the audience if there is a history of ODOT not wanting the trash picked up. There was no response.

Ms. Holmes stated this is the gateway to their neighborhoods and it alarms her that it is not maintained. She is not sure where the neighborhood boundaries are and who this area belongs to. This patch of land is in the middle of the street so it is hard to know who handles that. Chris Jordan stated he had no history on this issue.

Ms. Holmes stated she feels it is inappropriate that this is not maintained; she doesn't mind doing it herself but there needs to be some responsibility for that area. Mr. Jordan stated he will check with Gene Greene or Sam Foxworthy to follow up with ODOT to see who is responsible for the landscaping maintenance of this area. He believes traffic

signals are owned by ODOT, the right-of-way is the City's so he is not sure who would be responsible for the medians. He will take care of it one way or another.

Consent Agenda:

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|----|-----------------------|--|
| a. | Agenda Bill 09-11-23A | Approval of the Minutes of City Council Meeting of October 12, 2009 |
| b. | Agenda Bill 09-11-23B | Intergovernmental Agreement with the Lake Oswego School District for Construction Excise Tax for Lake Oswego School District |

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

Mayor Galle asked if there had been progress on updating the IGA with West Linn-Wilsonville School District to increase their charge to 4%. Mr. Jordan stated staff is in contact with Lake Oswego and will update the Council as soon as possible.

Ayes: Carson, Burgess, Cummings, Kovash, Galle

Nays: None

The motion carried 4-0.

Report from the City Manager

- Resolution No. 09-24, Joint Position Statement with the City of Tualatin Regarding Urbanization of the Stafford Area

Chris Jordan introduced Tom Coffee who is here tonight to give an update on the joint position statement with the City of Tualatin.

Mr. Coffee stated at the last Council meeting he was directed to proceed with Resolution 09-24 approving a joint position statement with the City of Tualatin regarding urbanization of the Stafford Area even though Lake Oswego had not yet signed the agreement. West Linn is interested in proceeding with the joint statement even if Lake Oswego does not sign.

Lake Oswego met in a work session last Wednesday; however the Mayor and Council President were absent so no action was taken. He and Jay Meyer from the Hamlet made presentations.

There is a Tualatin City Council meeting taking place tonight and the joint statement is on their consent agenda as well. The Lake Oswego City Council meeting will begin with

a sustainability leadership training session and at they will also take up the joint position statement tonight at 8:30 p.m. Mr. Coffee stated he will go from here to the Tualatin meeting and then go to the Lake Oswego meeting. It is his feeling that since Lake Oswego has taken no action yet, their mayor is not inclined to sign the position statement. He will attend both meetings and see what decisions are made.

Council President Carson thanked Mr. Coffee for his work drafting this statement and talking with the other cities. It will be helpful to have this joint statement as the City moves forward. Hopefully Lake Oswego council will see fit to join in. If they don't she supports going forward with this statement.

Council President Carson moved to approve Resolution No.09-24, A Resolution of the West Linn City Council Approving a Joint Position Statement with the City of Tualatin Regarding Urbanization of the Stafford Area. Councilor Cummings seconded the motion.

Mayor Galle stated what she would like to see is West Linn working with other cities in terms of preparing for future issues. Mr. Coffee stated whether the other cities sign or not there will be subsequent discussions on the urbanization issues depending on what Metro and the County ultimately decides to do. If it is a foregone conclusion that Tualatin will not sign, then there will be a decision on the part of the three cities as to what they do about that. There will be the option of appealing the decision if one of the cities wants to do that. Once there is a decision by all three parties, it will clarify once and for all what the positions are.

Council President Carson stated it is helpful to have this documentation saying West Linn does not want the Stafford Basin area to be urbanized. As she goes forward in meetings with MPAC and needing to present a position, it important for her to have something concrete that gives the position of local cities to make sure that West Linn is providing a clear and consistent message.

Councilor Kovash noted at one time the Mayor of Lake Oswego was interested in a shorter version of this statement. It will be a Lake Oswego council decision as to whether they pass this statement or not. He asked if at the Lake Oswego council meeting there is a smaller version that met their needs better, would that be a plus for West Linn. Mr. Coffee stated the Lake Oswego mayor did not agree with the tone of the agreement and felt some of the language was too strong. If Lake Oswego has an alternate version to the agreement, it would something to be considered by West Linn.

Councilor Burgess moved to amend the resolution to substitute the word "opposing" for the three places where "regarding" appears. Councilor Cummings seconded the motion.

Councilor Burgess stated he feels that the title is unclear and sounds like urbanization is wanted. The document content speaks to opposing urbanization which is what's on the table.

Councilor Cummings stated she feels the Lake Oswego mayor will support and respect the wishes of their council. There was an article in the November 12th *Tribune* that indicated it is not just Lake Oswego, Tualatin and West Linn concerned about not wanting to expand into the urban growth boundary. That article says that Metro did a survey and found that as far as expanding the urban growth boundary, 88% said no and 91% said the region should protect farm land at all costs with a tight urban boundary. A scientific study done found that only 20% thought that growth should occur in undeveloped areas, including anywhere land is available. Metro has some thinking to do about a decision on wanting to consider making the Stafford Triangle an urban area.

Tualatin completed a study with CH2M Hill and found the cost to provide infrastructure in the Borland area would be between a half billion and a billion dollars. Damascus residents are struggling with who is going to pay for their infrastructure costs. It is very expensive to urbanize these heavily constrained and sloped areas but it is not cost effective. West Linn values the Stafford area as it is. The Stafford area is a buffer and is mentioned in documents dating back to 1992/1993 when the first Memorandums of Understanding (MOU) was created with Tualatin, Lake Oswego, school districts and the hamlets. Throughout the years West Linn has supported Stafford in one document after another, stated their support in the Imagine West Linn process, the comprehensive plan process, and even in our recent sustainability document that was approved in 2008. The position statement keeps coming whenever there are surveys.

Mayor Hoffman may say he doesn't know how Lake Oswego is going to feel in the future. West Linn has challenged Metro on the issue of expanding boundaries three times. West Linn fought it and won and this time they can do the same. Urbanizing the Stafford area is not appropriate and is not what the citizens of West Linn want. West Linn will have to reassert their position until there is no opposition.

Mayor Galle stated with a billion dollars of infrastructure for Borland Road, one wonders what the infrastructure to Damascus and Happy Valley is going to be for regionalized sewer. The City went fighting against going into the Stafford Basin because of the infrastructure costs, yet the City went running in to get on board with a regional plan with a billion dollars for one road. She hopes that the Stafford area does stay rural. If the County and Metro have something else in mind she hopes they can all sit down and make it work for everyone.

Mr. Ramis stated the motion on the floor was an amendment to the main motion to amend the resolution to eliminate the word "regarding" and replace it with "opposing."

Poll on the amendment:

Ayes: Cummings, Kovash, Carson, Burgess, Galle

Nays: None

The motion carried 5-0.

Mr. Jordan restated the main motion to approve resolution 09-24.

Ayes: Burgess, Cummings, Kovash, Carson, Galle

Nays: None

The motion carried 5-0.

Mr. Jordan asked Mayor Galle to sign the joint statement so Mr. Coffee could take it with him to the other council meetings he will be attending tonight. The resolution will be amended later and it can be signed tomorrow.

Councilor Cummings thanked Mr. Coffee for his work on this project.

Business from the City Council

Councilor Burgess moved to direct staff to answer Mr. Garner questions provided tonight by the end of next week. Council President Carson seconded the motion.

Ayes: Kovash, Carson, Burgess, Cummings, Galle

Nays: None

The motion carried 5-0.

Councilor Cumming stated their work packet included information on the question of whether they are in thermal violation. She was unable to read the information. She asked that when the material is dark to begin with that staff to take care to make sure the information is readable. She would like to have a readable copy of this material.

Mayor Galle stated there was an electronic copy of that report that was readable. What Mr. Green-Hite stated was correct; when the permit is issued from the Department of Environmental Quality (DEQ) there will be in violation. With the availability of buying credits from one of the paper plants, there might be an easier solution to fix than first presented. It is unfortunate the City is involved in this; however, it is hopeful that the City Attorney will get good information on the possibility of becoming a separate district.

Mayor Galle asked the City Manager to put on the work session agenda a discussion of the possibility of setting up a Parks Foundation.

Business Meeting

1. Agenda Bill 09-11-23D

Motion to Continue to December 14th

Council President Carson moved to continue Agenda Bill 09-11-23D, Ordinance No. 1589-CDC 09-04, Final Platting Extension 2-year extension to and use appeals until December 14, 2009. Councilor Kovash seconded the motion.

Councilor Burgess noted their council packet included a number of applications that are pending for the resolution of this issue; he asked staff to comment on the status of this resolution if it is delayed. Mr. Ramis stated the City has legislative authority to cure the problem; the City has jurisdiction over the rules and deadlines. There is the ability to determine the rules and deadlines; the Council could act retroactively.

Ayes: Carson, Burgess, Cumming, Kovash, Galle

Nays: None

The motion carried 5-0.

2. Agenda Bill 09-11-23C Ordinance No. 1591, CDC 0901, Historic District Rewrite

Councilor Burgess moved to remand to the Planning Commission Ordinance No. 1591, CDC 09-01 – Historic District Rewrite. Council President Carson seconded the motion.

Councilor Burgess stated there were a number of concerns raised by staff and others subsequent to the Planning Commission's action. Council discussed this at their work session and felt the Historic District Rewrite should go back to the Planning Commission to have them consider those issues before Council consideration.

Ayes: Burgess, Cummings, Kovash, Carson, Galle

Nays: None

The motion carried 5-0.

3. Agenda Bill 09-11-23E Ordinance No. 1590 – CDC-08-03, Regulatory Improvement Package for the Community Development Code

Mayor Galle opened the meeting to discussion of the Community Development Code (CDC) at 7:43 p.m. and asked for a staff report.

Chris Kerr, Senior Planner reviewed with Council the purpose and some of the substantive changes proposed within the CDC package and his recommended changes as a result of the work session last week.

The purpose of the proposed amendments is to improve implementation of the CDC by updating, correcting errors, and addressing internal inconsistencies. This information was gone over in detail at the work session. The major changes include:

- Chapter 35 - addresses temporary storage facilities (pods); this allows the City to review and establish permitting processes as temporary uses
- Chapter 48 - Access language added to allow for permeable surfaces for individual driveways
- Chapter 52 - Temporary Signs language changed to be consistent with current practices and to provide for greater clarity
- Chapter 60 - new language proposed under conditional uses which have to do with connectivity issues for schools and other public uses
- Chapter 99 - changes proposed to notice requirements for neighborhood associations and clarify the distinction between final decisions and when they become effective

November 19th Changes Discussed at Work session:

- Parenthesis Page 20, 4th line, replace the word 'handicapped' with 'disabled'
- Parenthesis Page 25, New section 60.100(A), including staff's suggestion to replace 'governmental' with 'government' to read, "Schools and other government facilities that attract a regular and significant volume of users shall, to the greatest extent possible, be centrally located relative to the majority of the population that they will serve and be serviceable by sidewalks and bike routes/lanes. Police and Fire Stations shall meet these standards to the greatest extent possible but it is acknowledged that access to arterials remains a key locational determinant for those uses."
- Parenthesis Page 29, Section 99.038(3) is proposed to be amended as follows: "The letter shall be sent by certified mail, return receipt requested, to the Chair of the neighborhood association, or their designee, and shall be sent by regular mail to the other officers of the association and the property owners within 500 feet. If another neighborhood association boundary is located within the 500-foot radius notice, the letter shall be sent to that association's Chair or designee as well. The letter shall briefly describe the nature and location of the proposed development, and invite the association and interested parties to a meeting to discuss the proposed in more detail. The meeting shall be scheduled at the association's regularly scheduled monthly meeting, or at another time at the discretion of the association and not less than 20 days from the date of mailing the notice. If the meeting is scheduled as part of the association's regular monthly meeting, the letter shall explain that the proposal may not be the only topic of discussion on the meeting agenda. The letter shall urge concerned citizens to contact their association president or their designee prior to the meeting if they wish to comment on the matter."
- Adding language to the next paragraph to read, "Neighborhood contact shall be initiated by the applicant by mailing the association president or their designee a letter, return receipt requested, formally requesting a date and location to have

their required neighborhood meeting. The sixty days shall be calculated from the date that the applicant mails this letter to the association. If the neighborhood association does not want to meet within the 60 day timeframe or if there is no neighborhood association..."

Two changes recommended by staff to add clarity to code

- Parenthesis Page 20, at the bottom of the page, in the proposed Ordinance, staff inadvertently proposed removing the phrase 'all weather surface.' This is still a necessary requirement for driveways and it should not be removed for the Code, therefore, staff proposes that be reinstated as follows: "...a driveway with an all weather surface that has 10-feet of unobstructed horizontal clearance."
- Parenthesis Page 24, top of page, staff has determined that the originally proposed amendment to this sentence was overly complicated and redundant. For clarity the final code language being recommended is, "Freestanding temporary signs for residential uses may remain in place until the close of the event (e.g. sales or lease of the building, an open house, or on election, etc.)"

Mr. Coffee provided a copy for the record so it could be copied without error. Mr. Jordan gave a copy of the corrections to me and I will bring to next meeting and leave in the box with the testimony forms if you want to double check these corrections.

Council President Carson asked for clarification of removing the "12-foot" language for the driveways; is it somewhere else in the code. Mr. Kerr stated it is staff's intention to change the 12-feet to 10-feet for single family homes less than 150 feet.

Council President Carson asked if the scribe's errors and minor changes suggested at the worksession would be made. Mr. Kerr stated the only change he was not able to make had to do with the formatting at the top of the sign chart. This chart when updated will be automatically reformatted and will reflect those changes.

Councilor Cummings voiced concern about long driveways being put in that are serving four houses or more. She asked how the issue of reducing the 12 feet to 10 feet would apply in the case of flag lots, accessory dwellings, etc. and whether these long driveways had adequate access for emergency vehicles. Mr. Kerr stated this change only applies to single family homes and allows only for an accessory dwelling unit that is within 150 feet. There are additional requirements for a fire truck turn-around if there are more units, etc. If the driveway is more than 10-feet it goes back to the standard requirements.

Mayor Galle asked for clarification of the term "centrally located." She asked if it comes down to a choice of locating the police station in an area that was not considered centrally located, how persuasive this code would be to make it centrally located. Mr. Kerr stated there were concerns raised at the work session that the code was too tight. These changes loosen the code and provide more flexibility. The overall intent and

purpose is consistent with the comprehensive plan that these types of facilities should be located appropriately to serve the greatest number of people. This code will cover all government facilities, library, senior center, etc. and where it will be located.

Councilor Cummings noted there are several schools in the neighborhood that are not on arterials and it works well with the community; she questions whether the centrally located language is necessary? She feels another concern is the statement, "...the letter shall urge concerned citizens to contact their association president or designee prior to the meeting if they wish to comment on the matter" is confusing. It gives the message that they need to do this in order to make comments at the meetings. People show up at meeting and make comments; it is not necessary to have this statement. Mr. Kerr stated this language came from an issue raised by a neighborhood association president who indicated there was a problem where people would show up with the expectation that they would have an adequate amount of time to speak. There was concern about whether or not that was happening. Staff felt this language allows people to let their association president know beforehand if they want to speak. The association president then will have an idea of how many people want to speak and how much time to allow for comments.

Councilor Kovash noted it was he that brought up the issue of locating schools and government facility; the initial language, "...they shall be located..." was not flexible. Since the city is constrained by being mostly built out he feels the softening of the language was important to avoid zoning issues.

Mr. Ramis suggested an edit to Chapter 99, Page 30, Section 99.230(b) which addresses when a decision is final and when it is effective. His suggestion was to put a period after the word 'mailed' and delete the phrase 'unless a notice of intent to appeal has been filed to the State Land Use Board of Appeals.' The effect of the language as presented is that if anyone files a LUBA case, Council's decision is automatically enjoined and effective. That is not the current law in Oregon; if someone files an appeal, Council's decision is still effective and still in place unless LUBA decides to grant a stay. Unless Council intends to change that law with respect to just West Linn, he suggested Council consider this edit: 'The effective date shall be 21 days from the date that the final, signed decision is mailed.' Deleting everything from '...unless' to '...appeals.' The last sentence would remain.

There was no public testimony on this issue.

Councilor Burgess read Ordinance No. 1590 for the first time by title only and moved to approve said Ordinance, the amendments as proposed by staff as outlined in the original document, the changes outlined by staff in their November 19th memo, and the change to Section 99.230(b) as outlined by legal counsel tonight. Council President Carson seconded the motion.

Councilor Cummings suggested additional changes in Chapter 99:

- Adding "...and other officers of the neighborhood association" after "If another neighborhood association boundary is located within the 500 feet notice radius, the letter shall be sent to that association's chair or their designee as well..."

What she would like to see is consistency with this language. Her intent is that important notices should go to the neighborhood president as well as other officers. The neighborhood association presidents are sometimes on vacation or not always available and she feels it is important to have more than one person receiving contact information.

- Change the wording from "...the letter shall encourage citizens to contact their association president or designee prior to the meeting if they wish to comment on the matter" to "...the letter shall encourage citizens to contact their association president if they have any questions they would like to present to the applicant."

This language gives the wrong impression about what is taking place at the meeting. People come to meetings expecting adequate time to talk about their concerns. This gives the impression in order to speak you have to contact an officer before the meeting for approval.

Councilor Cummings moved to revise the Community Development Code, Chapter 99 with the following language changes:

- **In all sections adding "...and other officers of the neighborhood association" after the words, "...letter shall be sent to the association's chair or their designee as well..."**
- **Replace the language of last paragraph of (3) to read, "...the letter shall encourage concerned citizens to contact their association president or their designee with any questions that they may want to relate to the applicant."**

Council President Carson seconded the motion.

Council President Carson stated she feels these are good amendments; having been a neighborhood association president, if for some reason she was not able to get the certified mail signed, it would have been very helpful to have someone else get that notice. She agrees with the second amendment because it is helpful for the applicant to know what questions some of the neighborhood members might have so they can come ready to address those issues. These changes enhance this section of the code.

Councilor Burgess questioned whether the words 'other officers' is clear as to who the letters are to be sent to. Councilor Kovash suggested sending out two letters; one to the president and one to a designated person.

Councilor Cummings agreed to change the wording to, "...letter shall be sent by certified mail to the association chair and one designee submitted to the City by the neighborhood association." Council President Carson, the second, concurred.

Councilor Burgess called the question:

Ayes: Kovash, Carson, Burgess, Cummings, Galle

Nays: None

The motion carried 5-0.

Poll on the main motion to approve the amendments proposed by staff as outlined in the original document, the changes outlined by staff in their November 19th memo, the change to Section 99.230(b) as outlined by legal counsel tonight, and the two amendments made this evening:

- In all sections adding "...and other officers of the neighborhood association" after the words, "...letter shall be sent to the association's chair or their designee as well..."**
- Replace the language of last paragraph of (3) to read, "...the letter shall encourage concerned citizens to contact their association president or their designee with any questions that they may want to relate to the applicant."**

Councilor Cummings voiced concern about public meetings being held at private residences and business; land use issues should take place in a public setting.

Councilor Cummings moved to amend Chapter 99, second paragraph, deleting the last sentence regarding holding a land-use meeting at a private residence or business.

The motion died for lack of a second.

Councilor Cummings moved to amend the final sentence of Section 99.038, deleting the word, "residence or" to read, "If the meeting is held at a private business, it shall be posted..." Council President Carson seconded the motion.

Council President Carson stated she is supportive of this amendment; this is something that is a situation where all people may not feel comfortable attending. She feels that businesses should remain an option as many of the neighborhood associations currently hold their meetings at businesses.

Councilor Kovash noted some neighborhood meetings are not very active and they do have meetings in private residences. He would like to see that remain as an option and leave it up to the associations as to whether they want to meet in private residences.

Mayor Galle stated she feels the City has done a good job of distancing themselves from regulating neighborhood associations. The sole purpose is to bring neighbors together to discuss land use issues. She would feel uncomfortable to start imposing a limitation on where they can meet. Smaller associations may need and want to have meetings in their homes and still be able to express the definition of what a neighborhood association is.

Mayor Galle closed the public hearing on this issue at 8:33 p.m.

Councilor Burgess called the question on the amendment:

Ayes: Cummings

Nays: Carson, Burgess, Kovash, Galle

The motion failed 4-1.

Vote on main motion to approve Ordinance 1590, amendments as proposed by staff as outlined in the original document, the changes outlined by staff in their November 19th memo, the change to Section 99.230(b) outlined by legal counsel tonight and the two amendments made this evening:

- **In all sections adding “...and other officers of the neighborhood association” after the words, “...letter shall be sent to the association’s chair or their designee as well...”**
- **Replace the language of last paragraph of (3) to read, “...the letter shall encourage concerned citizens to contact their association president or their designee with any questions that they may want to relate to the applicant.”**

Mayor Galle asked how many changes were made tonight in comparison to the changes made at the Council work session. Mr. Kerr stated the only exception was the one he outlined specifically in the memo. Mayor Galle suggested that these types of changes be worked out at the work session. Rewrites should occur at the work session, not at the dais.

Mayor Galle called the question:

Ayes: Cummings, Kovash, Carson, Burgess, Galle

Nays: None

The motion carried 5-0.

Council President Carson read proposed Ordinance No. 1590 for the second time by title only and moved to approve Ordinance 1590, amendments as proposed by staff as outlined in the original document, the changes outlined by staff in their November 19th memo, the change to Section 99.230(b) outlined by legal counsel tonight and the two amendments made this evening:

- **In all sections adding “...and other officers of the neighborhood association” after the words, “...letter shall be sent to the association’s chair or their designee as well...”**
- **Replace the language of last paragraph of (3) to read, “...the letter shall encourage concerned citizens to contact their association president or their designee with any questions that they may want to relate to the applicant.”**

Councilor Kovash seconded the motion.

Ayes: Burgess, Cummings, Kovash, Carson, Galle

Nays: None

The motion carried 5-0.

4. Agenda Bill 09-11-23F

Ordinance No. 1592, Street Vacation (Step Two) MISC 09-10 Leonard Street

Mayor Galle opened the public hearing on Step Two street vacation on Leonard Street at 8:36 p.m.

Peter Spir, Planner reported this is a proposal to vacate a portion of Leonard Street right-of-way that is an undeveloped rectangular area between Exeter and Grant Street. The eastern end is very steep and impassible for motor vehicles. For that reason the Public Works Director finds there is no reason to retain this right-of-way. The Planning Director concurs.

Staff does believe it is important to retain easements for the sanitary sewer line that runs through the corridor as well as a 20-foot public access easement to be conveyed to the City for pedestrian and bicycle use. The applicant has 100% of all abutting property owners in the affected area. The Oregon Revised Statute, Chapter 271 requires 66% of the signatures of the area and the applicant has an access of that requirement. For these reasons staff is recommending the street vacation be approved.

There was no public testimony on this issue.

Mayor Galle closed the public hearing at 8:39 p.m. and opened the meeting to discussion among the Council.

Councilor Kovash asked if the 20-foot utility easement is adequate so it does not have to be disturbed in the future. Mr. Spir stated the sanitary sewer line does not follow the center of the right-of-way all the way through; it curves northwards on Grant Street. Staff will have to be

Careful on how things are done there. The applicant may construct a fence in the vicinity of that sanitary sewer line. It would not be an impediment to the City as they can make repairs or improvements from the manholes. They will probably take the

access easement down center line so it is split on either side. The applicant will not be allowed free and complete use of all of the property.

Councilor Kovash asked if the applicant is aware of where the easement is located. Mr. Spir stated Ordinance Sections 1 & 2 (Page 5) requires the applicant to retain a survey identifying the sanitary sewer line corridor and where the easement would be for public access.

Councilor Burgess asked for clarity of the right-of-way remaining as a result of this action if approved. Mr. Spir stated the easement corridor will be along the center of what was formerly the right-of-way. When the applicant goes out to survey, the intent is to locate the sanitary sewer line and the 10-foot easement on either side allowing for a 20-foot wide sanitary easement.

Councilor Burgess read Ordinance No. 1592 for the first time by title only and moved to approve said Ordinance Vacating a Portion of Leonard Street Right-of-Way Within the City of West Linn, Oregon per Agenda Bill 09-11-23F. Council President Carson seconded the motion.

Councilor Burgess called the question:

Ayes: Cummings, Kovash, Carson, Burgess, Galle

Nays: None

The motion carried 5-0.

Councilor Burgess read Ordinance No. 1592, for the second time by title only and moved to approve said Ordinance Vacating a Portion of Leonard Street Right-of-Way Within the City of West Linn, Oregon per Agenda Bill 09-11-23F. Council President Carson seconded the motion.

Ayes: Kovash, Carson, Burgess, Cummings, Galle

Nays: None

The motion carried 5-0.

Recess was taken at 8:44 p.m. and the meeting reconvened at 9:00 p.m.

5. Agenda Bill 09-11-23G

Contract Award, Municipal Separate Storm Sewer System (MS4)

Mayor Galle opened meeting to discussion of the separate storm sewer system at 9:00 p.m.

Dennis Wright, Acting City Engineer, reported this is consideration for a contract with a MS4 consultant, Brown and Caldwell. The City previously had contracted through

Clackamas County Water and Environmental Services (DEQ) jointly with other agencies and municipalities for the MS4 NPDES (National Pollution Discharge Elimination System) support. Clackamas County no longer takes this lead and Oregon City has agreed to act as the lead contract agency.

Oregon City advertised for environmental consultant services and received ten proposals. The City of West Linn was invited and participated in the technical review board; and subsequently participated in the selection of Brown and Caldwell. The City feels that with the inclusion of the piggy-back clause that allows West Linn to participate in the contract with Brown and Caldwell utilizing the Oregon City process will save them time to separately negotiate or advertise for a consultant, but also allow the City to remain consistent with the work product/deliverables of other agencies and municipalities.

It has been beneficial for the City in the past to jointly present a unified front to DEQ and having this joint contract will allow West Linn to continue to do that. In this instance there will be a single consultant that will be working with a number of municipalities in negotiations with DEQ and ensuring that treatment requirements are uniform and fair for all concerned.

The contract is broken up into two phases. Council is being asked to authorize the implementation of the first phase which is \$49,845 with the additional \$65,000. Staff is asking Council, acting as the Contract Review Board to pass a motion authorizing the City Manager to award the MS4 related consultant services contract to Brown Caldwell.

Acting as the Contract Review Board, Council President Carson moved to authorize the City Manager to award the MS4 (Municipal Separate Storm Sewer System) NPDES (National Pollution Discharge Elimination System) permit renewal issues and implementation requirements consultant services contract to Brown and Caldwell per Agenda Bill 2009-11-23G. Councilor Burgess seconded the motion.

Ayes: Carson, Burgess, Cummings, Kovash, Galle

Nays: None

The motion carried 5-0.

6. Agenda Bill 09-11-23H

Contract Award, Motor Control Center
(Telemetry) Upgrade at Willamette Pump
Station

Mayor Galle opened the meeting to discussion of the contract award to upgrade the Willamette Pump Station at 9:03 p.m.

Dennis Wright, Acting City Engineer reported this contract award is for the Willamette Water Pump Station telemetry upgrades. The City has been able to save money on two previously advertised water projects and there is a project in the water master plan that included the evaluation and upgrade of the motor control unit at the Willamette Pump Station. The City has contracted with S & B, Inc. to do the evaluation. The Council has previously designated S & B, Inc. as the system integrator for the City. S & B, Inc. came in with a proposal after their evaluation indicating the work that needs to be done. There are sufficient funds in the budget from the other project savings to fund this.

Included in the contract is engineering design for the motor control unit and the telemetry to communicate from the Willamette Pump Station back to the operation center; the remote telemetry unit (RTU) control system, motor control center (MCC) and the suction pressure transmitter.

Staff would like to undertake this work at this time because other work is being done in this area. The water crew has installed some pressure release valves at the Bland Reservoir which allows the City to take that reservoir off-line for the current interior and exterior coating and cathodic protection project. These same valves will allow water to come down from the Horton Station to the Willamette Pump Station allowing that station to be off-line to accomplish the proposed work now rather than coming back and doing it later. There are efficiencies as well to do the work at this time.

Staff is asking Council to approve and authorize the City Manager to award the contract to S & B, Inc.

Acting as the Contract Review Board, Council President Carson moved to authorize the City Manager to award the contract for engineering, design, equipment, field start-up and training services for the Willamette pump Station Telemetry Upgrade to S & B, Inc. per Agenda Bill 2009-11-23H. Councilor Kovash seconded the motion.

Ayes: Burgess, Cummings, Kovash, Carson, Galle

Nays: None

The motion carried 5-0.

Adjournment

The November 23, 2009 meeting of the West Linn City Council adjourned into Executive Session pursuant to ORS 192.660(2) (h), potential litigation and ORS 192.660(2) (a) to consider the employment of an employee or public officer at 9:10 p.m. Mayor Galle announced that Council would not be coming back into public session.

RESPECTFULLY SUBMITTED,

Tina Lynch /s/

Tina Lynch
City Recorder

APPROVED BY THE CITY COUNCIL
ON JANUARY 11, 2010

Patti Galle /s/

Patti Galle, Mayor