

Memorandum

Date: May 31, 2013

To: John Kovash, Mayor
Members, West Linn City Council

From: Chris Jordan, City Manager 

Subject: Miscellaneous Items

Congratulations!

Today marks the last day of full-time employment for our Human Resources Director Jeri Knudson and Parks Maintenance Supervisor John Rupert, both of whom are retiring. Together, they have worked for the City of West Linn for over 50 years!

Prosecutor

With the appointment of our long-time prosecutor Rhett Bernstein to the position of Interim Municipal Judge, we are in the process of contracting with Jerry Seeberger to be our prosecutor from June through September. Jerry has been a private practice and has been the prosecutor for the City of Lake Oswego for many years.

Trails Master Plan

As one of its priorities for this year, the Council wants to see improvements in the City's trail and sidewalk system. One component of this is an increase in revenues, which was discussed by the Citizens' Budget Committee and is included in the biennial budget. Another important step is the adoption of the Trails Master Plan. Hearings have been held at the Planning Commission previously regarding the Plan and staff has since met with several groups of residents in an effort to accommodate their concerns and educate them on the Plan.

This year, staff has already met with the Transportation Advisory Board about the Plan. Staff expects to hold an open house and have the Parks and Transportation boards accept public input in June. Staff would then plan to have the Planning Commission hold a hearing in early August and make a recommendation to the Council.

Community Center Night

We are planning on holding a Council meeting on July 1 with three main topics:

- Resolution to place a bond measure on the November ballot to fund an Aquatic Community Center.

- Resolution to surplus the City-owned house on Dodge Way. The proceeds from the sale of this house would be used to help fund an expansion of the Adult Community Center, although additional resources will still need to be identified.
- Work session on the current and future status of the Robinwood Station.

We are inviting the Friends of Robinwood Station to participate in the third discussion.



Memorandum

Date: May 31, 2013

To: John Kovash, Mayor
Members, West Linn City Council

From: Chris Jordan, City Manager

Subject: June 3 Special Meeting

The Council is scheduled to meet in a work session on June 3 at 6:00. Although the next regular Council meeting is not scheduled until June 17, the Council also received the agenda packet for that night's meeting so the Council may review that agenda and ask questions at this work session. Topics for the work session include the following:

- **Street Fee Discussion.**
During its review of the Proposed Biennial Budget, the Citizens Budget Committee voted to support two increases to the Street Maintenance Fee (SMF): adding \$0.32/month for sidewalks, and adding \$6.22/month in an effort to increase the city-wide Pavement Condition Index from 61 to 70. The current SMF is \$5.89/month. The City Council has been provided with an SMF calculator to assist in demonstrating the number of streets that can be repaired with any specific increase in the SMF. Following the work session discussion, staff will take direction from the Council and prepare any requested amendments to the biennial budget and the master fee schedule.
- **Miscellaneous Community Development Code Amendments**
The Council received information about this a few weeks ago and had a very brief initial discussion at its May 20 work session. Based on that brief discussion, Planning Director John Sonnen has prepared some possible amendments to the proposal for Council consideration. The information for this item is included in the June 17 agenda packet when a public hearing is scheduled.
- **Sports Courts**
The City Council has requested a discussion on the attached possible Community Development Code amendments being considered by the Planning Commission that would restrict the recreational use of backyards.
- **Charter Amendments**
Attached is the April 26 memorandum that I prepared for the Council regarding possible Charter amendments. I developed this list of possible charter changes after realizing the City is required to vote on a new interim judge in September when voter turnout is likely to be very low, rather than waiting until November. I believe the Council should consider placing some Charter changes before the voters at either the September or November elections. In addition to the amendments discussed in the memorandum, there is language related to certain elections that have already

occurred that could be removed at this time as it is no longer relevant and many readers of the Charter might find the language confusing.

Attachment

**PROPOSED AMENDMENT
OF THE
COMMUNITY DEVELOPMENT CODE**

DISCUSSION DRAFT

April, 2013

Private Sports Courts and Outdoor Recreational Facilities

(Overview: Residential yards provide a safe and convenient play area that is important to families and the community. However, in recent years, the City has heard from residents alleging that their neighbors' recreational activities (e.g., basketball and batting cages) create noise and illumination that is distracting even inside their residences. Moreover, such use results in projectiles entering their yards, which may create personal hazards and may damage property including but not limited to structures, landscaping, and personal property. They assert that their neighbors' recreational activities significantly diminishes their quality of life, poses safety risks, impacts their ability to conduct a home occupation, and may reduce their property's value.

The proposed draft amendments are intended to avoid or reduce the potential adverse impacts of outdoor recreational facilities on the neighbors' quality of life without unduly impinging upon reasonable use of residential lots.)

**Use Standards For Outdoor Recreational Facilities in Residential
Districts
Chapter 17(New)**

(PC comment: The following proposed new chapter would add regulations for sport courts and sports-court-related fencing and lighting.)

Sections:

17.000 DEFINITION (To be moved to CDC Chapter 2, Definitions, upon implementation)

17.010 PURPOSES

17.020 APPLICABILITY

17.030 STANDARDS

17.000 DEFINITION

Outdoor recreational facilities. Outdoor recreational facilities means privately owned portable or permanent multi-use athletic flooring or surfaces, including any associated fencing or netting, portable and permanent basketball backboards, lacrosse and soccer goals, batting cages, pitching equipment, tennis courts, and similar outdoor recreational facilities and associated activity areas, not including pools and hot tubs.

17.010 PURPOSES

The purposes of this chapter are as follows:

- A. To provide for active recreational use of residential yards and common areas in a manner that does not significantly diminish the livability of adjoining residences or unreasonably interfere with the use of adjacent property.
- B. To regulate outdoor recreational facilities as warranted to protect the safety of neighbors and people on adjacent streets and sidewalks, and to avoid damage to adjacent property from sports equipment, projectiles, and other hazards.
- C. To regulate lighting of outdoor recreational facilities in order to avoid excessive light trespass and glare that could diminish the livability of adjacent properties, negatively impact adjacent land uses, or pose health risks to others.
- D. To protect public health, safety and welfare.

17.020 APPLICABILITY

This chapter applies to all new and existing outdoor recreational facilities on residential lots, sites, and common areas in the R -40, R-20, R-15, R-10, R-7, R-5, R-4.5, R-3, and R-2.1 districts, the Willamette Neighborhood Mixed Use Transitional Zone, and to residential development and uses in other districts.

17.030 STANDARDS

- A. Outdoor recreational facilities. Private outdoor recreational facilities are allowed on residential lots, sites, and common areas subject to the following:
 - 1. Location.
 - a. Portable and permanent basketball backboards, lacrosse and soccer goals, batting cages and other outdoor recreational equipment is allowed outright on driveways, except those serving side-entry or rear-entry garages.
 - b. Except for driveways provided for in Subsection (A)(1)(a) above, and provided the requirements in Subsection (A)(2)(a) are met, outdoor recreational facilities are also allowed in:

- i. side yards 20 feet or more in width, unless they abut a street or a non residential lot or tract; and
 - ii. in rear yards (i.e., the required yard and any additional area behind the dwelling).
2. Orientation and fencing.
 - a. The backside of outdoor recreational facilities involving projectiles (e.g., basketball backboards) shall be oriented away from site boundaries shared with a residential use.
 - b. Fencing/netting up to 12 feet in height, as needed to keep projectiles on site, shall be installed along the perimeter of the outdoor recreational facility.
 - c. The approval authority may also require additional fencing when there is evidence of repeated occurrences of projectiles reaching adjacent property.
3. Screening. Fencing and walls required under Subsection (A)(2) in excess of 6 feet in height above finished grade shall be screened with landscaping such as evergreen trees and/or shrubs where the fencing would be visible from abutting rights-of-way or residences on adjoining lots. Screening shall be spaced such that, upon maturity, it will block at least 50 percent of the view of the fence.
4. Setbacks. Outdoor recreational facilities shall be set back from property lines a minimum of 20 feet, measured from the edge of the facility, except as follows:
 - a. Outdoor recreational facilities shall be set back from property lines a minimum of three feet when:
 - i. they are located on driveways per Subsection 17.030 (A)(1)(a);
 - ii. the area accommodating the outdoor recreational facility adjoins a street or a nonresidential use, not including health and hospice care facilities (e.g., a stormwater pond, park, designated open space, school or commercial use);
 - iii. the outdoor recreational facility is no less than 50 feet from the closest dwelling/potential residential building area;
 - iv. the elevation difference between an outdoor recreational facility and the abutting property is 12 feet or more (e. g., due to a retaining wall).
5. Lighting. The following standards apply to lighting of outdoor recreational facilities.

- a. Prevention of off-site illumination. All lighting subject to this chapter shall comply with the West Linn Municipal Code and shall be designed, installed, and maintained to prevent light trespass and glare.
 - b. Hours of operation. Lights for outdoor recreational facilities shall be turned off after 9:00 pm.
 - c. Timers. Outdoor lighting structures elevated more than 6 feet above the finished grade shall have controls that automatically extinguish the lighting when sufficient daylight is available, or when the light is not needed, by using a control device or system.
 - d. Lighting height. The maximum height for light fixtures and supporting structures, including any standard or base, is as follows:
 - i. Freestanding and building-mounted light fixtures:
 - a) 15 feet above finished grade or 70% of the distance to the closest property line shared with a residential lot, whichever is more, up to a maximum of 20 feet.
 - e. Nonconforming lighting.
 - i. All outdoor recreational light fixtures lawfully installed prior to the effective date of this chapter that do not conform to the provisions of this chapter are considered nonconforming. Such lights may continue to be operated provided replacement light bulbs do not exceed 2200 lumens unless the fixtures conform to Subsection (5)(a) and the hours of operation conform to Subsection (5)(b).
 - ii. If the height or location of a nonconforming light fixture or supporting structure is to be changed, the nonconforming light/structure must be brought into compliance with this Subsection (5) (d) within 30 days.
6. Use of outdoor recreational facilities.
- a. Outdoor recreational facilities shall not be used for active recreation after 9:00 p.m.
 - b. The use of outdoor recreational facilities shall be limited to the occupants or guests of the residential dwelling on the same lot or site, and shall not be used for training by an athletic organization or organized sports team or the commercial instruction of players other than the residents of the subject property.
7. Nonconforming outdoor recreational facilities.

- a. All portable outdoor recreational facilities in use prior to the effective date of this chapter that do not comply with this chapter shall be brought into compliance with subsections (A) (1), (2), (3), (4) and (6) upon the effective date of this chapter.
 - b. Permanent outdoor recreational facilities in use prior to the effective date of this chapter shall comply with subsections (A) (5) and (6) upon the effective date of this chapter.
8. Compliance with municipal and development regulations.
- a. All outdoor recreational facilities shall comply with all other city regulations including, but not limited to, noise and nuisance ordinances.



Memorandum

Date: April 26, 2013

To: John Kovash, Mayor
Members, West Linn City Council

From: Chris Jordan, City Manager 

Subject: Possible Charter Amendments

In my April 18 memorandum to the Council, I mentioned that the appointment of Municipal Judge would occur for the period from June-September. In September an election will need to be held to elect a new judge to fulfill the remainder of the current term, which expires December 31, 2014.

I suggested that this might be a good time to consider proposing a Charter change to the voters that would state that the election for a vacated position – the Judge, the mayor, or a Councilor – would be held at the next general election. This would accomplish three objectives:

- Create less confusion such as what we saw when we had the Mayor and a Councilor position on the September 2010 ballot immediately followed by two Council positions on the November 2010 ballot.
- Voter turnout is greater at general (November) or primary (May) elections than at special elections (March and September).
- Save money as the City is required to pay for special elections, but not primary or general elections.

I also mentioned that perhaps the Council would like to consider a few other possible Charter amendments. Members of the Council probably have suggestions, but here are a few thoughts from staff:

City Attorney as Charter Officer

Make the City Attorney a Charter Officer (as is the City Manager) reporting to the City Council. Currently, the only language in the Charter that covers this issue is the following language in section 8(f) that states:

“The Council may retain legal advisors as it deems prudent. The legal advisors shall report to and serve at the discretion of the Council.”

The Charters from other cities include specific language about the City Attorney position including a position description. I have attached a memorandum (with an attachment) from me

to the Council in July 2009 and the Charter language from both the City of Wilsonville and the City of Lake Oswego as examples of the type of language that could be included.

Prohibition on Influencing Personnel or Contracting Decisions

Although the West Linn Charter is clear as to the Manager’s responsibilities as compared to the responsibilities of the Council, some charters include language that specifically prohibits Council members from using their political position to influence certain decisions. For example, the Lake Oswego Charter includes the following language:

“No Council member may directly or indirectly, by suggestion, or otherwise, attempt to influence or coerce the Manager in the making of any appointment or the removal of any employee, in the purchase of supplies or to exact a promise relative to an appointment from any candidate for Manager.”

Utility Rates

The West Linn Charter sections 44 and 45 contain language concerning the Utility Advisory Board and the prohibition on increasing rates of greater than 5%. The limit on rate increases is specifically for sanitary sewer (not including the Tri City Service District), storm sewer, and water; and the limitation is on each individual utility. The Council may wish to consider an amendment that the three utility rates cannot collectively increase by greater than 5%. This would allow the Council to consider prioritizing rate increases for each utility so that the total does not exceed an increase of 5%.

The language in the two sections relative to the UAB is also confusing and could be amended for clarity.

Annexations

Section 3 of the Charter that refers to annexations is also very confusing as there is language referring to areas outside the Metro Urban Growth Boundary, and language regarding inside the UGB. It might make sense to clarify that all annexations – regardless of location – require voter approval.

Please let me know if you would like this item to be placed on any upcoming work session.

Attachment



Memorandum

Date: July 24, 2009

To: Patti Galle, Mayor
Members, West Linn City Council

From: Chris Jordan, City Manager *CJ*

Subject: Charter Amendment Concerning City Attorney

At a recent work session, the Council discussed amending the City Charter to make the City Attorney a Charter Officer.

Attached is a brief Charter amendment prepared by the City Attorney's office that would accomplish this. For this to become a part of the Charter, the Council would need to approve a resolution requesting voter approval amending the charter in this manner.

Please let me know if the Council would like to give further consideration to this concept and I will schedule a work session.

Attachment

Language in the existing Charter could be revised as follows;

Delete: Section 8. (f) The Council may retain legal advisors as it deems prudent. The legal advisors shall report to and serve at the discretion of the Council.

Add the following section:

Section 23A. City Attorney

- (a) The office of City Attorney is established as the chief legal officer of the City to perform all duties consistent with this Charter required by the Council.
- (b) The City Attorney serves at the pleasure of the Council and is appointed and removed by a majority vote of the entire Council.
- (c) The City Attorney shall be a member in good standing of the Oregon State Bar during the entire term of office and be chosen solely with reference to his or her legal qualifications.

Section 5. **CONSTRUCTION OF CHARTER.** In this charter no mention of a particular power shall be construed to be exclusive or to restrict the scope of the powers which the city would have if the particular power were not mentioned. The charter shall be liberally construed to this end that the city may have all powers necessary or convenient for the conduct of its municipal affairs, including all powers that cities may assume pursuant to state laws and to the municipal home rule provisions of the state constitution.

CHAPTER III **FORM OF GOVERNMENT**

Section 6. **WHERE POWERS VESTED.** Except as this charter provides otherwise, all powers of the city are vested in the Council; the elected officers of the city.

Section 7. **COUNCIL.** The Council shall be composed of a Mayor and four Councilors elected from the city at large.

Section 8. **COUNCILORS.** Councilors in office at the time this charter takes effect shall continue in office until the end of the present term of office of each. At each biennial general election after this charter takes effect, two Councilors shall be elected, each for a term of four years.

Section 9. **MAYOR.** At the biennial general election held in 1988, and every fourth year thereafter, a Mayor shall be elected for a term of four years. The term of Mayor elected at the 1986 general election shall continue until January 1, 1989.

Section 10. **APPOINTIVE OFFICERS.** Additional officers of the city shall be a City Manager, City Attorney and Municipal Judge and other officers and the Council deems necessary. The Council shall appoint and may remove any of these officers by a majority vote of all incumbent members of the Council. In judicial functions, the Municipal Judge shall not be subject to supervisory by any other officer.

Section 11. **SALARIES.** The compensation for the service of each city officer and employee shall be the amount fixed by the Council.

Section 12. **QUALIFICATIONS OF ELECTED OFFICERS.** No person shall be eligible for an elective office of the city unless at the time of his election, he is a qualified elector within the meaning of the state constitution and has resided in the city during the twelve months

**CITY OF LAKE OSWEGO
CHARTER**

1.01.010

2. Shall appoint, remove, discipline and supervise all employees of the City in a manner consistent with the City personnel system, except as otherwise provided by this Charter;
3. Shall annually prepare and submit a proposed City budget for the ensuing fiscal year and properly administer the budget as adopted;
4. Shall keep the Council advised of the financial condition and needs of the City;
5. Shall make recommendations to the Council concerning the affairs of the City;
6. Shall, after authorization from the Council, conduct all aspects of real property transactions on behalf of the City;
7. Shall act as the purchasing agent for the City;
8. Shall provide for enforcement of all City laws and regulations;
9. Shall perform other duties consistent with this Charter and required by the Council; and
10. Shall engage in no incompatible business or occupation.

C. The Manager is entitled to sit with the Council but has no vote on questions before it. The Manager may take part in all Council discussions.

D. In case of the Manager's unauthorized absence from the City, disability to act as Manager, discharge by the Council, or resignation, the Mayor, with advice and consent of the Councilors, shall appoint a City Manager Pro Tem, who shall possess the powers and duties of the City Manager. No City Manager Pro Tem, however, may appoint or remove a City employee except with the approval of a majority of the entire Council. No City Manager Pro Tem may hold his or her position as such for more than six months, and no appointment of a City Manager Pro Tem may be renewed.

E. No Council member may directly or indirectly, by suggestion, or otherwise, attempt to influence or coerce the Manager in the making of any appointment or the removal of any employee, in the purchase of supplies or to exact a promise relative to an appointment from any candidate for Manager. A violation of this Subsection forfeits the office of the offending Council member after a public hearing by the Council is held and the Council determines that a violation of this Subsection has taken place. Nothing in this Subsection, however, prohibits the Council in open session from fully and freely discussing with or suggesting to the Manager anything pertaining to City affairs or the interest of the City.

(Amended November 2, 1976; May 20, 1980.)

Section 21. City Attorney.

A. The City Attorney shall:

1. Be a member in good standing of the Oregon State Bar and be chosen without regard to political considerations and solely with reference to his or her legal and administrative qualifications;
2. Be the full-time chief legal officer of the City and perform whatever duties consistent with this Charter are required by the Council;
3. Appoint and may remove all members of his or her staff, such employees to be under the City Attorney's direction and control and subject to the provisions of the City personnel system; and
4. Engage in no incompatible business or occupation.

B. The City Attorney may not receive compensation for a period more than six months after leaving the office.

(Amended November 2, 1976; May 20, 1980.)