

UPDATED
WEST LINN
CITY COUNCIL MEETING MINUTES
JUNE 28, 2010

****Includes Council President Burgess & Councilor Jody Carson's Edits****

Council Present:

Mayor John Kovash, Councilor Scott Burgess, Councilor Jody Carson, Councilor Teri Cummings and Councilor Jim Mattis

Council Absent:

None

Staff Present:

Chris Jordan, City Manager; Kirsten Wyatt, Assistant to the City Manager; Tina Lynch, City Recorder; Richard Seals, Finance Director; Tom Soppe, Associate Planner; and City Attorney Tim Ramis

Call to Order/Pledge of Allegiance:

Mayor Kovash called the meeting to order and led the flag salute.

Approval of Agenda

Councilor Carson moved to approve the Agenda as presented. Councilor Mattis seconded the motion.

Ayes: Carson, Mattis, Cummings, Burgess, Kovash

Nays: None

The motion carried 5-0.

Proclamations, Recognitions and Presentations

- Proclamations - 2009 West Linn Old Time Fair Court

Mayor Kovash introduced 2009 Queen Chandler Metcalf and the 2010 Old Time Fair Court Princesses: Ashley Johnson, Hannah Hilton, Torri Galepeis, and not present tonight Macalah Loften.

The Mayor and Councilors presented each Old Time Fair Princess with a proclamation recognizing their excellence and achievement in service to the community, their poise, their communication skills, and their commitment to promoting the tradition of the 2010 West Linn Old Time Fair.

Mayor Kovash asked the Princesses to explain the community service they were involved in.

Community Comments:

Ed Schwarz, 2206 Tannler Drive updated the Council on the White Oaks Savanna, West Linn's newest natural park. Two Urban and Community service awards were awarded to Roberta Schwarz, Civic Volunteer and White Oaks Savanna Committee, civic organization by the Oregon Community Trees Foundation and the Oregon Department of Forestry recognizing the accomplishments of individuals,

groups and businesses that go the extra mile to enhance and maintain healthy community forests. Councilor Cummings has been a tireless volunteer and accompanied them to Salem to receive the awards. A video was shown of volunteers working on a fund raiser for the White Oaks Savanna.

Roberta Schwarz, 2206 Tannler Drive reported the recent activities to raise funds for the White Oaks Savanna. Ms. Schwarz commended the Parks staff providing the equipment needed for the restoration and presented Councilor Cummings with an award for her community service in the White Oaks Savanna restoration. She thanked the citizens for their support and invited everyone to come out and celebrate with them on July 1, 2010 at 7:00 p.m. There will be a picnic, nice music, and friends there to celebrate the White Oaks Savanna.

Alice Richmond, 3939 Parker Road passed out a program for West Linn's 4th of July celebration. She thanked the City Manager for his work in getting fireworks at the celebration planned at Willamette Park. Canned food will be collected for the Oregon Food Bank.

William Adams, 2310 Century Lane stated that West Linn and Oregon City both hold 50% ownership in South Fork Water Board which is the sole source of high quality potable water. He is here tonight to present a resolution to preserve the 50% controlling interest West Linn has in the South Fork treatment plant. The resolution calls for a ballot measure to amend the West Linn Charter so voter approval is required before the City can reduce its 50% ownership position. The authority to contract and sell water rights rests solely with Council.

Most of the Council has publicly stated their support for maintaining the 50% position. He is concerned that successor councils might bring different goals and a danger of loss of water rights. He urged the Council to consider his resolution and recognize it as the mechanism for citizens to have an alternate way to preserve the water rights. He submitted his information to Council for record.

Thomas Boes, 18717 Upper Mill Hill Drive stated he is here tonight speaking on behalf of the Robinwood Neighborhood Association regarding the Robinwood Fire Station. He will make comments at the public hearing tonight.

Councilor Cummings asked Mr. Ramis for his legal opinion on councilors receiving gifts. Mr. Ramis stated there are limitations and he will discuss her particular situation with her after the meeting.

Jim Pierce, 1785 Britten Street stated the WL Tiding offered no coverage of June 14th Council meeting. He encouraged citizens to watch this meeting on the website as there was discussion of the water master plan. Councilor Cummings asked how much added capacity the proposed 24-inch water main will create above the capacity of the existing 18-inch main. Many citizens are asking this question and it leads to further questions about the purpose of expanding the capacity of a water system in need of maintenance but has plenty of capacity to serve the current and foreseeable water capacity needs of the City within the current City boundaries.

Councilor Cummings question was not answered. She feels this current administration promises to be as divisive as the previous administration. This is a \$21 million water issue and it will not go away. She

believes the conduct of City Council meetings may become pivotal issues in the September and November elections.

Consent Agenda:

1. Agenda Bill 2010-06-28-01 Approval of the Draft Minutes of City Council Meeting of May 10, 2010
2. Agenda Bill 2010-06-28-02 Approval of the Draft Minutes of City Council Meeting May 24, 2010
3. Agenda Bill 2010-06-28-03 Resolution No. 2010-25 Proclaiming the Election Results for the Parker Road Property Annexation
4. Agenda Bill 2010-06-28-04 Resolution No. 2010-26, Revised Local Share Project List for the METRO Greenspaces Natural Area Bond Measure Local Share Component

Council President Burgess moved to approve the Consent Agenda consisting of Agenda Bill 2010-06-28-01, Approval of the Draft Minutes of City Council Meeting of May 10, 2010 as presented; Agenda Bill 2010-06-28-02, Approval of the Draft Minutes of City Council Meeting May 24, 2010 as presented; Agenda Bill 2010-06-28-03, Resolution No. 2010-25 Proclaiming the Election Results for the Parker Road Property Annexation; and Agenda Bill 2010-06-28-04, Resolution No. 2010-26, Revised Local Share Project List for the METRO Greenspaces Natural Area Bond Measure Local Share Component. Councilor Carson seconded the motion.

Council President Burgess read the two proposed resolutions by title only.

Ayes: Mattis, Cummings, Burgess, Carson, Kovash

Nays: None

Abstentions: Councilor Cummings abstained from the May 10th meeting

Councilor Mattis abstained from the May 10th and May 24th meeting

The motion carried 5-0.

Report from the City Manager

Chris Jordan, City Manager, responded to Mr. Pierce's comments about the questions asked at the June 14, 2010 Council meeting and reported that Council received a written response to all Council's requests and questions from that meeting.

Mr. Jordan announced that the Council will not be making a final decision tonight on the water rate resolution as there are still more questions to be answered. However, public testimony will be taken tonight.

Mr. Jordan reported that Kirsten Wyatt and Tina Lynch are here tonight testing a new computer meeting management program called Granicus which tapes and time-stamps the meetings directly to the website. This will allow citizens to go to the website and view the minutes and meeting video using the timestamps to get to the portion of the meeting they would like to see.

Business from the City Council

Mayor Kovash reported he was given a list of candidates for the Economic Development Committee. He reviewed the list and nominates the following individuals: Gail Homes, Tim Degrasser, Tom Boes, Karen Hensly, Linda Neise, Jim Edwards, Charlotte Burcum, Chris Sherland and Jill Thorne.

Council President Burgess moved to appoint Gail Homes, Tim Degrasser, Tom Boes, Karen Hensly, Linda Neise, Jim Edwards, Charlotte Burcum, Chris Sherland and Jill Thorne to the Economic Development Committee. Councilor Carson seconded the motion.

Councilor Cummings stated she recommends and agrees with everyone except Jill Thorn because she was involved with the MOU that would have allowed a five-way split of South Fork Water.

Council President Burgess called the question:

Ayes: Mattis, Carson, Burgess, Kovash

Nays: Cummings

The motion carried 4-1.

Mayor Kovash opened discussion on the Oregon Mayor's Association and Conference.

Council President Burgess moved to authorize the mayor to join and participate in the Oregon Mayors Association and Conference at the cost of \$500 including registration fees, travel accommodations and food. Councilor Cummings seconded the motion.

Council President Burgess called the question:

Ayes: Burgess, Carson, Cummings, Mattis, Kovash

Nays: None

The motion carried 5-0.

Council President Burgess complimented Mayor Kovash on the professional manner he presides over the Council meetings.

Councilor Cummings stated that at the June 14th meeting she asked for clarification of an issue and was denied an answer to that question. She asked if there are new rules that disallow her questions to be answered. There are six parameters in the Rules that apply a person to be removed and her situation did not apply to any of those parameters.

For the last three meetings, and this one, it appears that the discussion has been steered away from questions about upsizing the water system. There were no city staff available to answer her questions

and subsequent answers were inadequate. She asked questions and was denied and threatened to be removed and she asked if this is the way the meetings will be read in the future.

Councilor Carson thanked Ms. Schwarz for her hard work and dedication on preserving the White Oaks Savanna and deserves the awards that were presented to her and the Committee.

Mayor Kovash explained the business of the Council is important to the City. He is committed to conducting the Council meetings in a professional and expeditious manner. Roberts Rules of Order indicate that remarks are restricted to the subject under consideration. At the June 14th meeting, the question that was being asked was not germane to the issue that was being discussed. Councilor Cummings had asked the same question previously and her questions had been answered.

Councilor Cummings cited the rules regarding speaking and asking questions. She feels she is not being allowed to make comments or ask questions.

Business Meeting

Agenda Bill 2010-06-28-05

Contract Award, Aquatics Center Architects Services

Mayor Kovash opened the meeting to discussion of the contract award for aquatic center architect services and asked for a staff report.

Ken Worcester, Director of Parks and Recreation reported ten proposals were received from the request of proposal for architect services for the aquatic center. The ten firms were interviewed and three final firms were chosen. It was unanimous that Opis Architecture was the best firm for the project.

Councilor Carson asked for confirmation that this firm will be to review the project in terms of feasibility of what is proposed and how it will work on the property. Mr. Worcester stated that this is a five-step process to review background information, submitting business models, meetings with Council and Park Boards to see what the community wants, what is most affordable, and what is the best program for this property.

Public Testimony

Bob Thomas, 2563 Pimlico Drive stated aquatic centers are not money making ventures; it will end up being subsidized by the City. He feels this decision is premature and would like to see the public make more comments before a decision is made on a contract.

Acting as the Contract Review Board Council President Burgess moved to authorize the City Manager to enter into a contract with Opis Architecture to develop the aquatic center preliminary design and operations plan per Agenda Bill 2010-06-05 as recommended by staff. Councilor Mattis seconded the motion.

Councilor Cummings asked how this relates to the City's plan to discuss police facility options. She asked if it is possible to delay the process of this contractor getting started until after discussions and a plan

has been determined for the police facility. Mr. Jordan stated that a worksession has been scheduled on July 8, 2010 to discuss the timing and process for both projects. Mr. Worcester stated that if the contract is approved, the contractor will not start on the project until mid-July.

Mayor Kovash stated that discussions at the worksession and retreat will be incorporated in discussions with the company before the contract is started.

Council President Burgess called the question:

Ayes: Cummings, Burgess, Carson, Mattis, Kovash

Nays: None

Motion Carried 5-0.

Agenda Bill 2010-06-28-06

Public Hearing for Temporary Use Permit: The
Friends of Robinwood Station for a Community Center at
Cedaroak Fire Station

Mayor Kovash opened the public hearing for temporary use application to allow use of a former fire station as a community center for a twelve month trial basis at 3706 Cedaroak Drive, Case File MISC-10-08. This hearing will approve authority of the provision of the Community Development Code, Section 350.30(c) that allows the City Council to review and issue temporary use permits that will terminate between six months and one year. The record will include all testimony and written submissions received before the close of the hearing.

Mr. Ramis reported the applicable criteria are found in the Community Development Code, Chapter 35, Temporary Structures and Uses. The authority of the Council is limited only to those issues that address compliance with the applicable criteria. The applicant has the burden of proving that the application applies with all relevant criteria.

Mayor Kovash reviewed how the public hearing will be conducted. He asked if any member of the Council visited the site. Council President Burgess stated he has walked the site many times and is aware of its activities. He has not spoken to anyone regarding this issue. Councilor Carson stated she has walked around the property. She did not talk to anyone during the visit. Councilor Cummings stated she visited the exterior site and talked to no one during that visit. Mayor Kovash stated he has walked around the site and did not talk to anyone during his visit. Councilor Mattis stated he visited the outside of the site and talked to no one during his visit.

Mayor Kovash asked if there were any conflicts of interest or ex-parte contacts to declare. Councilor Mattis stated he was at a Robinwood Neighborhood meeting where there were discussions in support on this issue. He received an email from Mr. Bryck advocating approval of this proposal. He does not feel this will impair his ability to vote on this issue. Council President Burgess stated he is an ex-resident of this neighborhood and some time ago he has discussed this issue with people. There was a conversation with Mr. Boes, Mr. Olsen and neighbors where the issue came up; however, he does not feel these conversations disqualifies him to vote on this issue. Councilor Carson stated she attended neighborhood association meeting where this issue was discussed. She too received emails from Mr. Bryck. She does not feel any of these contacts affect her ability to vote on this issue. Councilor

Cumming reported that she attended meetings where this matter was discussed, she has received several emails, and some time ago had conversations with Mr. Bryck. She is confident that she can make an unbiased decision on this matter. Mayor Kovash stated he has read emails and talked with Mr. Bryck. He does not feel these contacts will impair his ability to vote on this issue.

Mayor Kovash asked the audience if they wished to make a challenge of any council member's impartiality or ability to participate. There were none. He asked if there were any objections to the Council's jurisdiction to consider this matter. There were none.

Tom Soppe reported this is a temporary use permit for a community center, former fire station in Robinwood Neighborhood. The applicants are Friends of Robinwood Station (F.O.R.S.) and Robinwood Neighborhood Association (RNA). The City owns the property located in an R-10 Zone, a low density residential Comprehensive Plan designation. Slides were shown of the subject site and surrounding area.

The applicants are requesting the use of the entire main building on the site for a community center. They are seeking a temporary use permit on a trial basis. The building was used as a fire station since the 1960's. The last few years the bays have been used by the City for vehicle storage. Twelve parking spaces are required; however, the site provides parking for approximately 11 vehicles.

Conditional use permits and design review permits will be required for permanent use as a community center in this zone. If the temporary use is approved the applicant needs to make basic fire and life safety improvements before temporary occupancy. Any further arrangements the City might find necessary to make with the applicant to insure proper use of the building can occur after Council's decision on the temporary use permit.

Consideration should be given to the effect on the neighborhood

- Noise from events at the site
- Lights and glare from vehicles
- Outdoor activities
- Buffer and privacy issues
- Overflow parking because streets don't have shoulders
- Increased traffic
- Pedestrian/bike safety

Council can deny the request or approve the request with conditions. Staff recommends approval with conditions:

- The front of the building is used for a community center for one year beginning on the date the building official issues a certificate of occupancy. Insuring the building officials concerns regarding the temporary occupancy are addressed for fire, life and safety before occupancy
- Hours of operation are 7:30 a.m. to 10:00 p.m. Monday through Thursday and 7:30 a.m. to 11:00 p.m. Friday and Saturday
- Establish van accessible parking space consistent with the Community Development Code and install a paved walkway between main entrance and the main parking lot
- Site lighting shall be designed to prevent illumination glare beyond property lines
- Submit to Planning Department approval of site plan in conformance with all conditions

- Provide a current fire-flow test confirming to Tualatin Valley Fire and Rescue standards

There hasn't been any new written correspondence or emails since the June 24th memo.

Council President Burgess asked the attorney to comment on the adequacy of the first condition to insure there will be no public use of the building until it meets building codes. Mr. Ramis stated that having a specific condition would be helpful. Even if the Council denied the condition, the building code independently requires compliance. To obtain a conditional use permit would require an entirely new application and the applicant would have to meet the burden of proof and criteria at that time.

Councilor Carson asked if an additional condition is needed waiving the requirement for 12 parking spaces to allow this request to go forward with 11 parking spaces. Mr. Soppe stated there is space on-site to create one additional parking space. A condition can be added for the creation of a twelfth space.

Councilor Carson asked if there were specific area to accommodate a bike rack and whether a condition can be added to add bike accommodations. Mr. Soppe said a condition could be added for that type of facility.

Applicant Presentation

Anthony Brocco, 2716 Robinwood Way Co-chair, Friends of Robinwood Station

Thomas Boes, 18717 Upper Midhill Drive, President of the Robinwood Neighborhood Association

Mr. Brocco made a power point presentation on the Robinwood Fire Station. A committee was formed through the neighborhood association to explore the options for future use. Open houses were held and citizen input was gathered. It was determine that there was an interest and need for a neighborhood-oriented designation and the historic fire station could be the answer. In 1964 the fire house was built. The original conditional use permitted by Clackamas County allowed for a fire house and a meeting hall. Many community social functions took place over the years at that station.

Robinwood was annexed into the city in 1968; the fire station became City property. Over the years the station continued to be used as a fire station, meeting hall, ambulance bay, and finally storage space for Tualatin Valley Fire & Rescue (TVF&R) vehicles. Recently that equipment was relocated to the new station in Bolton.

Now there is an opportunity to repurpose this neighborhood asset as a community center for the benefit of all West Linn residents. F.O.R.S. was formed to provide a public entity to work with the City for management of the property. The name Station was selected to honor the buildings heritage and to acknowledge the historic trolley that stops nearby.

The F.O.R.S. is a federally registered non-profit entity organized by volunteers with operating bylaws and its own web presence. It is envisioned that the relationship between the City and the F.O.R.S. would be similar in nature to the McLean House rules of operation would be developed with the City while improvements and revisions to the station would be made in cooperation with all necessary public

officials. Repairs and general maintenance, seismic, fire and life safety upgrades and disability upgrades are the fundamental needs to be addressed. It is the intention of the F.O.R.S to work with the City Parks and Recreation and Planning and Public Works to address all aspects of needed improvements given the time, resources and adequate considerations.

This is a committed group of volunteers with resources, knowledge and initiative can apply their efforts to managing and improving City property at a minimal public expense. A need assessment meeting was held at the Station open house in December 2009 about potential uses. The public came up with a list of possible uses.

It is their hope that this space becomes a much needed regular meeting space for adjacent neighborhood associations and welcome to all West Linn residents. In addition to the list of uses, the following annual events are proposed: RNA picnic, fall neighborhood clean-up and garage sale, Holiday Winter Craft Fair, and a Neighborhood Preparedness Activity Day. To date the F.O.R.S. have received interest and/or endorsement from Bolton, Robinwood, Hidden Springs, and Marylhurst Neighborhood Associations, City Kayak Club, scout groups, local artists and educators, Robotics and Omsi.

F.O.R.S. intend to communicate regularly with the City regarding on-going functions, planning and progress and intend to work closely with City officials and the RNA to implement a reasonable schedule of repairs. There are able volunteers, many that are licensed affiliated building professionals and tradesmen able to affect needed repairs and renovations. More extensive work may require the participation of City staff and contracted services to be completed. Improvements are expected to occur in two phases.

Phase one is the Mitigation Stage. A list of immediate site improvements has been recommended by the City Planning Department prior to occupancy:

- Create and define accessible parking space with access isle
- Replace glass and sidelights with tempered panes
- Upgrade the front north door with levered hardware
- Upgrade of interior door
- Add accessible path from the rear to the parking lot
- Install an ADA door

Upon completion of those repairs, the trial year will commence under the F.O.R.S. supervision and occupancy with full access to the building provided to the Board chair members. In addition to continue repairs and improvements, a master calendar and usage rules would be placed into effect. Registration process by phone and online will be publicized to groups needing meeting space along with an appropriate rental scale. The property is required to meet code requirements by the end of the temporary period as outlined by the Planning Department during the pre-application process in order to maintain occupancy under a permanent conditional use permit.

Phase two is the evaluation stage (temporary use permit period of 365 days). Other repairs during this stage include but are not limited to:

- Completing the small section of missing concrete walkway connecting the front door to the parking lot

- Install rain barrows or landscape rain guard to accommodate storm and drainage waters
- Remove a portion of the partition wall between the two main rooms of the suite to create a larger open activity room
- Repair existing siding where necessary
- Inspect roofs and repair as necessary
- Inspect wiring and repair as necessary
- Install refrigerator, ceiling fans, and clear debris from site parking areas

The F.O.R.S. is aware there are still many questions and concerns about this effort. They are ready and willing to work with the City and define these answers. They look at this as a true partnership between the community and the City.

Council President Burgess asked if the building codes will be met before occupancy. Mr. Boes explained there are two sets of codes that need to be met. There are preliminary requirements that must be met to gain access under the temporary occupancy. By the end of the 12-month permit, the building must be brought up to full compliance.

Public Testimony

Ole Olsen, 3993 Kenthorpe Way about two blocks east of the fire station. He has lived in West Linn in 1973 and at that time the building was used as a fire station. Basically he is a supporter of the fire station but he does not feel the community center use is appropriate. The RNA is not an organization and has no legal basis to sign an application for a permit; they are only an advisory to the City. It is not the intent of the City Code to put a quasi-commercial application in the middle of a residential zone.

Alice Richmond, 3939 Parker Road stated she is in favor of this proposal and feels the community center will be an asset. She has lived in West Linn for many years and could give the history of that site before 1964. She is happy someone is trying to save this building; it is another historical preservation.

Kevin Bryck, 18840 Nixon Avenue noted, in response the concerns about bikes and pedestrian traffic, this street is entirely sufficient for Cedar Oak School and access to the whole neighborhood to the general commercial district. It is understood that the Station is surrounded by R-10 single-family home zoning; however so is every neighborhood swimming pool, parks and schools. This is an older building and will be restored for use; other proposals have been allowed to continue use with updating.

Bob Thomas, 2563 Pimlico Drive stated he is opposed to this request. He feels the old building should be demolished and a new police station put on this site. There is more ample room there for a police station with parking. It has access from north and south. Every neighborhood group doesn't need its own community center; there are many privately owned places that allow public gatherings. The two new fire stations in West Linn have ample space for events (Highway 43 and Willamette District). The City has its own sizable adult community center for public gatherings. This land needs to be preserved for a police station.

Don Kingsboro, Box 148, Nixon Avenue stated this project is drive by positive neighborhood energy. He has watched this project grow in the past three years from a handful of people to well over 100 volunteers. He would like to see Council approve this proposal; it is positive for the City and the citizens.

Mr. Kingsboro stated he grew up in this community and the Bolton fire hall was the home for the boys scout troupe. He feels a community center is a good fit for the community.

Thomas Boes, 2717 Upper Midhill Drive stated on their site plan they have shown they can get seven spots along the front including a handicap accessible parking spot. If the debris is moved from the southwestern corner of the site there will be more room for parking. He is confident that the parking requirements can be achieved for their needs. Speaking as the Robinwood Neighborhood Association president, he was careful to hear all opposing and positive input from the citizens. The RNA is not asking to be in charge of this facility, the F.O.R.S. is an independent organization that has assembled to take on management of this center under the City's supervision. If the City wants to use the building for something else, there are no limitations of them doing so. The building is surrounded by R-10 and sited one row of houses from Robinwood Center (a commercial district) and two blocks from Cedar Oaks Primary School.

They are not asking the City to fund improvements at this time, but are asking Council to allow this non-profit organization to manage the operations and affect necessary improvements as they demonstrate a significant need and benefit of this new neighborhood-oriented destination. This is in the RNA neighborhood so they are very concerned about being very good neighbors in this facility.

Recess was taken and the meeting reconvened.

Applicant Closing Comments

Mr. Brocco stated that the F.O.R.S. is open to address any concerns raised by the City and the community.

Staff's Closing Comments

Mr. Soppe noted that the Community Development Code requires a use of this size to have five bike spaces. Council has the discretion to require more or less.

Mayor Kovash closed the hearing to public comments and opened it to discussion and decision by the Council.

Council President Burgess moved to approve the request for temporary use subject to the six conditions as outlined on Page 5 of the staff report with additional conditions:

- **As the staff report indicates, compliance with the building code will be required prior to occupancy**
- **Twelve (12) parking spaces be provided for this use**

Councilor Mattis seconded the motion.

Council President Burgess stated he did not add a bike rack because this is a temporary use. Councilor Carson stated that this will be a community use encouraging groups of all ages; a bike rack would be appropriate.

Councilor Carson moved to amend the main motion to include a condition, "Installation of a bike rack." Councilor Cummings seconded the motion.

Councilor Cummings stated she feels this is a great use for this building; it is something that will be very beneficial for the community. It is important to have community service within walking and biking distances for people in the neighborhood so less driving is involved.

Council President Burgess called the question:

Ayes: Carson, Mattis, Cummings, Burgess, Kovash

Nays: None

The motion carried 5-0.

Council President Burgess stated he will be supporting the motion. This property is a resource that has historically been a community benefit and he feels that trying this use may continue the site to be used positively.

Councilor Mattis stated he will be voting in favor of this motion. The history of this facility will be carried on by this use. The F.O.R.S. has been persistent in their project and this project shows their dedication.

Councilor Cummings stated that she is very impressed with the efforts that the community has made by coming together to support the historical use of this building. She looks forward to seeing how this use will go forward in the future.

Vote on the main motion to approve the request for temporary use subject to the six conditions as outlined on Page 5 of the staff report with additional conditions:

- **As the staff report indicates, compliance with the building code will be required prior to occupancy**
- **Twelve (12) parking spaces be provided for this use**
- **Installation of a bike rack**

Ayes: Carson, Cummings, Mattis, Burgess, Kovash

Nays: None

The motion carried 5-0.

Agenda Bill 2010-06-28-07

Public Hearing – Resolution No. 2010-27, Modifying
Water Pricing to Pay for Water System Maintenance and
Promote Conservation

Mayor Kovash opened the public hearing for discussion on water system maintenance. He asked for the staff report.

Richard Seals, Finance Director stated he is here tonight to review investments in the City's water system. Slides were shown of the water main break on May 17, 2010 and the repair needed. This fix was time consuming and very costly. A map was shown of all the existing water mains in West Linn and the ages. There is a substantial amount of the mains that are 50 years old or greater. Staff has been gathering community feedback on the water issue and rates (Utility Advisory Board, three town halls, three public hearings, an online utility rate calculator for rates, email notices, newsletter updates, newspaper articles, etc.)

A rate comparison was shown of how West Linn rates compare with other cities in the area. West Linn has the lowest rate. It was recognized that the current rate structure has a flaw from the conservation view, the first seven units are included in the base; the proposed rates reduce the base rate by 50% and charge for units used. Both of the conservation pricing options are designed to increase water rate over all to fund the master plan project cost while providing a financial incentive to conserve in all usage levels.

The median usage is seven units. The tier system is designed so that any units 30 or over results in a higher usage rate, those with units of seven or lower and much lower rates.

Staff is asking Council to decide whether to ask the voters to approve the rate change or not. There are two options for Council to consider, the three-tiered model and the one-tiered model.

Questions from the Council

Council President Burgess asked staff to comment on how the rates are calculated for Wilsonville and West Linn regarding the Wilsonville/West Linn School District. Mr. Seals stated a chart was created that showed what the West Linn/Wilsonville School District would pay under both the Wilsonville rates and the West Linn rates. The chart indicates that the Wilsonville water rates are quite high, even under a full proposed system. The school district properties in West Linn would still remain substantially less than what they would pay under the Wilsonville rate system.

Mr. Jordan added he talked to the School Superintendent this past week on water rates. He acknowledged that they pay more water rates for Wilsonville schools. They have made the decision to leave the fields to brown-out during the summer to reduce water costs. This leaves some of the fields unplayable. This is not a decision that has had to be made in West Linn because the water rates are low.

Councilor Carson asked staff to provide information on how much increase it would be for the school district before the Council votes on this issue. She asked if there was a recommendation from the Utility Advisory Board regarding the tiered options. Mr. Sears stated that three months ago the Utility Advisory Board proposed a resolution recommending the 30% spike in the water utility rates. They did not pick a tiered model.

Councilor Cummings voiced concern that there has not been a city engineer available for the past four meetings to answer questions regarding infrastructure. She is disappointed that there is no information available about what the citizens are paying for with the rate increase. Mr. Jordan noted that the Public

Works Director is present tonight. Questions about the sizing of pipes or the system must be addressed by the consultant who did the water master plan.

Mayor Kovash explained if the Council majority wanted to have a discussion about capacity, a vote can be taken to put the issue on the agenda.

Councilor Mattis stated he did not want to revisit comparisons of the 2004 master plan versus the 2008 master plan. This issue is not what is before Council tonight, not relevant and he is not prepared to have the discussion.

Point of Order was raised by Councilor Carson. She stated that she believes Councilor Cummings wants to discuss the 2008 Master Plan rather than to discuss water rates. She would like at this time to move on with that discussion. Mayor Kovash ruled that the discussion shall continue.

Council President Burgess stated he did not feel the questions were germane to tonight's discussion. The 2008 master plan is before Council tonight and a decision is to be made on the implementation method of dealing with \$21 million need for the existing system needs, not improvements for future development. The question is how to deal with the financial cost of the existing system. Questions have been asked of staff and answers have been given. Recent information received has resulted in further questions. He suggested continuing the discussion to July 6th.

Public Comment

Kevin Bryck, 18840 Nixon Avenue voiced concern the City seems to have difficulty passing city revenue issues. Citizens are passing measures to give funds to school districts, new fire stations and library measures. There needs to be some mechanism to assure the residents that the capacity issues are a benefit them and are not going to be repurposed for annexation or expansion through recursions. Voters need to know the capacity expansion contained in these rates is going to be for their benefit.

Alice Richmond, 3939 Parker Road, stated she has been a resident of West Linn since 1959. She does not feel this is a capacity issue; it is an issue about increasing the rates to pay for the inadequate water infrastructure. Capacity cannot be achieved if the pipes are not in good condition to carry the water through the system.

Bob Thomas, 2563 Pimlico Drive submitted information to the Council to be entered into the record. He opposes water rate increases beyond 5% a year. He feels the proposed resolution is asking for two invalid reasons to approve significantly raising water rates. One reason stated is under the guise of a dire need to fund \$21 million in supposed capacity maintenance projects over the next 20 years. This \$21 million is bogus because the 2008 Water Master Plan shows a total \$8,845,000 in capital maintenance projects which is \$12,155,000 less than the \$21 million need. The second invalid reason is supposedly for the purpose of inducing conservation of water by instituting what has been done to conservation pricing. There are other ways of conserving water that don't require raising water rates beyond 5% a year. The request to raise the water rates to more than 5% a year for a number of years into the future without asking voters for that each year is in violation of Section 44 of the City Charter.

Mr. Thomas stated he feels most of the councilors have not seriously looked at the 2004 Water Master Plan. It addresses replacing all the pipes that are being discussed. Replacement and maintenance can be done without raising water rates more than 5% a year.

Karie Oakes, 1125 Marylhurst Drive stated that Mr. Bryck's comments were appropriate. If Council wants to sell this rate increase to the voters a better job must be done to inform the residents. At the last three meetings she attended there has been no information to pick up relating to the resolution, nothing about the power-point presentations that have been shown, and tonight there was not a copy of the agenda. She is concerned that the voters should not pay to have development in Stafford or that the proposed water system is being primed for increased capacity. She asked that the Council figure out a way to discuss these issues if they want to sell the water rate increase.

In response to Mr. Thomas' testimony, she asked staff to comment on the difference in the numbers in the 2008 Water Master Plan. Mr. Seals explained in an earlier power-point presentation he presented a comparison of the 2004/2008 numbers. Most of the difference is inflation. He will bring that information back to the Council for review and consideration.

Councilor Carson stated she appreciates hearing from the public that Council has to be clear in terms of what is being voted on. It is critical that people understand the rate increase applies to paying for replacement. Changes in infrastructure, the size of pipes and increased capacity is paid for SDCs. The 2008 Water Master Plan does not discuss anything outside the existing City limits and the City Urban Growth Boundary todate. There is nothing in terms of expansion into the Stafford Basin or the Urban Growth Boundary. It is critical that the public understand what they are voting and the importance for voting on these measures.

Council President Burgess agreed that the Council needs to be a better job in communicating with the public. Issues have been raised and subsequent questions have come up. The resolution deals with increasing rates for non-SDC eligible improvements/maintenance and fixing the existing system for existing residents. SDCs pay for growth and capacity.

Councilor Cummings stated her intent was to bring about a change in the way the residents are charged for water. Currently each resident is charged for 7 units of water whether they use it or not. The proposed tiered options have been outlined; however, in the course of her discussions she became aware that this proposal also includes an upsized system. She would like more information on:

- Why is there a need for more water (more gallons per person per day) in the 2008 Water Master Plan than used in 2004
- Why can't a clear comparison be given by the city engineers
- Information passed to staff and Council is not provided to the public

Council President Burgess raised a point of order that the questions are redundant; the recommendations in the 2004 Master Plan are not before Council. Mayor Kovash ruled that the point of order was valid.

Mayor Kovash thanked Mr. Bryck for his comments that the Council needs to do a better job in communicating with the public. City staff, professional engineers, and hired consultants have come

before Council and explained what they see as the City's need for the current boundary of the City and build-out. The capacity issue has been discussed and thought to be settled. The issue still to be determined is how to pay for the maintenance; that is what is before Council tonight. To say this is an upscale system is false.

Mayor Kovash asked staff to prepare a summary on the capacity issue for the July 6th discussion and a press release to get information to the public on capacity. The City and the citizens need to move forward on this rate increase together and the City needs to have proper information out to the public to rebut rumors and untruths.

Mayor Kovash noted that Council is concerned about what the School District has for pay for water. Parents have expressed concerns about having fields for sports events and play areas and he would like to see West Linn's fields remain green. He asked for staff to provide the percentage figure related to the increase water rates for West Linn residents.

Councilor Mattis agrees there needs to be more communication between the City and the community. Efforts to inform the citizens have not been successful. The community should be able to trust that the Council is doing the right thing by them.

Councilor Cummings continued her questions:

- To what extent will there be upsizing
- Why was another master plan paid for in 2008 when the 2004 master plan objectives had not been completed

Council President Burgess moved to continue the public hearing on water pricing to pay for water system maintenance to July 6, 2010 at 6:30 p.m. Councilor Carson seconded the motion.

Council President Burgess called the question

Ayes: Burgess, Carson, Cummings, Mattis, Kovash

Nays: None

The motion carried 5-0.

Councilor Cummings apologized to the public that the last two Council meetings have not been televised. There have been requests from the public to have the Council meetings online and have the capability of being able to scroll through the meeting. This is another example of not giving people the opportunity to see how Council is reaching decisions. Mr. Jordon reported the disks for the June 14th and June 21st meetings were delivered to Willamette Falls TV shortly after the meetings occurred. Staff was informed that the meetings were not being televised and another set of disks were provided.

In response to the website, staff has contracted with a company that provides online software to record the meetings. The first trial run is being taped tonight and hopefully the system will be up and running by next month.

Adjournment of Business Meeting

Mayor Kovash moved to adjourn the June 28, 2009 West Linn City Council meeting.