



Memorandum

Date: April 26, 2013

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

From: Chris Jordan, City Manager *ej*

Subject: Police Station Update and Council Schedule

Police Station is out to Bid

The invitation to bid on our new police station has been advertised this week in the West Linn Tidings, the Oregonian and the Daily Journal of Commerce. There is a mandatory pre-bid conference scheduled for May 1, with bids due at 3:00 on June 5.

Our schedule includes a Notice to Proceed to the winning bidder on June 19. This will mean that the bids will need to be evaluated and the Council will need to award the contract between June 5 and June 19. We will schedule a special Council meeting, if necessary, to make sure we keep this project on schedule.

Attached to this memorandum is the Invitation to Bid.

Council Schedule

There is no Council meeting scheduled for April 29. However, the Council will meet as members of the Citizens Budget Committee on April 29 at 6:00.

We have several important work session and decisional items to come to the Council over the next two months that we are working to schedule. Currently, we plan to hold a Council meeting following the Budget Committee meeting on May 6 so that the Council may appoint an interim Municipal Court Judge and to discuss the Planning Commission's recommendation for a new Sport Court regulation in the Community Development Code. (The Council asked that this be discussed at the next work session and I now have a copy of the current Planning Commission draft which is being sent with a separate memorandum.)

At the Council meeting of May 13, we have included a post-meeting work session to receive the survey results for a new aquatic center. In accordance with the Council's adopted goals, we committed to having these results to the Council in May so that the Council can consider a possible ballot measure on this topic in June. We are also arranging for an update from the Neighborhood Association President's group on May 20.

In June the Council will be adopting the Biennial Budget, Capital Improvement Plan and Master Fee Schedule. Also, the Council will be reviewing miscellaneous amendments to the Community Development Code.

As noted in a separate memorandum, if the Council wishes to place any other items on a September ballot, the Council will need to adopt resolutions to do so by mid-June.

Attachment

SECTION 00 11 16

INVITATION TO BID

The City of West Linn will receive sealed bids for the general construction of the new two-story, approximately 20,024 square foot police station according to the Drawings and Specifications prepared by Group Mackenzie.

Questions regarding the type of work required may be addressed to Group Mackenzie, 1515 SE Water Avenue, Suite 100, Portland, OR 97293 (PO Box 14310, Portland, OR 97214). The contact person is Brett Hanson, 503-224-9560, bhanson@grpmack.com.

A mandatory pre-bid conference will be held for all general contractors intending to submit bids for this project on May 1, 2013 at 3:00 pm, at 22500 Salamo, West Linn, Oregon in the City Council Chambers. Any statements made by the City's representatives at the conference are not binding upon the City unless confirmed by written addendum.

Sealed bids marked "City of West Linn Police Department Bid" will be received by Bob Galante, City Project Manager.

City of West Linn
Attention: Bob Galante
22500 Salamo Road
West Linn, OR 97068

Bids will be received until 3:00 pm local time, Wednesday, June 5, 2013. Bids received after that time will not be accepted. Bids will be opened in public and read aloud at 3:00 pm local time, Wednesday, June 5, 2013 at the City of West Linn Hall Council Chambers, located at 22500 Salamo, West Linn, Oregon. Interested parties are invited to attend. All bidders must submit, in a sealed envelope within two hours of the date and time of the bid deadline, a First-Tier Subcontractor Disclosure Form in compliance with ORS 279C.370.

Bid security in the amount of 10% of the bid amount made payable to the Owner is required to accompany each bid. Each bidder must identify whether the bidder is a resident bidder as defined by ORS 279A.120. The award of the contract shall be made to the lowest responsible bidder as the term is used in ORS 279A.010 based on the sum of the Base Bid and accepted Alternates.

Prevailing minimum hourly wage rates for labor to be used under this contract have been determined by the Oregon Bureau of Labor and Industries (BOLI) in accordance with ORS 279C.800 through 279C.870. No bid will be received or considered unless the bid contains a statement that the bidder agrees to be bound by and will comply with the provisions of 279C.838, 279C.840 or 40 U.S.C. 3141 to 3148. Each bidder must certify that it has not discriminated and will not discriminate against minority, women or emerging small business enterprises in obtaining any required subcontracts.

The City will not receive or consider a bid unless the Contractor possesses a valid State of Oregon Construction Contractors Board License or the State of Oregon Landscape Contractors Board in accordance with rules and regulations of the Oregon Administrative Rules. There is not a requirement that the Contractor be licensed under ORS 468A.720.

No bidder may withdraw its bid for a period of sixty (60) days after the time fixed for the opening of the bids. The City of West Linn may reject any and all bids and may waive any

irregularities or informalities in any bid in accordance with applicable rule. The City of West Linn may reject any bid not in compliance with all prescribed bidding procedures and requirements, and may reject for good cause all bids after finding that doing so is in the public interest.

Bidding documents are those prepared by the architect, Group Mackenzie, 1515 SE Water Avenue, Suite 100, Portland, OR 97293 (PO Box 14310, Portland, OR 97214). Bid documents will be available to order at Group Mackenzie. Bidders may place orders for complete documents through www.groupmackenzie.com/bids that are available beginning April 25th, 2013, upon payment for the cost of reproduction; including shipping and handling. All sets of Contract Documents must be pre-ordered. Allow 48 hours for drawing orders (for delivery). Bidders wishing additional sets or parts of sets may obtain them by paying the cost of the reproduction, including shipping and handling, with no refund for the sets or parts thereof.

Bidding documents will be available for examination during the bidding period at plan centers listed in section 00 21 13 – Instructions To Bidders. A list of plan centers carrying the Bidding Documents shall be available through Group Mackenzie.

Requests for information received less than ten (10) days prior to Bid Opening will not be answered. Addenda will be issued no later than 48 hours prior to Bid Opening. Addenda will be issued electronically through www.groupmackenzie.com/bids.

The entire project must be substantially completed within two hundred and seventy (275) calendar days after the dated "notice to proceed."

END OF BID SOLICITATION



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.)

Memorandum

Date: April 26, 2013

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

From: Chris Jordan, City Manager 

Subject: Community Development Code Amendments for Backyard Recreational Activities

For the past several years, the Council has heard from a few citizens regarding their concerns about the use of backyards for recreational activities. The three primary issues seem to be:

1. Lights
2. Noise
3. Balls into the adjoining neighbors' yards

During the summer of 2012, the Planning Commission also heard from these few people. In response, the Planning Commission began to develop Community Development Code (CDC) amendments that would limit the use of a homeowner's yard for recreational purposes. At my request, we put that effort on hold until the Council could discuss alternative means for rectifying or mitigating the stated concerns.

On November 19, 2012, the Council held a work session to discuss possible changes to the municipal code nuisance sections. At that time, the Council provided direction to staff to prepare changes to the nuisance section regarding lights and noise, but also stated that the Council did not have an interest in pursuing changes to the fencing regulations in the CDC, or regarding balls going over a fence into a neighbor's yard. On April 8, the Council held a public hearing on the proposed light and noise changes to the municipal code, and adopted these changes.

Planning Commission Activity

Since the direction staff received in November, I have informed Planning staff that we are not to continue working on CDC amendments for this purpose. However, the Planning Commission – on its own and without staff assistance – has drafted the attached regulations that would create a new CDC chapter. The Planning Commission, through its Chair, has asked for Council to provide an initial review of this document and provide guidance on how to proceed. The Council asked that we accommodate this request as soon as possible, so I have scheduled this discussion for a work session following the Budget Committee meeting on May 6.

Staff Analysis

Without going into great detail in this memorandum, staff does have some concerns, such as:

- The proposal will need a significant amount of staff effort to be ready for a public hearing. For example, there will need to be changes to other CDC sections to accommodate this new chapter – fencing code changes; changes to chapter 99 regarding approval authority and the review process, etc.
- Measure 56 notices will need to be sent to approximately 8,000 residential units in the City – at a cost of approximately \$6,000. These notices may result in a significant amount of communication from our citizens who will be concerned about limitations on the use of their private backyards.
- The staff is currently pursuing other priorities - -such as CDC amendments to the historic district code; the Councils' goal to streamline our regulatory processes; and the infill code changes that were initiated some time ago, but have languished since Chris Kerr was moved to economic development. Where on the staff's priority list would these amendments be placed?

Please let me know if you have other questions or need additional information.

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.