



22500 Salamo Road
West Linn, Oregon 97068
<http://westlinnoregon.gov>

WEST LINN CITY COUNCIL MEETING NOTES NOVEMBER 12, 2019

Call to Order and Pledge of Allegiance to the Flag

Council Present

Mayor Russ Mayor Axelrod, Council President Teri Cummings, Councilor Bill Relyea, Councilor Richard Sakelik, and Councilor Jules Walters

Staff Present

City Manager Eileen Stein, Assistant to the City Manager Dylan Digby, City Attorney Tim Ramis, Public Works Director Calvert, and Senior Project Engineer Amy Pepper

Approval of Agenda

Council President Cummings moved to approve the agenda for the November 12, 2019 West Linn City Council Meeting. Councilor Sakelik Seconded.

Ayes: Mayor Axelrod, Council President Cummings, Councilor Relyea, Councilor Sakelik, and Councilor Walters

Nays: None.

The motion carried 5 – 0

Mayor Axelrod Thank you. The next item of business, well before I get to that I want to welcome Scout Troop 504 that's here in our audience who came to learn a little bit about local governance. So we're excited to have you and you're welcome to come

anytime. I think you'll probably find that there are more interesting things to do at times, but who knows? We're glad you're here. All right. Onto public comments we have I think, one, is that right? This is an opportunity for the public to provide general comment on any item of interest, not on the specific agenda topics. If you'd like to submit comments on agenda topics, you may do so when we address those during the meeting tonight and you need to fill out a form on the front and you have up to five minutes if need be. And you there's a little clock right there.

Public Comment

Mayor Axelrod: Roberta Schwarz, Ed and Roberta, welcome.

Mr. Schwarz: Thank you, thank you Mr. Mayor, City Council. Ed Schwarz and Roberta Schwarz representing, from West Linn. We're here representing Savanna Oaks Neighborhood Association so we're hoping maybe you can give us 10 minutes to speak tonight

Mayor Axelrod: Okay sure

Mr. Schwarz: I think we can get through it faster than that but ... sorry?

[OFF MIC CONVERSATION]

Mr. Schwarz: So last week at your work session we talked about the White Oak Savanna Natural Play Area, the day lighting at Bernert Creek. And during that presentation that we made, one item came up or when we brought up one item, which was that the city has already spent \$158,000 on the Natural Play Area, even though we don't yet have anything. And so we wanted to kind of see where that money went. And we requested from the city, all the invoices related to the expenses on the Natural Play Area. And we did get those invoices, and you got copies of them as well in your email. So, if you want to, you can open up that email from the city with the copies of the invoices in there. So tonight, we just kind of, what we looked through, those 55 invoices that we receive copies of, and we're trying to determine where the money has been spent. And so tonight, we kind of summarized in a question format. Some questions about some of the invoices that we received. And we're hoping that we can get some answers to those questions from the city, perhaps by your next work session on December 2nd, I believe it is. So with that, Roberta wanted to go over the questions that we found, that we have related to those invoices.

Ms. Schwarz: Thank you. So the title for this is questions based on a review of the Savannah Natural Play Area invoices forwarded by the city of West Linn based on our public records request. Number one, why did this city of West Linn spend over \$80,000 on 17 invoices from Learning landscapes? Number two, why is there an invoice included for \$1,500, which has Fields Bridge written on it? This is clearly not for the Savannah play area. Number three, why is there an invoice for D&T excavation for \$250 for a cedar load, moved to a city park, which city park? If in the Savanna, where? It is not in the Natural Play Area, because that doesn't yet exist. Number four, why is there an invoice for \$894 from the daily journal of

commerce in Seattle, Washington for placing a notice for a proposal for a construction manager, construction contractor and construction administration services for the White Oak Savannah Park, Natural Play Space Park and Playground Project? Why is there no record of a similar request for a proposal published anywhere else? Why is there an invoice from Jonah Hawk for \$128.50 to replace a bench board that was damaged during the park handling included in this list of invoices requested for the Natural Play Area. This also is not a Natural Play Area item.

Why did invoices totaling \$36,260 get paid to Paul Brothers? What did they do? Why are there several invoices from SNH Landscape included when one of them clearly states McLean House on it? This is not for the Natural Play Area. Why are there invoices totaling \$13,115 from KPFF? What did they do? Why are there invoices totaling \$8,325 from CMT? What did they do? Why is there an invoice from Pro Time Lon Seed for 50 pounds totaling \$347.47? Where in the Natural Play Area, which doesn't yet exist, was that used? Why is there an invoice from Amazon for easy straw seeding mulch totaling \$169.40? Where in the Natural Play Area, which doesn't yet exist, was that used? Why are there two invoices for Ewing, which have the same total of \$1,231.51 on the same day? Is this a duplicate invoice or was there a need to double the order? That information should be listed if the latter was the case?

On the learning landscapes invoice dated 7.03.18, why is the amount listed on attachment B from the city's work schedule packet, showing a total of \$11,430.50, which is listed as the total job balance. Why is this on the invoice when the invoice for just that day's work totaled... a total owed for that invoice date being \$2,504.50? In the invoice that was dated just after that one 7.31.18 only the total is paid not the total job balance. What was the \$600,000 in SDC which was set aside for the Natural Play Area used for instead? When was it used? Who gave the permission for that amount to be used for a different purpose?

With these questions in mind, would it be appropriate to ask that an audit be done of the park funds? Related question, why does the park department not keep a specific maintenance log for each West Linn Park, detailing what work was done each day, the number of hours worked on each task, the employees doing the work, the cost of the materials and the cost of the labor and benefits? Would you have the answers to these questions available for us from staff? By the time of your December 2nd work session, please? We're open for questions.

Mayor Axelrod: Councilor Relyea:

Councilor Relyea: Yeah. Thank you, Mrs. and Mrs. Schwarz for bringing this forward. And again, this is part of the information that was attained through the public records request information and that has been shared with council as a whole. And it looks like what you're asking for is an in an audit, or perhaps some kind of accountability from, in addition to what was provided from the Parks and Recreation Department, or from the city manager's office.

Mr. Schwarz: Yes. Again, it really surprised us when we were told how much the city has already spent on the park and on the natural play area in the park, when we don't have even the first shovel full of dirt turned. So that's why we requested these invoices. And then once we started looking into them, we had a lot of questions. And so we think it might be worth an audit to take a look at these expenses and see where they all really went. Sure.

Ms. Schwarz: If I could just add the contractors that have been consulted so far of the \$158,000, \$137,000 went to different contracted groups. The biggest and most outstanding in our mindset was \$80,000 to the landscape folks that are called Learning Landscapes that were supposed to be doing the planning. So, what I did was I did a couple of things just to check. I called up... first of all, I looked on Google to see how many geo tech services there are in Portland and there are dozens. Then I called one of them and I said, "How much would it cost if we had two potential areas to work a park, a natural play area in a park from?" We had two different areas, and we needed to have a core sample or soil testing, what would you charge us? The answer was \$1,000. That should have been the first thing done. We have wasted over half of this money by changing it from one location to another. We could have saved so much money by spending \$1,000 first. The next thing that I did because it also really kind of hit home with Ed and I, on your item number four, why was \$894 spent for the daily journal of commerce in Seattle? Why was that where the proposed, the request for proposal was published?

So I called them and I said are you affiliated with our local daily journal here in Portland? They are not. What would you suggest if we had a West Linn project? We would suggest, and we are not affiliated in any way with the Portland group, we would suggest that the... whoever's doing this proposal, grant for proposal or request for proposal that they go to the local paper, that's them saying "You should go to the Portland paper, not to us." That's telling, that's very telling to me. How is it that we wasted \$158,000. Any other questions from you, I'm hoping that you are as concerned as we are, this is what the packet looks like when you print it out, by the way, and you were all given this by Lauren on November the fourth. So you all have it actually on your computers.

Mayor Axelrod: Any other comments, Councilor Sakelik?

Councilor Sakelik: Yeah, not per se a question for you folk, but a couple of things that struck me as I went through the invoices also to try to understand. And the one that really sticks out to me is the \$36,000 and change paid to Paul Brothers because I looked at Paul Brothers and they appear to be just a company that installs the playground equipment and social chat. And so since we haven't had any, I don't even think anything was ordered. I was... I'm curious as to what, what those costs are for because I thought they were strictly an installer type thing. So hopefully we'll get there kind of an answer. It seemed kind of an odd an odd part and then also with regard to the \$600,000 that was originally ... that we agreed to that I mentioned last week that I inadvertently signed off on it without seeing a scope of work as a brand new Councilor.

I had talked to Mr. Worcester last year and asked when it was decided that the... I guess there was too much basalt, it couldn't, a play area couldn't be done up top. So it was kind of going to be on hold for a while. And so I said, what's with those funds, are those funds going to stay available? And he said, "Yes, they would." And so last week, we heard that the funds are not available. And so I'm curious, what do we do in instances where we committed funds to a project and the project is in kind of a limbo like this? Do we just throw the money back into a pot and say, "We'll look at it later on? Or does it go into a special account that stays there until the ... something else is done?" So hopefully, we can get some kind of response and the understanding ... to understand the process? I mean, not only for this, but there's other things in our city that could be like that. So I would be curious to see those things.

Ms. Schwarz: And we're sure are hoping that by December 2, we'll have the answers to these questions. It's plenty of time for staff to give us the answers.

Mayor Axelrod: So I want to comment on that briefly. First, thank you for doing the diligence you've done. I wanted to ... this isn't a trial. So we're going to ... this is just information I haven't even seen. This is just news to me right now. So, I haven't a chance to look at it either. So, I would like to give chance, the chance for staff, in the next couple weeks to look at it and address what it is. I do know that ... I do recall from earlier discussions that there was an accounting number that they discovered was incorrect. So, a lot of items got placed to the category that wasn't actually that playground. So staff identified that I think, like two weeks ago, as an issue in the system so that could be related. I don't know, but let's just give them... the other thing is I don't... staff are really busy right now. So I mean, I don't know, if they could have this done by December 2. I think we should try and get it done this year. But as far as committing the staff, I'll leave it to them to sort of get back to us. I may suggest on, you know, when they can address it and like see Ms. Stein is there so she can sort of comment about that when she can follow up on number of these things?

And I'm sure we'll come up with, I would hope, reasonable explanations for things. And if there's not, we'll discover what might need to be done. And at that point, then I would think we could decide if further analysis is needed. But let's give the opportunity to at least clarify the points first.

Mr. Schwarz: Absolutely. We're not, we're not being accused, we try not to be accusatory, but we had a lot of, we think, pretty serious questions here. So that's, we're just trying to find the answers.

Mayor Axelrod: Totally get it.

Mr. Schwarz: Thank you, Mr. Mayor.

Mayor Axelrod: Thank you. Ms. Stein did you want to say something?

City Manager Stein: Yeah, a couple things. I want to clarify. I was kind of surprised too to see that we had spent \$158,000 on the Oak Savannah play structure. So my first question to the finance director was Project JP 1603, is this really expenditures just toward the Savannah play structure and they are not. We have spent \$158,000 to date on improvements at Savannah Park, or White Oak Savannah Park. And there we have categorized different categories of expenditures that relate to improvements to the park in general. So, I just had another conversation with the finance director today about let's get that project code title changed so it's not concerning, or not, it's not misleading. So, as it relates to the questions, happy to look into those questions, certainly. But to do so by December 2, I would request more time. There's nothing that we are scheduled to discuss on December 2 regarding the White Oak Savannah Park, and indeed we have set out a process for redesign or for looking at the amenities for the nature play area that we talked about last week. So, I would just request because we are busy, moving into the holidays, and have other priorities and are short-handed right now, as a result of the recent retirement of the parks and recreation director, I would just request more time to look into these questions and I want to make sure that we adequately answer them as opposed to haphazardly answering them with no real reason for a report back by December 2.

Mayor Axelrod: Thank you. Councilor Cummings.

Council President Cummings: Mr. And Mrs. Schwarz, can you tell us like for some reason, when was it when you first started asking for these numbers, for this information, wasn't that in September or what was it?

Ms. Schwarz: So actually during a public meeting we asked, could you please tell us how much money has been spent thus far? So it's been months? And the reasoning ...

Council President Cummings: Can you kind of give me, was it September or was it before. Was it July because we didn't meet that much in August?

Ms. Schwarz: I can't remember the exact month, but it's been months that we have been requesting them. And the reason that we do think that there is some timeliness involved here, is we asked for these as a public records request. If we were given incorrect information from our staff on a public records request, that's very serious. If these are not the proper codes and these are not the proper expenditures for this park, then where else are we going? Are we giving incorrect information out? We need, in my estimation, an audit.

Council President Cummings: Because like I kind of remember seeing records of your public records record and that took a little while too, is that right?

Ms. Schwarz: Yes, it did. We were going to be charged \$320 for asking for this information.

Council President Cummings: Right that's very ...

Ms. Schwarz: But instead, we stated that for the past five times that our Savannah Oaks Neighborhood Association had asked for public records, we were given a waiver, which is the way it should be. And it took, it took a while to determine that we were going to get a waiver on this request as well.

Council President Cummings: So I have to say that it seems to me that it's not like this is coming out of the blue tonight, that we've certainly had ample opportunity to know that we were going to need to take a look at some of this information. And I don't know if it's really fair to keep putting that off because I think there's been adequate fair warning, you know that this was your request. To me, it seemed like it was several months ago.

City Manager Stein: I'm happy to make a report about what won't get done in the parks and recreation department in order to accommodate this request by December 2. But things will not happen in order to make this a higher priority.

Council President Cummings: Isn't this more of a financial department?

City Manager Stein: No, no, the questions that ...

Council President Cummings: Financial and accounting?

City Manager Stein: No, the questions that are being asked are not financial, they are why was this expenditure paid. They're questions that I would need to ask of the Parks and Recreation Department.

Council President Cummings: Well, to me the unfortunate thing is that we knew about this before. The parks director left and things like that. I think it's unfortunate, it's not like the questions were going to go away.

City Manager Stein: No, but the Schwarz's made it, made a request for information. We provided that information and we're only hearing tonight what they want more information. That's understandable that they might have further questions, I was expecting that they would have more questions, but we didn't know what they were going to focus on. I mean, they could have received this information and said, thank you very much we now understand. The only thing I wanted to correct tonight was that we had a mislabeling of the project code.

Council President Cummings: You've mislabeled the project code?

City Manager Stein: The project code should have been Savannah Oaks improvements, not Savannah oaks play structure.

Council President Cummings: Savanna Oaks improvements.

City Manager Stein: Right. But in order to answer the more specific questions that they're asking tonight, why was this paid for that? What was this expenditure for? My first guess on even the daily journal of commerce would have been that that's a

corporate headquarters and so we paid for the Daily Journal of Commerce. It's not uncommon that construction bids are advertised in the Daily Journal of Commerce. Given what they are saying about the Portland office versus the Seattle office, I would need to look into that. So, there are a lot of questions that are being raised, but they need to be raised with the parks and recreation director, the interim director.

Mayor Axelrod: Thank you. I don't want to spend all night debating this, we'll get it looked at and we'll get them answered. We've just seen it tonight. So you know, that's fine. Councilor Walters?

Councilor Walters: I was just going to say I think I remember in the email thread, the city manager asking a few times, like, "Can you give us an idea of what you're looking for? Or what the context of these question is?" So that maybe they could prepare some answers for you. So it's ... I understand it's going to take a long time, and a lot of resources to go through these questions. Not that I'm not saying they're not important questions, but maybe it would have been helpful to kind of let her know from the get go what you might have been looking for so she could have had those conversations with the parks department during this time.

Ms. Schwarz: Actually, it's not something that is in the purview of the person that you're making a public records request of to ask you why you're asking what you're asking. In fact, I went all the way to Salem, and they said, "That is not an appropriate question." So Ms. Stein did not have the right to ask us why we were asking what we were asking.

Councilor Walters: Well, it's not appropriate for you to debate with me from there. But what I was going to say is that it's a good faith effort to work together, right, as partners in the city because we are community members and the staff and the council, we're all partners in this. It would be nice to see some of that collaboration happening on all sides. That's my opinion. Thank you.

Mayor Axelrod: All right. Councilor Relyea

Councilor Relyea: Yeah, thank Mr. Mayor, the Schwarz's have suggested a December 2 timeframe. I'm just wondering from the city manager's perspective, what you consider to be a reasonable time frame? They also suggested an audit, at what point would the information that the city provided, do you feel, would trigger additional resources such as an audit?

City Manager Stein: I would like into early January to report back on the questions. Regarding the audit, I'm not sure what they're suggesting in terms of an audit. First of all, if that's a just a confirmation of... it sounds like there's a couple of even miss... there might be expenses that were posted to the wrong project code from what they're raising right now. So, I would need to confirm that. Probably by the beginning of the year, we could probably have finance staff go through these expenditures and these questions. So some probably could be answered by the finance department

and others will need to be answered by the parks department. So if we have until early, around the first of January, we could probably get the work done by then.

Mayor Axelrod: I would suggest, I mean, let's get through that evaluation and decide if other steps are needed to be looked at, see what the explanations are, see what the findings are, that would be my suggestion.

Councilor Relyea: Okay. So my concern is that they also mentioned the public records request, and if the information were out in a manner that's inconsistent with the accounting practices that the city follows, there's a potential liability issue there. So I would have to ask the attorney for his opinion on that subject or perhaps you Ms. Stein.

City Manager Stein: Well, with regard to the public records request, this actually didn't come in, in a form that I recognize as the public records request. It came to my attention as an email request by the Schwarz's to the finance director, not an actual public records request form. So I didn't recognize it as a public records request, until the Schwarz's commented that this was a public records request and so I didn't think of it as a as a regular public records request. So, I did engage in communication with the Schwarz's trying to figure out what are they after? Can we help you answer your questions that you're asking for and it became evident that they just wanted the information themselves. And I wasn't really sure what happened with the information.

Mayor Axelrod: All right. Can we move on?

Councilor Relyea: I think Mr. Mr. Ramis was going to make a comment also.

Ramis: Well, I was only going to comment that it would probably be useful for us in some of the training we do that's related to neighborhood associations, to be really clear about the process we have, in the forms we have, and just make sure that those are known and readily available so that we, we get records request, we identify it as a records request, because we've used the right process and made people aware of that.

Mayor Axelrod: Councilor Cummings.

Council President Cummings: Ms. Schwarz could you please, either tell me, tell us now, whether you've feel like you presented it as a record request from the beginning, or whether that was something that was ... that you needed to clarify later?

Ms. Schwarz: It started off by my asking questions of the accounting department of our finance department. But as soon as the answers were not forthcoming, I put down as a bottom line and you'll find this in every one of the pieces of correspondence. We are respectfully asking that you waive the fees for this public records request because we are representing the Savannah Oaks Neighborhood Association. That could not be clearer.

Council President Cummings: So if you were getting an answer that it was going to be, what did you say, 300 what?

Ms. Schwarz: \$320. That's not asked if it's not a public record request.

Council President Cummings: \$300 to get this information.

Ms. Schwarz: Correct.

Council President Cummings: It sounds to me like they, you were being responded to as if it was a public records request. Okay, and I, in my understanding, that that public records law doesn't limit you to any particular format.

Ms. Schwarz: That is my understanding from calling Salem.

Council President Cummings: Yeah. Okay. Thank you.

Mayor Axelrod: All right. Thank you. Is that it for the general comment? Thank you. Under next item on the agenda is item four announcements, proclamations and recognitions. And we have two proclamations tonight.

[DISTANT CONVERSATION]

Mayor Axelrod: You have a general comment. Okay, I thought I made that clear in the beginning, but maybe you missed that. I'm sorry. You have a general comment?

[DISTANT CONVERSATION]

Mayor Axelrod: All right, why don't you fill out the form and then give it to the very nice gentleman right there in the purple shirt. And then in the meantime, I will start the proclamation and we'll come back to your comments, just to keep things moving, all right? So we have two proclamations and the first one is about recognizing the need for continued improvements of our energy codes, our building codes to address climate change, and our footprint and improve our overall reduction in energy usage. And I'll read this one, I guess. Oops, I have the wrong one.

Whereas West Linn's, residential, multifamily and commercial buildings are our largest source of energy use and energy waste and contribute to our communities carbon emissions, and whereas building last a century and are often too costly to retrofit, the best time to incorporate permanent efficiency measures is that initial construction, and whereas Building Energy Codes by setting minimum building efficiency requirements at initial construction provide measurable and permanent energy savings and emissions reductions over the century long spans of these buildings, and whereas our city reaps long lasting and widespread benefits from steady improvements to America's model energy code, the International Energy Conservation code or the IECC, including greater building resiliency and fire worthiness reduced energy bills for home and commercial

building owners and tenants, fewer foreclosures from inability to pay energy bills, flat or peak load, energy demand and a more stable grid, and whereas energy efficiency housing is most beneficial to those with the lowest incomes as they save money on utility cost, long after the cost of those energy improvements is paid for, and whereas via our sustainable West Linn strategic plan, our city seeks to reduce greenhouse gas emissions produced in buildings by improving the energy efficiency of the buildings, promoting energy conservation and using carbon free renewable energy in lieu of fossil fuels, and whereas McKinsey and Company has identified building energy efficiency is the most significant, impactful, and cost of effective step cities can take to meet USCM in Paris accord emission targets, and whereas our city has an opportunity to vote online and support a 10% boost in the efficiency of the IECC's update of America's model energy code this November. Now therefore, the city Council of the city of West Linn joins others in supporting climate energy and fiscal goals by voting in unity for a more efficient 2021 International Energy Conservation code. Our jurisdiction should fully participate in this November's IECC online voting and support proposals that will boost the efficiency of this year's update of America's model energy code the 2021 IECC by at least 10%. All of our jurisdictions eligible IECC votes cash, they'll be consistent with our city energies and climate policy and shall vote consistent with the US Conference of Mayors recognized IECC voting guide, in fact sheets developed by the broad based energy efficiency codes coalition, which objectively identifies IECC proposals that employ existing technologies to improve new building efficiency, as well as those who would weaken or trade away efficiency. Dated this 12th day of November, and I will sign that later.

Thank you. And the next proclamation we have is about Small Business Saturday and who's going to read that?

Council President Cummings: I will.

Mayor Axelrod: Thank you.

Council President Cummings: Whereas the city of West Linn celebrates our local small businesses and the contributions they make to our local economy and community. According to the United States, Small Business Administration, there are currently 30.2 million small businesses in the United States. And they represent 99.7% of all businesses with employees in the United States, and are responsible for 65.9% of net new jobs created over the past 20 years, and whereas small businesses employ 47.5% of the employees in the private sector in the United States, and whereas 94% of all consumers believe that supporting small independently owned restaurants and bars is important, and whereas 96% of consumers who plan to shop on Small Business Saturday, said the day inspires them to go to the small independently owned retailers or restaurants that they have not been to before or would not have otherwise tried, and whereas, then 2% of companies planning and promotions on Small Business Saturday said that the day helps their business stand out during the busy holiday shopping season, and whereas 59% of small business owner said Small Business Saturday contributes significantly to their holiday sales each year, and whereas, in the city

of West Linn supports our local businesses that create jobs, boost our local economy and preserve our neighborhoods, and one more, whereas advocacy groups as well as public and private organizations across the country have endorsed the Saturday after Thanksgiving as Small Business Saturday. So now, therefore, be it proclaimed by the city of West Linn that Saturday, November 30 2019 is Small Business Saturday, and I'll see you out there. Okay. Thank you.

Mayor Axelrod: Thank you. Next item on the agenda is our consent agenda. Agenda Bill 2019 -11-01-01, approving our draft notes for the October 14 2019 meeting. Thank you for coming. Come again sometime.

Council President Cummings: I move to approve the consent agenda for November 12, 2019 West Linn city council meeting which includes the meeting notes for October 14, 2019. Councilor Sakelik: Seconded.

Mayor Axelrod: All right, it's been moved and seconded to approve the consent agenda which includes our October 14 2019 council notes, meeting notes. Any discussion? Call the roll please.

Ayes: Mayor Axelrod, Council President Cummings, Councilor Relyea, Councilor Sakelik, and Councilor Walters

Nays: None.

The motion carried 5 – 0

Mayor Axelrod: Yes. The agenda bill passes. Thank you. I would add that the comments are very detailed and very nice. Nice job staff. All right. On to our business meeting and we have two hearings tonight the first one ... I'm sorry. Oh, we have the public comment. That's right. Let's get in that public comment. Thank you for reminding me. So Ma'am, come on up. Margaret Geraci. And so the routine is you have up to five minutes if you need it. There's a little clock that should show you it right up here on the front. There right up here at our dais. There you go. So keep track of your time. If you could be respectful and we thank you for coming and giving comments.

Ms. Geraci: Thank you for giving me this opportunity.

Mayor Axelrod: You might want to move that a little bit closer to you just right about a coke can away is the perfect distance.

Ms. Geraci: Okay, that's good.

Mayor Axelrod: Thank you.

Ms. Geraci: This is my first time addressing the city council. I'm a little nervous but I'll give it my best shot.

Mayor Axelrod: We're just friends. Try to think of it as talking to your neighbors.

Ms. Geraci: Okay. I live in the Marylhurst Heights area of West Linn. I walk the narrow roads in the area. I've noticed on one of the more dangerous, narrow main roads in my area, there's no sidewalks and homeowners are letting their vegetation shrubs, berry vines, grow right up to the fog line on the road thereby forcing pedestrians to walk into the street along with the traffic to get around those homeowners' lots. Unfortunately, the police are in charge of notifying homeowners when they have to cut back their overgrown vegetation or they will be fined and they normally do not do this unless a homeowner in the area complains. This is my opinion, I'm not positive on that. But so it's not the best use of police officers time, besides the fact that it seems a very negative way to handle the matter. When construction workers are in the area, there is even less walking space than the already existing sparse walking space. About six or so months ago, my neighbor told me her sister was walking her dog and was hit by a motorist and it was a no fault accident as their sister did have to walk out into road with her dog in a no sidewalk area. And her sister ended up in the hospital. She passed away several days later, her dog lived, very sad situation.

Anyways, I feel it's a serious matter. Police really do not want to spend much time on this increasingly serious problem, which on one side I understand, but also I'm frustrated by the issue not being seriously dealt with. I would like to offer to trim the berry vines as well as bushes, but I do not want to haul all of it away and pay the expense. Also who wants to approach their neighbor that they barely know with this problem? I have lived in the same house for almost 40 years and yet never tried to address this issue until I heard of my neighbor's deceased sister.

West Linn ordinances that address the matter are 5.465 trees, paragraph one. No owner or person in charge of property that abuts any street or sidewalk may permit trees or bushes on his or her property to interfere with street or sidewalk traffic. Also violations, public nuisance abatement ordinance numbers 5.495 to 5.535. West Linn has been a wonderful place to live. However, our streets as well as many streets connecting with ours, our street, which is I live on Hillcrest Drive are not safe for pedestrians, which also includes teenagers walking down these narrow streets to get to a main thorough way, Highway 43. It seems many homeowners in the area are completely oblivious to their bushes growing over the minimal amount of walking area in front of their property, thereby pushing pedestrians out onto the street. I'm talking about vegetation that you can't walk on top of, usually shrubs and if not berry vines, which could easily be removed back far enough for a pedestrian to walk safely in front of.

I addressed this first on Next Door. It's a website that some of you might know about. Okay. And I received a few responses. One lady said, "This is an unsafe condition in our neighborhood along with ditches that don't make it possible to move off the street with cars coming at you. I'm glad you wrote this. So I can tell you several neighbors want the unsafe condition addressed in the storm water plan that the city council will be looking at next week, I think November 20 at 6 pm. Our neighbors close by have written the city also and are waiting to hear back from the city because the ditch there started to erode the road and is very deep. Only more gravel on top of the ditch was provided so far and yes, Blackberry vines

also prevent walkers to avoid the street. Homeowners are responsible to keep it cleared but many think it's the city property, so city responsibility. We both love where we live but this is a safety issue that neighbors need to contact the city about." and then I just responded really quickly, "Several people walk down Marylhurst Drive to get to Highway 43. I've walked it many times to take the bus to get to work in downtown Portland. There are some serious drop offs into a ditch where there are only inches of walking space before falling into that deep ditch."

Mayor Axelrod: So we're through with the time are you kind of, want to wrap up maybe?

Ms. Geraci: Yeah, let me wrap it up. That'd be great. Anyways, this other lady wrote that her husband walked down Marylhurst Drive to take the bus before he retired and he had many close calls with oncoming traffic. She writes that she testified about the hazard at Marylhurst Drive, how hazardous it is and the need for safe pedestrian routes in our area as a citizen in 2014 when the transportation plan was updated, and Marylhurst Neighborhood Association did address it as well to the city council. At that point, Marylhurst Drive and improving streets in the area had been given a very low priority at first, but bumped up to a higher priority after hearing from Marylhurst Neighborhood Association officers and other concerned citizens.

Anyway, so I'm ... I love this city but I am getting more and more concerned and the police don't really want to hear about it. I mean, at first they were concerned and one neighbor they contacted, it was a rental property and that neighbor who lives out of state had half of her property or their property cut back as it was right up to the fog line. There was no place to walk and but the other half know and so I ... I called the police officer again and he hasn't responded back to me. Thank you.

Mayor Axelrod: So thank you for taking the time. I recall your email you sent it to us yesterday, I believe, I responded briefly to you about some of the issues and the need to address several aspects in some of them which we are actually addressing in our new right-of-way maintenance policy, but Marylhurst remains one of the most I'd say challenged, dangerous streets we have for getting from the upper hill to the lower hill, that little end of town there. It's really dangerous. It's dangerous to drive.

Ms. Geraci: Yes, it is.

Mayor Axelrod: I mean, let alone walk or think of another form of getting up or down that hill. So, it will probably be hearing from us and passing along the message to the public works and they're like, you had mentioned there is a prioritization, recognizing that and to pay some attention to it. And we're working on our improvement design, particularly for these older neighborhoods. So at least in critical areas, we can get maybe a sidewalk at least or as safe walking path on at least one side of the street, particularly if it's on a safe route to school, which is like a high priority for the city.

Ms. Geraci: That would be wonderful because Hillcrest Drive, people walk down that hill, connect right on to Marylhurst Drive, and go down to 43.

Mayor Axelrod: Yeah, I don't live too far from them so I'm familiar. Thank you. Just a couple other clarifying points real quick, Councilor Relyea?

Councilor Relyea: Thank you, Mr. Mayor. So, I'd ask our city manager to get with the public works department and to at least take a look at the immediate issues of clearing the blackberries. And then taking a look at the other areas, and perhaps bring back some pictures of the area where there are ditches so that we can take a look at what the real issues are. I'll certainly drive through there and take a look myself, but if there's anything that we can do immediately to help resolve some of the issues, Ms. Stein I think that would be advantageous to everybody involved.

City Manager Stein: I agree and I'm just sitting here already crafting an email message to the police chief. So that, which does code enforcement in our city, as you know, and so if there are code enforcement issues to be attended to, we can certainly start with that. As well as the other issues with the, that would involve the public works department that are a little longer term and more detailed in terms of remedy. But if there is vegetation that can be cleared, we can certainly do a kind of a targeted code enforcement look at Marylhurst Drive.

Mayor Axelrod: Councilor Sakelik.

Councilor Sakelik: Yes. I just wanted to ask a quick clarifying question that the city manager just might have addressed. Ms. Geraci, are you aware that, as Ms. Stein was just alluding to in our police department, we have a specific gentleman who's the code enforcement officer, and we have a new young man, he is new on the job, in the last number of months, that's very reliable, very productive. He does a great job. And so he would be a first call for violations of codes and I'm sure based on what he's done so far, he will be out there checking on these things pretty quickly. And make you...

[DISTANT CONVERSATION]

Councilor Sakelik: No, he's not a formal police officer. He reports to someone in the police department. I think he reports to the captain of the police department, but his job is strictly to enforce the codes in the city. So, if the code you quoted is accurate and the residents are breaking that code, then he would check on it, validate it, and then do take the appropriate action, which is what Ms. Stein was just saying. So that would be a good first attempt for some of the areas and of course, if it's a lot of area, that's another aspect to it. But originally if they are breaking the code and the resident has a responsibility to clear it, and he wouldn't, he would enforce that.

City Manager Stein: So yes, so code enforcement is performed, code enforcement at the city of West Linn is performed by the police department. So it would be appropriate for the police department to be involved in this and certainly follow up.

Mayor Axelrod: Alright, so this is a popular topic. We've got a couple more comments or clarifying questions. Councilor Walters.

Councilor Walters: So, I was mentioning in the pre-meeting that this is something that was brought to my attention too, especially on Marylhurst at the drainage area. And so I just had sort of a general question, because I've seen it come up before on Council many times is what is our policy on these areas, where it's drainage and it's perhaps not safe for people to be walking near them, what is our responsibility in that?

Mayor Axelrod: I'm sorry with a question with regard to drainage, you said drainage.

Councilor Walters: Well, I mean the ditches.

Mayor Axelrod: Oh, I'm sorry, the storm ditches.

Councilor Walters: The storm ditches.

Mayor Axelrod: Open ditches. Got you, I'm sorry.

[DISTANT CONVERSATION]

Mayor Axelrod: Yeah, we have that information for, so we'll check on it. Thank you. Councilor Cummings.

Council President Cummings: Thank you, Ms. Geraci, nice to meet you. I am the one that emailed you that information about those codes. And so in our pre-meeting work session, I did give the city engineer a heads up that we would like some clarification and just for the record in this upcoming stormwater master plan process that we're going to be hearing tonight, there's section 2.1, public/city responsibility, and it references public, the West Linn municipal code 4.070 that clarifies the public's right as far as the right-of-way maintenance is concerned. And in particular, we're talking about the storm water and covert type of things. And then for the city's part of it is 4.065. And I think we're going to need some clarification about that because it sounds like there's been a little bit of confusion between the city and property owners about ... because we know that this year we've had tell people that the landscaping and the vegetation in the public right away is the adjacent property owners responsibility. But the actual storm drains and how they're constructed and how they're maintained, that's the question and that's what these codes seem to address. But I think we need to be clear about what that is. So, so thank you.

Mayor Axelrod: All right. Thank you very much. We can now move on to the business meeting. Item six on the agenda. And we've had two hearings as I stated before, first one

is agenda Bill 2019-11-12-02 amended ordinance 1693 adopting West Linn's parks, recreation and open space plan update and so tonight, I would like to call to order a public hearing on a proposal to adopt the West Linn parks, recreation and open space plan update as an attachment and supporting document of the West Linn comprehensive plan and amend the West Linn comprehensive plan goals two, five and eight. The testimony and arguments we hear will be used to come to a decision on these amendments either tonight or at a later date. It will be tonight because we hope to complete it tonight. We've been through this.

Tonight's hearing will proceed as follows, after preliminary legal matters staff will make a presentation and council will have an opportunity to ask questions. Then council will hear public testimony. After the council asks any final questions of staff, the hearing will be closed and the council will discuss the proposal and make a decision. If you wish to speak during the public comment portion of this hearing please fill out a testimony form up at the front desk here and give it to staff. All persons that wish to speak must be recognized by the Council for speaking. When you come to the podium, please state your name and city of residence for the record, so information can be entered into the minutes. Speakers will be limited to three minutes. With that, I would turn it over to legal matters for our attorney.

City Attorney Ramis: Thank you, Mr. Mayor. We begin these proceedings with a brief description of the process, so participants will have a framework for their testimony. The Council's decision must be based on consideration of: 1) the statewide planning goals and administrative rules adopted chapter 197, 2) applicable federal or state statutes or rules, 3) applicable plans and rules adopted by Metro, and 4) on the City's Comprehensive Plan and development code. The council may consider any relevant testimony that is received. Failure to raise an issue during the city's hearing on this matter may preclude an appeal to the land use Court of Appeals based on that issue. Any party with standing may appeal the decision of the city council to the State Land Use Board of Appeals according to the rules adopted by that board. Persons with standing include those who submit written comments or present oral arguments. Next, to qualify the council. First do any members of the council wish to declare a potential or actual conflict of interest? The record should reflect none. Second, does any member of the audience wish to challenge the ability of any member of the Council to participate in this decision? And the record should reflect no objection. Mr. Mayor I'll turn it back to you now.

Mayor Axelrod: Thank you. Let's all proceed to the staff presentation then.

City Manager Stein: So council at your last meeting last month, you approved ordinance 1693. In that meeting, there was request for an amendment to one section or one whereas clause in the ordinance that would have the effect of just documenting the public involvement process that had occurred for this master plan. So this re-adoption of this ordinance includes an Exhibit C, which includes all of the public involvement process. There are a couple of dates that we need to correct where there was reference to 2000 and action in 2016. That should be 2017 in the case of both those references to 2016. And in addition, while this changes was being

made, staff noticed that language in section two could better be referenced ... could better reference maps that are included as part of the comprehensive plan, and because there are changes being made to the comprehensive plan, that is why you're having a public hearing tonight. So that's all I have to add.

Mayor Axelrod: Yes, Councilor Cummings.

Council President Cummings: Thank you. I apologize I forgot about this when I brought it up at the work session about the dates that needed to be corrected. There's another thing I just had a question about and that's under page four and acknowledgments, it happens to list the previous Council. Wouldn't it be more appropriate to list us, this council because we're the ones adopting it?

City Manager Stein: Yes.

Council President Cummings: Okay. So if we could just change that.

City Manager Stein: Sure.

Council President Cummings: Thank you.

Mayor Axelrod: Any other brief questions of staff now? Seeing none, let's move on to public testimony. Do we have any public testimony? No public testimony. All right, so any other final questions of staff before I close the public hearing? My only question is, and I apologize because I wasn't in the pre-meeting, but I believe what were in the dates, and you brought up another date that needs to get added to that list of dates page, is that what we're going to do, is approve it with an amended list of dates, is that the procedure?

City Attorney Ramis: An amendment, you can refer to an amended Exhibit C.

Mayor Axelrod: Amended Exhibit C. So, let's get that properly in the motion and if no one has any further questions of staff, I'm going to close the public hearing. All right, public hearing is closed. We're open for deliberation and discussion. Sorry, you had something?

City Manager Stein: Well, wait a minute was an amended Exhibit C and then the other one was, do I need to reference the acknowledgement having been changed as well?

Mayor Axelrod: Yes.

City Manager Stein: And amended acknowledgement, would that be correct? Okay. Thank you.

Mayor Axelrod: All right. Thank you. This is ordinance 1693 Parks Master Plan. I moved to approve first reading of ordinance 1693 with an amended Exhibit C, and amended acknowledgement, an ordinance adopting the West Linn parks, recreation and open space plan update as an attachment and supportive document of the West

Linn comprehensive plan and amending the West Linn Comprehensive Plan. Goal two, five and eight and set the matter for a second reading. Two, five, seven, and eight.

City Manager Stein: Two, five, seven, and eight I'm sorry, I didn't realize they said that correctly. Thank you.

Mayor Axelrod: Thank you. It's been moved and seconded to approve the first reading of ordinance 1693 as amended. Any discussion? Seeing none ... Oh, please. Oh, Councilor Relyea I'm sorry. Are we ready to vote?

Councilor Relyea: I just wanted to thank everybody, for their work on this Master Plan. It really represents a huge investment of time and resources for everybody that has participated in it. And it's been a lengthy process, so I'm glad we're at this, at this venture on the road. Thank you, everybody.

Mayor Axelrod: I think that speaks for all of us. We're all glad to see it moving forward and thankful of staff's work to get it right. So thank you. All right. Let's call the roll.

Ayes: Mayor Axelrod, Council President Cummings, Councilor Relyea, Councilor Sakelik, and Councilor Walters

Nays: None.

The motion carried 5 – 0

Mayor Axelrod: Thank you.

Council President Cummings: So, seeing that it's unanimous. I'm going to do a second reading. I moved to approve the second reading of ordinance 1693 as amended, with amended Exhibit C and amended acknowledgement. An ordinance adopting West Linn parks, recreation and open space plan update as an attachment and supporting document of the West Linn comprehensive plan and amending the West Linn comprehensive plan goals two, five and eight.

Mayor Axelrod: Seven is missing.

Council President Cummings: So it's not in my correctly, in my script. I'm sorry.

City Manager Stein: My apology.

Council President Cummings: Two, five, seven, and eight. Okay. My apologies and adopt the ordinance.

Councilor Sakelik: Seconded.

Mayor Axelrod: Thank you. It's been moved and seconded to approve the second reading of ordinance 1693 as amended. Any discussion? Call the roll please?

Ayes: Mayor Axelrod, Council President Cummings, Councilor Relyea, Councilor Sakelik, and Councilor Walters

Nays: None.

The motion carried 5 – 0

Mayor Axelrod: Cool, thank you. All right. We finally, finally, finally have, I hope Ken's watching. Thank you, Mr. Worcester, for your diligent work all those years in seeing this plan get through. I'm sure he'll be relieved. All right. Thank you all.

[DISTANT CONVERSATION]

Mayor Axelrod: Tim, did we not? Do we do all that correctly? We got something to check on or are we...?

City Attorney Ramis: I just wanted to confirm we did both readings.

Mayor Axelrod: Yes, we just did a second reading. And I think at this point, I don't need to say anything else do I? It's in terms of appeal or that kind of thing? Let me see on this.

Mr. Ramis: We made a statement about the appeal at the beginning of the proceedings, so we don't need to do it now.

Mayor Axelrod: Yeah, it's just I think for all those who've testified, the comments have been helpful, nothing about appealing. Thank you and adjourn, but we have a few more things to do. So we're not adjourned. All right, on to the next, second business item, item 6B agenda bill 2019-11-12-03, also a public hearing. Ordinance 1696, adopting an amendment to comprehensive Plan Goal 11, public facilities and services and repealing and replacing the storm drainage master plan dated September 2019. So, we are holding a public hearing tonight on this proposed ordinance to adopt 1696. Adopting an amendment of two comprehensive plan Goal 11 public facilities and services, and repealing and replacing the storm drainage master plan dated September 2019. Testimony and arguments we hear will be used to come to a decision on these amendments either tonight or at a later date. Tonight's hearing will proceed as follows, after preliminary legal matters, staff will make a presentation, Council will have an opportunity to ask questions. Council will hear any public testimony and after the council asks final questions to staff, the hearing will be closed and the council will discuss the proposal and make a decision. If you wish to speak during this public hearing or public comment portion of the hearing, please fill out a testimony form on the front desk to our right, and give it to staff.

All persons that wish to speak must be recognized by the Council before speaking. When you come to the podium, take your... please state your name, city of residence for the record so we can be entered into the minutes, and time will be limited to three minutes. So Mr. Ramis, you want to address legal matters, please.

City Attorney Ramis: Thank you, Mr. Mayor. The Council's decision tonight must be based upon consideration of: 1) statewide planning goals and administrative rules

adopted under ORS chapter 197, 2) applicable federal or state statutes or rules, 3) applicable plans and rules adopted by Metro, and 4) on the City's Comprehensive Plan and development code. You may also consider any relevant testimony that is received. Failure to raise an issue during this city's hearing on this matter may preclude an appeal to the Land Use Board of Appeals based on that issue. Any party with standing may appeal the decision of the city council to the State Land Use Board of Appeals, according to the rules adopted by that board. Persons with standing include those who submit written comments, or present oral arguments. Next, do any members of the city council wish to declare a potential or actual conflict of interest? And the record should reflect none.

Mayor Axelrod: Mr. Ramis, can I just ask one question? Yeah. So one item that's in the, sorry, in the proposed plan, addresses an element that I have professional expertise in and practice, do I need, does it matter? Do I, I didn't do, acknowledge that, I don't think I need to.

City Attorney Ramis: No, that's not a matter of an actual conflict.

Mayor Axelrod: I didn't think so, but for the record, I'm just letting it ... No, no financial benefit or anything, I'm not planning to get any work. So no, I just want to make sure it's covered. Thank you.

City Attorney Ramis: Next, does any member of the audience wish to challenge the ability of any member of the Council to participate in this decision? And we'll note in the record that there was no objection. Back to you, Mr. Mayor, thank you.

Mayor Axelrod: Thank you. With that, let's go on to staff's presentation and welcome.

Public Works Director Calvert: Thank you, Mayor, members of city council. My name is Lance Calvert, I'm the City's Public Works Director and City Engineer. With me tonight, I brought Amy Pepper who's our staff engineer who's been spearheading this project. I'll let her go over any details and answer any questions that anybody may have. And I think most... everything has been sort of reviewed in the past to some degree in prior work sessions as well as with the utility advisory board, Planning Commission, et cetera so again, happy to answer any questions or details on the Master Plan effort to date.

Senior Project Engineer Pepper: Thank you. As Lance said, I'm Amy pepper. I'm a senior project engineer for the city and I've been doing the project management for this project. Maybe that's why it says PO, I don't know.

Public Works Director Calvert: Sorry, we were having a debate on why she got the pm and I am like, I got nothing so...

[OFF MIC CONVERSATION]

Senior Project Engineer Pepper: So the ordinance before you tonight does two things. It would make an amendment to the comprehensive plan. The master plans are a

supporting document of the comprehensive plan. We spoke about that a lot at the joint UAB/Planning Commission work session last month, and it also would adopt the Storm Drainage Master Plan. In your agenda report, we identified the summary of the changes that were made between the document being presented by staff to the Planning Commission and being recommended for approval by the Council. And those are, like I said, all summarized in your agenda packet. The document has gone through a fairly extensive public process, including a public hearing before the Planning Commission and a work session, like I said, last month.

There were additional comments or questions asked related to climate change in the master plan document and in consulting with our engineering firm on that, Brandon Caldwell, I got a two page memo just this morning on that. I remember back at the beginning of the project, we had kind of discussed what is climate change due to the storm system? And the overview, Chapter Two of the Draft Master Plan identifies in the climate and rainfall section, there's just one brief sentence that says in the future there will be more excessive rainfall expected. Brandon and Caldwell did provide a short memo about climate resiliency and what does that mean for West Linn? And how do jurisdictions across the region, incorporate that into their master planning projects? The bottom line is at this point, there's so much uncertainty about actual rainfall data for this region, that it's a little premature to incorporate that into the master plan. But these master plans are to be re-visited every 5 to 10 years and hopefully in the next 5 to 10 years, we will have more concrete data to incorporate that level into our storm of events. But our storm system, as I mentioned in the work session, is not a simple system and there are multiple strategies to combat the impacts of climate change or potential impacts of climate change and those larger storms and those are incorporated throughout the Master Plan and Document. Those include adopting green infrastructure which we have embraced as a community, encouraging the reduction of new impervious area. So, alternative materials such as pervious pavement and pavers and all that we've adopted, those strategies and riparian buffers and protecting those riparian buffers around our creeks and rivers as climate change models are projecting, it's not only the rainfall, we may have larger storms or more intense storm events, but there's also rising river levels that will impact those adjacent properties next to rivers. So, having those additional buffers are important as well. So I'm happy to answer any other specific questions, but I think those were the questions that we had prior to this meeting.

Mayor Axelrod: I don't see anyone... anything yet, but others, Councilor Relyea?

Councilor Relyea: Yeah, I just had a general question and it has really more to do with the amending the plan to include the reference to the 2006 Stormwater master plan. It looks like the Planning Commission made a recommendation, or at least asked the City Council to look at amending the ordinance. And one of the whereas clauses to include an additional clause retaining those portions of 2006 Stormwater Master Plan references that are proposed in the 2019 SDMP as a technical resource. Would you agree with that recommendation?

Senior Project Engineer Pepper: I'm not sure I'm following along with your question where, which document? Are you looking at the master plan itself or the ordinance?

Councilor Relyea: I'm looking at the memorandum from October 10 from the West Linn Planning Commission. So it's their recommendation to the City Council on adopting this Stormwater Master Plan and on the very last paragraph of their recommendation, discussing the ordinance they make reference to the fact that the council may wish to consider amending the ordinance.

Public Works Director Calvert: And I think that's a, well, I think that's a good question for the city attorney also to weigh in on, one of the reasons that this document, I mean, as you see new master plans come forward, typically what we will do is repeal the entire prior and all priors so that we don't create confusion amongst the upcoming applications about, well what is relevant and what isn't relevant? It doesn't make any sense to create a new master plan only to retain conflicting sections or inaccuracies in the prior master plan to create, it really just creates confusion and on what is the appropriate reference? So, I think, it's really not a technical question as far as engineering is concerned, we fully believe that everything in the master plan and the work we've done today, the modeling we've done to date, the project lists that will be included in future SDC updates are all relevant. We haven't heard any testimony to any regard that that's not correct. I think just retaining something for historical context, I mean, we keep old master plans just on the shelf. But from a legal perspective, is really this question relates to I think, trying to get at what was the plan Commission's effort in not repealing the prior master plan? And if it's not a technical kind of item, right?

Councilor Relyea: So yeah, if I can interrupt. So they felt it was noteworthy, simply because the 2019 Storm Drainage Master Plan makes references back to the 2006 Surface Water Master Plan and so if it was completely repealed, then would that reference make sense?

Senior Project Engineer Pepper: So the reference in the master plan that the master plan refers to just means that we reviewed a lot of different documents and policies and existing documents and the 2006 Master Plan included a full ton of projects and we reviewed those, and we identified those that have been completed, those that we validated, those that still were needed and then we removed some that didn't make sense given the way development happened or some other reason why a project didn't make sense. So repealing that document doesn't change that project list and the evaluation process that went into developing this master plan.

City Attorney Ramis: You know, the only time we need to avoid repealing is when we are keeping something as a vital applicable document. If it's simply historical or reference, then they don't need to have it remain jurisdictional invalid.

Councilor Relyea: So just because we repeal that it's still available as a reference.

City Attorney Ramis: Yes.

Mayor Axelrod: So I want to talk a little about the climate issue because I would respectfully kind of disagree a little bit with Brandon Caldwell. I'm not asking for like incorporation of data or to read, look at data per se. All I was looking for was a couple of sentences, references in the introduction to the plan that just acknowledges that the city recognizes the effects of climate change and that assumptions in the plan itself in the future are likely to change and affect the design and performance of the system and the city will address those as it can in the future. This was ... this came at with a very strong recommendation from a workshop I went to at the Northwest Climate Conference just a few weeks ago with attorneys about recommendations for cities in their stormwater plans. I went to all, everything I could on stormwater that they had and there were several really good discussions and the legal, the legal world, is recommending to cities to make sure you include in your stormwater management plans that you acknowledge and recognize that climate change is something that is an unpredictable element, that recognize that there, it could affect the performance of the system and the system. The city will do what it can in its capacity to address it in the future and from what I'm hearing, and from what I understand from the workshop, is that that alone is enough of a defense for the city should we have a problem with the, with the storm portion of our system that gets overloaded and blows out somewhere and goes through someone's house or something, heaven forbid, but this kind of stuff has happened and does happen and so it's kind of intended just to address that specific thing wasn't looking for any other change the plan, just a few sentences, somewhere up front in the plan. I don't know if Mr. Ramis has any experience from his firm, anything on that but ...

City Attorney Ramis: At this point, the world of disclosure comment policy on climate change is rapidly evolving. If you've been to a recent seminar where you're getting advice to include that sort of references to defensive provision then I'm all in favor of preventive law. So, we can certainly draft something that could be included in the plan by amendment. We could also adopt a resolution that could reference the plan so we don't necessarily have to draft it tonight, but there are ways we could deal with that if the council felt comfortable with it, I'm sure Lance and I could come up with a way to do it.

Mayor Axelrod: Okay. I would like to see us do that. I'd like to sort of take that recommendation to heart and let's cover our rears, so to speak, I mean, and acknowledge, I mean, all the green stuff that you mentioned, Ms. Pepper, I think is great. I mean, all the stuff you had I completely agree with and those are all great pieces. It was just really more of an acknowledgement statement that the defense attorneys were saying you should have in your plans if you want to be able to build any kind of sensible defense because if you don't acknowledge it as a problem and an issue, then it shows that the a city might be, may not have recognized it or overlooked it. So, it's just sort of building that defense because there's only so much we can do and there's so much uncertainty around this issue. I recognize that and am not expecting any changes in data, or projects per se, or anything like that. It's just an acknowledgement. So, Mr. Ramis, whatever you think is the most appropriate

way. I don't want to hold up this storm plan, we can approve it tonight and come back and make sure we cover that base, I'm okay with that.

Public Works Director Calvert: And to echo that, we certainly, I think, have done our due diligence, working with the consultant on finding ways on how those impacts would occur on the technical level, but certainly we rely on Tim and his firm on all the legal aspects and nuances of the documents. So, if there's something like a forward looking statement like that, that would make sense and if Tim's good with it, we're glad to add any additional text like that, that would be great.

Mayor Axelrod: Okay, thank you. The other question item I wanted to talk with a little bit about was just get clarification on priorities and we had our work session. I talked about my concerns with this proposal for the Bernert Creek day lighting being moved to a high priority project in spending money on doing a feasibility study and based on my technical understanding, I talked a little bit about why I thought that was not a good idea and this was not day lighting the creek with the particular structure steepness slope in the like, in the uncertain water capacity meant that this would just be a hardened rock system, there's it's not a creek that's going to interact with this floodplain and provide the kind of benefits of a restored creek that we would like to see in another setting or would like to have in the environment. Unfortunately, it could present more of a risk hazard, I think, and also its impact to that part of the park could be quite significant. One of the questions I have is my understanding is that the concept is to the date of the day lighting Creek which the ...

[DISTANT CONVERSATION]

Mayor Axelrod: Yeah, well, I'm giving a little reason for a base of it. A question about the alignment, in my understanding, is the alignment of the storm drain that's buried is pretty much in alignment with the drainage now that's there or close to it. Is that correct in that general area?

Public Works Director Calvert: I think it varies a little bit, I mean certainly in the general area if you go out there and walk the site, you'll see it sloping away from the street and some areas and maybe sloping back closer to the pipe in others. The sanitary sewer line is actually right in the pavement, whereas the storm line is definitely well over into the park and you can see the rock cut slope on the adjacent property where they cut down the grade to build the road. So I think, in the past we've shared as-builts for the area to the council, as well as any data that we have on site. Unfortunately, it's pretty old and pretty dated to get real detail, we'd have to do some real analysis.

Mayor Axelrod: Well, I guess my point is, and I didn't, we didn't get into all this in the work session about one of my points is, if you're, and I think everyone really needs to understand this, and I don't think even the Planning Commission understood this point, is that if you're going to pick up all of that drainage and run it into a creek at the surface and bypass the current drainage pipe beneath the ground, if you put all that flow up, you have to build quite an enormous Creek structure, which

would be, it would be a substantial area to contain all of the water that potentially could come in and the 150 or what, whatever the design capacity is for that particular drainage. Now with all that impervious surface above it is a lot of water and so you have two options. Either you divert all the stormwater into a surface Creek, or you come up with a way to divert only part of the flow, which brings a little bit of a complication, you put in what's called a splitter, and you take some portion of the flow and you put it above. But what that means is then you're now required to manage two drainage systems, you've got to have your pipe system and then you've got to have your Creek system so that sort of, it kind of, increases the area for management design and construction and then also, if there is, one is even overlaps the other portion of it, you've got to dig up one to get to the other. So it creates all kinds of problems, potentially, for managing so, I just... another point I wanted to make to the group that I just think I'm all for daylighting creeks where it makes sense, I just do not support daylighting Bernert Creek because of the particular constraints of the site, from a tactical standpoint and I know we would spend ... it would ... the cost of the project will be very costly knowing what projects like this cost and so my question is, was this a project that was identified in the master plan? My understanding was maybe it was in the master plan at a medium priority that got moved to a high priority, or is it only in the plan because of the testimony we received from interested folks in the neighborhood? I couldn't tell that when I went back to look at the plan. I've read all your criteria but...

Senior Project Engineer Pepper: So the project itself was identified during the public survey portion of our project development, where we went out to the public to identify where the problem areas, or perceived problems areas, in the storm system and for the reasons you said, there is a lot of options of if you were to daylight this system, what would that look like? It was not like other projects turned into capital projects, that's why it's recommended as a feasibility study. There's lots of options, there's lots of studying, there's lots of impacts of those options. So, it was recommended as a feasibility study because there are, in staff's opinion, higher priority projects to alleviate flooding, or significant erosion, or potential damage to other infrastructure. It was identified as a medium priority project in the master plan that went to the Planning Commission. After testimony that the Planning Commission received they recommended that it be moved to a high priority project.

Public Works Director Calvert: Okay, and to follow up on that, I mean, certainly in our outreach effort, it's not our goal to vet necessarily projects that are identified by the public in particular, we want to respect that and deliver on that process. I think our goal as staff is to try and help facilitate where these things might sort of rank out in a very, very sort of simple way of high sort of medium and low. Like Amy said, I mean, there are some real, challenges out there in the city, and that could really disrupt day to day living. Problem, storm drains that then convert into bigger issues like fish passage and those kinds of issues where some of those projects that you see in the higher priority category list or are right on the Willamette, that are right there at the, are directly impacting the salmon population, so those naturally tend to rank higher in our analysis. Then we follow up with the Planning

Commission and the public through the public hearing process, the Planning Commission, then recommended through their vetting process to elevate this particular project to a high higher priority project. I just always caution and remind everybody in the master plan, these are more overarching goals of the city and high, medium and low just sort of give staff some general guidance on what to focus on and then the annual budget is really where projects are delivered and planning efforts are delivered and then your CIP sort of leads into that budgeting process so that you can try and forecast future expenditures. So, just a reminder to the general public that this is not a list that we're going to go out and build tomorrow. This is a more overarching list of, a sort of a wish list of projects, and some projects on here ... I'm guessing the majority of the projects in our CIP, in our master plan documents, excuse me, are probably not going to get addressed until the next master plan update. Because our goal moving forward is to update these more than once every 10 or 20 years, our goal is to have these on at least once every 10 years, if not sooner, so that we can try and keep it current and keep our SDCs and all of our codes relevant to the current situation.

Mayor Axelrod: Well, thank you and I really appreciate that and I just want to say I really appreciate all the work that SONA has done toward the interest with the creek. I fully embrace the concept and idea as a holistically approach to take. But this is just not the place to daylight the drainage there, so I guess my question then is, I would I would like to, Mr. Ramis, I'd like to know, if I'm interested in proposing to approve the master plan with that project moved to where staff had it at a medium priority. What do I, when is the right time for after moving to deliberate, we have deliberation and discussion and I make a motion then is that what we ...

City Attorney Ramis: Yes. When you add the close of deliberation when you make your final motion, you would include that change in the motion.

Mayor Axelrod: Okay, thank you. Councilor Walters.

Councilor Walters: Yeah, thank you Mayor and thank you Ms. Pepper and Mr. Calvert. I agree with what the mayor is saying. I have some concerns about sort of the process. I watched the Planning Commission meeting when they moved it to start to discuss to move it to a higher priority and it was actually said that it was based on public comment and so I'm, I sort of feel that, there's nothing wrong with daylight and creeks. I think that it's, you know, there's tremendous benefit to that, but we already had our parks, former parks director, testify that there are other creeks in West Linn, that would be much easier to do that with that are already showing that they're ready for the benefit of that via fish passage issues being closer to the river, being in the flatter part. I would like to see us maybe do something down near where he was recommending and see how that works out and what that, what the cost looks like, what the benefit looks like. I wouldn't want to, as the mayor says, spend a very large amount of money basically turning an underground pipe into an above ground concrete flume for lack of a better, I mean, that's probably not accurate so excuse me, but so, just because it's am I comfortable with how it became a high priority. I'm concerned about cost, I'm

concerned having it remain, although you're saying that if it remains at high priority, that doesn't necessarily mean we're immediately going to move forward with a feasibility study, and whether it's higher medium, it would still have to go through the same process for the feasibility study to happen is that accurately reflecting what you're saying?

Public Works Director Calvert: Correct. So all projects listed in the master plan traditionally go through our CIP and budget process, or where we'd identify more specific projects as we move forward. So certainly the council is the leader when it comes to those particular processes.

Councilor Walters: I would just add that I've mentioned a few times, I live at a newer development on the hill, but for many, many years, I lived down there by Mary S. Young Park in the flatter, older neighborhood, and when it rains hard, it's like your street is a river and so I think that we have a storm drainage system that's good. That is really in need of improvement. I would like to see us putting our resources into that first before we explore daylight and creeks and other issues like that, so thank you.

Mayor Axelrod: Councilor Relyea.

Councilor Relyea: Yeah, so I don't think the recommendation in the stormwater plan is to daylight Bernert Creek, it is to do an evaluation of Bernert Creek and recent testimony at the Planning Commission, including that last week by long term property owners of different tributaries that make up Bernert Creek, especially that branch that forms off Salamo Road, indicates that there have not been any long term plans or stormwater systems provided by the city for a collection of that water and ensuring that it goes into a master drain system and so that to me is very concerning when we have property owners who are in the process of developing 35 and 40 lot homes coming before us that represents seven or eight acres where the property... telling us that certain sections of the stormwater system were never properly developed, that there are old corroded clay pipes on their property that form into ponds at different times of the year depending on the amount of water that happens to flow that particular year. I think all of those things are very concerning, and that we seriously need to take a look at what is happening with all these tributaries that make up Bernert Creek and let the experts tell us what the condition of that stream and its tributaries are. What needs to happen as far as that stormwater system, as a result of those different types of explorations and feasibility studies. For somebody to sit up here and say, "Well, I'm an expert in the field and I know better than the next person." But where's your study to prove that? Are you a geologist or are you a hydrologist? If you're not a hydrologist, don't give us an opinion about hydrology. Give us an opinion about geology. But in general, it's your opinion. It's not, you're not the expert. You're not the one doing the evaluation. So why do we need to listen to that? I think it's immaterial to the discussion.

Mayor Axelrod: For the record, I'm a registered geologist and hydro-geologist.

Councilor Relyea: Do you have a study on Bernert Creek?

Mayor Axelrod: No, I'm saying, all my suggestion is that I can tell you that at the outcome of spending \$20,000 you're going to be told, I can tell you may be roughly what it's going to cost you.

Councilor Relyea: I think we already had a hydrology study by somebody that the neighborhood association already paid for. And it speaks to a \$300,000 project, not a million dollar project that you're, you're stating. So I think you're inflaming things here. And again, I think we need to turn this over to somebody that's going to do the study for us that doesn't have any issues or a premeditated or premeditated position on the on the subject.

Mayor Axelrod: I'm sorry, if you're saying I have a premeditated decision on this, excuse me, I don't have a premeditated decision on this. I've read the hydrologist report and if you look at the detail of what the hydrologist says in his report, he says that none of, all of this is conceptual, none of it actually applies to the site conditions. That is a more detailed study and I can tell you, you know you're going to spend a lot of money there to daylight the creek and have complications, so my recommendation is spend that \$20,000 more effectively in the city elsewhere, that's my recommendation. That's it.

Councilor Relyea: That's your recommendation?

Mayor Axelrod: That's right.

Councilor Relyea: I don't think you've done a study. I think you've read the same papers that I've read and the information provided there says, and the information has been presented at the Planning Commission, indicates that there needs to be further discussions on this and further work done for the council to know what is happening with that particular stormwater system so that we can make good decisions. We shouldn't be saying do it or don't do it as far as day lighting Bernert Creek is concerned, what we should be doing is taking into consideration the overall concern of the entire stormwater master plan and the current recommendation is for there to be a feasibility study to understand what the condition of that Creek and the tributaries are, so that we know what measures need to be taken in the future.

Mayor Axelrod: Councilor Cummings?

Council President Cummings: Thank you. If I would have known that when we, when we approved the amount for the park two years ago, if I would have known that there was a stream on the property that was piped and that that hadn't been actually looked at in the land use hearing about it, I would have raised some questions about it then because I really do feel very strongly that it's important to daylight streams whenever and wherever you can if it's in the best interest, when it's a park that we have acquired because of its natural features, I think it begs the question, is it feasible or not? Now, I don't know. We've seen, we've seen

preliminary feasibility studies. We, I think we owe it, we should have owed it to ourselves then to answer that question, because this is a Park, like I said, that we acquired for its natural features. And to me if we don't at least see if it's possible to daylight the stream on that park, I don't know how you can go out and tell developers that they have to do it on their property. I just think you need to at least look at it. It's \$20,000, I don't know what it would have cost during the planning process, if that would have been done, but that's all we're talking about here. We don't know how much it'll cost. We don't know what kind of volume and so forth we're dealing with exactly. I think we owe it to ourselves to get those answers.

Mayor Axelrod: All right, I see no other questions of staff. Do we have any public comments? Okay.

Mr. Bialostosky: Good evening Council and Mayor Axelrod, Rory Bialostosky from West Linn, and I'm here to testify tonight on the proposal to do a feasibility study, and the subsequent, more likely than not, day lighting of the creek that would occur for the reasons you tell. I respectfully object to funding the effort and to its classification as a high priority and I want to really emphasize that the Councilors and the Mayor were elected to represent all the citizens of the town and not just those who show up for meetings. In this, in the plan that's before you, city staff in conjunction with the experts from Brandon Caldwell, have identified dozens of projects that were in need of funding, including several improvement projects that were needed to be completed due to system deficiencies or infrastructure needs and the Tanner Drive Storm pipe, day lighting is described in the plan as a project that would improve aesthetics.

City staff told me when I asked them about this condition of Bernert creek that the current storm system on Tanner Driver is in good condition or is not in need of repair. The Capital Improvement Plans states that the total projected budgetary allocation for stormwater projects is between 200 and 300,000 per year for the next seven fiscal years. The exact numbers are in this CIP. The current plan before you tonight features high priority infrastructure improvement projects in Bolton and Willamette that are projected to cost almost \$3 million and a medium priority project in Robinwood and other neighborhoods that are projected to cost over \$3 million and the map is in the plan before you sir, if you'd like to look at it, you can see all the different almost 60 or 70 projects that are needed to be funded. It's clear that money is tight for capital improvement projects, especially the ones identified in the plan, you have 200 to 300,000 per year for the next seven years. My point is that there are citizens, the community, who are experiencing flooding as a result of failing infrastructure every time it rains, as Councilor Walters mentioned. While the council appears to be prepared to designate an investigation into day lighting, Bernert Creek a project with no real need, other than aesthetics as a high priority project and I'm concerned that allowing a study to go forward will create a sense among passionate community members that the daylight is going to happen and we know that it will cost a lot of money that day lighting. We don't know how much but I know the mayor said that he thinks it would cost a million and the city just in the foreseeable future

will not have hundreds of thousands or a million dollars to complete the project. So, we already know that, and I imagine folks who live in areas that get flooded would not be happy to hear the possibility that an inexpensive water feature such as Bernert Creek would be funded over fixing failing infrastructure that affects them every day. I just want to say personally, I enjoyed the White Oak Savannah when I was in fifth grade. I went and planted trees there and I run and walk there often. I live down in the Willamette neighborhood so it's close to my house, and I just ... I'm concerned that the wishes of a few people that come and testify are being put above citizens who maybe don't have time to be here. I mean, there's only a couple people in the audience, and the interests of the few are being put above the interest of the 25,000 other people that probably have no idea this is even happening. So, I just think it would be a shame to see taxpayer dollars used down the line for what's classified in the plan as an aesthetics project, like daylighting Bernert Creek when they're critical improvements projects that need to be funded. And lastly, when I was sitting back there listening to Mr. Ramis go over the legal matters, he said the council is bound by the conference of plan policies. So I went to just quickly look while I was sitting back there and I just wanted to bring up a couple in the section three of the conference of plan and a couple of policies that might be relevant, I'm not quite sure but one requires adequate maintenance of culverts and drainage ways to ensure that natural drainage system operates at maximum efficiency. So based on what I've heard, from Mayor Axelrod's analysis, this would not ensure that the system is operating maximally at an efficient level. It would maybe even hinder efficiency because of having to do splitting, etc. And also, there's policy number three says that its policy of the city to protect downstream areas from increased stormwater runoff by managing runoff from upstream development. So, I'm guessing that the reason that the creek was put underground was to do this and based on the amount of water that could potentially be flowing through there, it I don't know if it's, I think it's contrary to that policy. If you're not protecting downstream areas, you're putting the water above ground to potentially harm the areas downstream or you have to put in a massive rock structures to mitigate the impacts, so that's not efficient. So I just wanted to bring those two policies to the attention of the Council for their deliberations and that's all I have so thank you for the time.

Mayor Axelrod: Thank you for your comments. We have a couple of quick clarifying question
Councilor Cummings

Council President Cummings: I just wanted to help make it clear doing a feasibility study is not a pre-commitment to one decision or the other. It's simply looking for information, actual data from an unbiased, uninvolved, professional. And that we, that such a thing might actually help discover more about what's going on in that area. If you look through the maps here, you can see there's actually some issues raised or issues identified, right in that area. So, and then, as far as aesthetics, I almost, I don't agree with that terminology because the section in the code, about the lighting pipe streams, it's there because there's the benefit, there can be a benefit, whether there would be in this case or not, would need to be determined, but there can be quite a benefit to day lighting streams and letting them bringing them back to their natural function. As far as why this pipe was

buried so deep, I can tell you in no uncertain terms that West Linn has been in the habit of piping and building on top of streams, ever since, I don't know when, that that's all over town. It's all over town. Sometimes the streams weren't even piped, they were just built on top of to the, to the detriment of the streets they were built on top of into the houses that had to take their water in a unconventional form, under their foundations and so forth. So this is about being environmentally responsible and trying to find out what is feasible here or not. That's all.

Mayor Axelrod: Thank you, I just want to clear one part when I said in the past was that you're, we're going to, we're going to proceed on a project like this, I can tell you now, you're probably going to be in, if you're going to put all day like, you're going to daylight, the entire Creek under the drainage, you're going to spend at least 500 or a million or more and there's going to be environmental, significant environmental impact to the trees along that area for the construction of the project itself and that's what I said, not that's just going to cost you a million, but if you're going to spend at least a half a million, and it's going to probably be I think much more than that. That was what I said before, but just...

[DISTANT CONVERSATION]

Mr. Bialostosky: And just to clarify one thing, that code that was mentioned that regarding day lighting, it applies to types that are in the water resource area, I think based on reading it and this Bernert Creek is not in the water resource area and I'm just concerned that if you do the study, then people are going to come after the studies done and say, "Oh, well, now we have the study, we need to do the project." and so it just basically kind of green lights the project, in my opinion, and I know some would disagree, and that's fine. But that's just my opinion.

Mayor Axelrod: Thank you.

Mr. Bialostosky: Thanks for the opportunity.

Mayor Axelrod: Thank you for taking time to, for comments. All right, any other ... that's it for public comments? Thank you. Let's see. Public estimates... so any further questions of staff? And if not, I will close the public hearing. All right, sounds good. We'll close the public hearing. I'd like to make a recommendation to move the Bernert Creek from a high priority to a medium priority where staff had proposed it and I'd be curious to see if there's support for that.

Council President Cummings: I second, did you make, did you make a motion?

Mayor Axelrod: I would move, I guess, to finalize the stormwater plan by moving Bernert Creek study to a medium priority project as recommended by staff.

Council President Cummings: I second.

Mayor Axelrod: So it's been moved and seconded to approve the plan by moving the prior, changing the prioritization of the Banner Creek project from a high to a medium priority is recommended by staff. I see no discussion, call the roll.

Ayes: Mayor Axelrod and Councilor Walters

Nays: Council President Cummings, Councilor Relyea, and Councilor Sakelik.

The motion failed 3 – 2

Council President Cummings: This is ordinance 1696 stormwater master plan. I move to approve the first reading of ordinance 1696, adopting an amendment to comprehensive plan Goal 11 public facilities and services and repealing and replacing the Storm Drainage Master Plan dated September 2019, and set the matter for a second reading.

Councilor Sakelik: I second.

Mayor Axelrod: Yes, it's been moved and seconded to approve the first reading of ordinance 1696, adopting the amendment of comprehensive planning goals, public facility services, repealing and placing the storm drainage master plan and setting the matter for a second reading, any discussion? Call the roll.

Ayes: Mayor Axelrod, Council President Cummings, Councilor Relyea, Councilor Sakelik, and Councilor Walters

Nays: None.

The motion carried 5 – 0

Council President Cummings: Seeing it's unanimous, I move to approve Second Reading of ordinance 1696, adopting an amendment to comprehensive plan goal 11 public facilities and services and repealing and replacing the storm drainage master plan dated is September 2019 and adopt the ordinance.

Councilor Sakelik: Seconded.

Mayor Axelrod: It's been moved to approve Second Reading of Ordinance 1696. Call the roll please.

Ayes: Mayor Axelrod, Council President Cummings, Councilor Relyea, Councilor Sakelik, and Councilor Walters

Nays: None.

The motion carried 5 – 0

Mayor Axelrod: Thank you. Motion moves forward. Mr. Ramis, I've just realized we for the element of climate, if we want to introduce a statement later, staff can bring that back to us and we could do in the future as we discussed before is that the suggestion?

Mr. Ramis: Yes, we'll work with public works to bring it back a proposal and describe a way to do it.

Mayor Axelrod: So I would I would recommend to council that we have staff prepares a few sentences that we might add to call to qualify the plan later?

Council President Cummings: I move that staff come back to us with a recommendation to add language or some kind of document related to climate changes with the storm water master plan.

Mayor Axelrod: We need to vote on that or we ... did you...? Okay, a motion was made, anyone want to second it? I'll second? Second. It's been moved and seconded to, in the future, provide a supplementary statement for the storm drainage master plan to address the recognition and acknowledgement of climate change is potentially impacting the city and future plans and considerations. Call the roll please.

Ayes: Mayor Axelrod, Council President Cummings, Councilor Relyea, Councilor Sakelik, and Councilor Walters

Nays: None.

The motion carried 5 – 0

Mayor Axelrod: Thank you. Thank you, staff.

Public Works Director Calvert: Thank you.

Mayor Axelrod: Thank you Amy, for all your help, done a great job. Lance thank you. Alright, that's it for the business meeting tonight, on to mayor and council report, city council reports. So let's get to the council members first, maybe, huh? I wasn't at the beginning. Maybe when you guys talked about what you're going to, you guys have things to bring up? Councilor, Relyea?

Councilor Relyea: Yeah, thank you, Mr. Mayor. So at the last South Fork waterboard meeting, there was a discussion, actually recommendation from Councilor Sakelik that to HDR and ODOT that they take a look at adding an additional interchange between the 10th Street exit and the Stafford exit and most people at the table were supportive of that, including the Oregon City councilors as well as the mayor. So based upon those discussions and the fact that ODOT and HDR mentioned that it was going to be over 10 years before we're going to see any improvements to interstate 205 at Abernathy bridge, I think we should start seriously looking at asking the Federal Highway Administration for a waiver on the distance between interchanges and look at adding an interchange to the program so that we have traffic and perhaps another bridge feeding into Oregon City to relieve some of the traffic and congestion that we are suffering in West Linn. I saw you shaking your head about, "No, it's not going to be 10 years." But the latest information that we received directly from ODOT and HDR indicated it was going to be at least 10 years before we saw any kind of improvements along Interstate 205 and Abernathy Bridge.

Mayor Axelrod: What medium was this? And I'm a little unclear because that's not what they've been telling us. So...

Councilor Relyea: This was at the South Fork Water Board meeting this last month.

Mayor Axelrod: And ODOT, they're telling you this?

Councilor Relyea: That's correct.

Mayor Axelrod: Who from ODOT was there?

Councilor Relyea: It was the project manager.

[DISTANT CONVERSATION]

Councilor Relyea: A female that was there was for the ODOT Representative and the two males that were there from HDR.

[DISTANT CONVERSATION]

Councilor Sakelik: You were saying between 10th Street in Stafford so the ... isn't that what you said? I, my suggestion was to replace our current 10th street with, as you go down Blankenship a small ways towards Summerlin apartments, there is some for lack of a better word, empty land that goes up to the freeway that could possibly be an entrance so that we don't have to have 10th Street as an entrance going south. And so that's what Franco Donald from Oregon City Commissioner, and they all thought that was a good idea and the gentleman, Mark which I have, is currently, I don't have it with me. He said he was going to check on it because that could be a feasibility. I never thought of that and it could take a lot of pressure off of the 10th Street entrance which we have a big problem with and so he said he would look into it and I took his card to follow up with him to ask him so that's what Councilor Relyea was referring to and one of his comments was if you move a little bit closer, it would be closer to the Stafford exchange, it might not meet the minimum distance between exchanges, which is what it is why Councilor Relyea is ...

Mayor Axelrod: Right. Got you.

Councilor Sakelik: And if it's feasible to me, it just seems like a logical solution if it's feasible to do, and especially if there's enough time, I mean, it could really take the heat off because as you go towards, down Blankenship that way, there's nothing. It can make a very flowing on ramp to get on for 205 South that could really take the burden, a lot of the burden, off of the 10th Street area where we have those lights which is causes problems for years.

Mayor Axelrod: So yeah, interesting idea.

Councilor Sakelik: So I was going to follow up with the gentleman just to see.

Mayor Axelrod: Good. Was that a douncilor.

[DISTANT CONVERSATION]

Mayor Axelrod: Okay, thank you. Council Walters?

Councilor Walters: I was just going to say that that is a neighborhood down there on Blankenship. There's a neighborhood of homes and people.

Mayor Axelrod: So one of the issues we face on the funding for 205, which we're not told it's that far out. But one of the challenges that we're fighting right now is the interest in the Columbia River crossing. That's reared its tail again, and the governor's expressed interest in and that project interestingly enough, is a similar sort of number for initial portion of a project, but, and the interests that the downtown cover project isn't ready and so the recommendation is still hopeful to push and get to 205 done started in the next few years like it was four years. Latest we heard from Ryan and, but anyway, I'd be curious to talk to this person, see what they're thinking, that it's going to be at least 10 because that would be new to a lot of everyone else that I know that's been working on the project. I don't know if Lance has any different ideas on that, I'm seeing him shaking his head no. Okay, well, that's good. We should look into that. Councilor Relyea sir?

Councilor Relyea: Yeah, so a big part of the discussion was also about the in-water work windows and fish passage and a lot of the environmental concerns with all the permits that they need to go along with these improvements to Interstate 205 in the Abernathy bridge, and their feasibility studies showing that they need at least five construction seasons to do the Abernathy Bridge. So even if they had funding approval, and even if design was completely finished right now, which it's not, so they're saying it's going to take at least two more years for design, and then another two years for funding that's four years plus five years of construction. So 9 to 10 years, was there a projection for these improvements to the Abernathy Bridge in that quarter?

Mayor Axelrod: Yeah, the fish window is July to October, it limits the construction period. My understanding is... I thought they were going to be able to get a variance for elements of that in demonstrating lack of impact, and I thought that was part of their environmental impact study they did, but I'll have to check on that. That's the first time I heard that. They had mentioned that before. In that context what else do people want to mention, nothing else. I just, I want to bring to everyone's attention Metro's process for the quarter or that they're doing set up for the bond next year for Metro's transportation bond, the big T2020 bond. There's a technical committee that's out there, many different stakeholders and they're going in all different directions at a high rate of clip. The process is complicated and it's trying to address a lot of interests in needs expressed by all the communities and as you know, they've ranked their projects into tiers.

Tier one being probably the highest priority projects that will hopefully be moving forward if the bond gets approved. And we have a project that's currently very

important to us, the tier two Highway 43 project currently ranks as tier two. But there's recent surging of interest to move it to a tier one, including some support at Metro in our own Metro Councilor who's fighting hard to get it to a tier one. There's lots of regional recognition of the value of Highway 43 not just to West Linn, but to the commuters from all areas south and areas north that have to move north to south through our region that are otherwise restricted or infringed upon. And of course, for our city, it's hugely dangerous. You see the other day there was another flipped over car on Highway 43 and no one feels safe walking, you can't get it, you can't even cross the street in most areas of the roadway and it's a disaster. And so we have our Highway 43 plan to be implemented in phases and we only have funding for first the northern segment from around Hidden Springs area north to Lake Oswego. I think we're like 60% design so on the sections to the south down to 205.

ODOT and our staff are looking at options that time with the 205 construction just in terms of roundabouts. It might replace light signals and such but there's a strong recognition in their priority criteria in the T2020 process toward climate change, providing alternate modes of transportation, really helping with the connected bike ways where we can do it and the value of Highway 43 cycle track as it's envisioned in the broader sense for the region is so someone can get on a bicycle in Oregon City and get safely up into Portland as a commute. Right now, my wife does that commute to OHSU but it's a death trap, for example, through Lake Oswego, and it pretty much inhibits a lot of that. Certainly many times of the year, particularly when it's dark, it's just not safe. So, until we sort of help build some of these corridors and provide an opportunity for people to have other modes of transportation, they're just not going to be options. So, one of the projects that's a tier two project in the metro plan is to put a bridge next to the railroad bridge connecting Lake Oswego to go with Oak Grove.

There are facilities on the east side, and there's a proposed plan to connect up to that point. And then of course, on this side, it would connect up with the Highway 43 improvements and allow folks on the east side of the river to get to the west side of town because right now if you want to, even if you want to drive, you've got to drive all the way down south and around. We've all done that up, McLaughlin to Highway 99. So, there's a lot of interest in that project. The Bridge Project, it's called, its acronym is OGLO Oak Grove Lake Oswego connection bridge. There's a feasibility plan and there's a project description and I'd encourage you all to kind of look, look at it, and see how it ties in with the regional interests and most surrounding cities that I've heard are highly in favor of it. But Lake Oswego, I understand, I just learned just late last week, that Lake Oswego Council voted, I think it was five to two against the project or not to support the project.

I don't know if that was not supported moving from tier two to tier one or just they weren't going to really back the project in general. But I hope to talk with the council there and the mayor and I hope with other cities that they might be interested in, I hope our council would be in supporting the project, so I hastily prepared a proclamation which I understand was premature and everyone wants

to talk about the project first and look at its benefits. So, I'm looking forward to having that discussion and for us to kind of debate the project and consider what's being proposed. And I really do believe from what I'm hearing that it could really help our project as well, move from tier two to tier one, because of the improved connectivity it provides regionally. And that's really one of the things we've been arguing for all the T2020 discussions is regional corridors actually addressing those areas that need vital connections and links.

And the east to west is, as you know, is pretty challenged because we have no way to get over and the railroad would not allow everyone. First option, of course was to slap it on right on the side of the railroad bridge because the construction to be done, but I understand the railroad doesn't want to even talk to anyone about it. So that's how railroads are, "Stay away from my turf." But that would be an obvious, nice way to go. But I don't think that's an option so I would like the council to consider that in a future day, maybe one of our future work sessions, we can talk about T2020 project status, things are moving very quickly. Also related to that I haven't had a chance to catch up with Lance after C4 meeting late last week, but Metro is taking comments and comments can be submitted to Metro in support of our Highway 43 project and moving it from a tier two to a tier one in the Metro T2020 program. So I would encourage anyone out there who is listening and wants to see improvements to Highway 43, write your representatives at Metro or send it to Metro Council in general, a letter recommending that they support Highway 43 moving from tier two to tier one in that program.

And I think we'll get probably better organized maybe on, maybe we can get something up on the website about opportunities to submit comments so people might be real clear. So maybe folks could look to our website for an opportunity to comment and either way you feel about Highway 43 but I just want to put that out there. Councilor Cummings.

Council President Cummings: So how about we think about adding some information about that OFLOW or that bridge, bike bridge to our December 16 transportation work session? Would that be reasonable?

City Manager Stein: Certainly.

Council President Cummings: Okay. It's about a month away. Okay, good. Then, what else was there? We talked at our work session about wanting to clarify, when we will see some information coming back to us about the 28 foot street with codes, that sort of thing. And I don't know if you were there for that. Okay. And Ms. Stein, what did you say was reasonable for us to expect for a timeframe for that? Was it January?

City Manager Stein: I think the community development director was talking about an overall process for discussing other code amendments. So I don't recall if he offered a timeframe for that. I was discussing earlier tonight regarding early January for

reporting back on the public records the requests for information but I'd have to check with John about what he committed to.

Councilor Sakelik: Can I intervene?

Mayor Axelrod: Yeah Councilor Sakelik?

Councilor Sakelik: So director Williams comments where they started the process already submitted to the state when they get it back from the state, it will go in front of the Planning Commission and he expected all that to occur before February yet the latest was his ...

[CROSSTALK]

Council President Cummings: I just wanted the public to benefit from that. Thank you for people that have been waiting. And then the other thing is the question of our planning for the citizen advisory group.

Mayor Axelrod: Oh, yeah, we picked a date for that didn't we?

City Manager Stein: So yeah, we had selected Friday, December 6th, as an evening to do a citizen advisory group recognition event. We were also talking about, so we need to get going on that because the time is approaching, we also have a recognition event for Ken Worcester to plan as well. That's on November 22 so, got a couple of events of that nature to plan. We did have some discussion about when we might find a time to do interviews for those who apply to citizen advisory groups. The deadline for applying is November 30. So if you're listening out there, folks know that we're accepting applications for citizen advisory group members through November 30th. And then once we know how many applications we have for openings, who applied, then we'll work out a time, for a time to schedule interviews in the on those committees where we do ... where you interview. Probably not going to be able to get all that work done in time to make appointments on December 9th as the tentative agenda calendar shows right now so we'll look to make those appointments at your January regular meeting on the 13th.

Mayor Axelrod: A couple... Is that it? Just a couple things I also wanted to mention. Next Monday and Tuesday, I'm going to be down in Salem testifying at several different committees about the locks. Well, I might be late to our work session on the 18th. And at this point, I might have to miss the even the CCI meeting. And then when we're done, we've got committee meetings going right into at least five that evening, down in Salem, so that doesn't fare too well. So just to let you know, but I'll know a little bit on my schedule and our meetings in Salem go to five, at least on Monday. So, what do time do we meet at 5:30? When do we meet?

Council President Cummings: Six for work session.

Mayor Axelrod: Okay, so you might have to start without me. But I'll get back as soon as I can. Okay. How about anything else from councilor, city manager, anything to report?

City Manager Stein: So I mentioned in the work session that we did receive, the council was interested in receiving input from the neighborhood associations on citizen vision goals. We did receive through the end of October, we did receive input from three neighborhood associations and we're expecting to receive one more comment at least one more comment from another. But they haven't had their meeting yet to discuss that. My question is we can certainly feed you this information. But we process wise... What we're doing, what happens?

Mayor Axelrod: We asked that be done by the end of October to go to the CCI and the CCI was going to review them.

City Manager Stein: Okay. To the CCI, yes, the next step. Okay. Perfect. That's what I needed to know.

Mayor Axelrod: And then the CCI would make its recommendation on to the council or whatever, then it would move forward.

City Manager Stein: Okay. And then the last thing, hopefully you all saw the email about still checking on dates for continued discussion of the city managers evaluation in the next dates that are being tested right now are November 25 through the 27th or the week of December 2nd. So...

Mayor Axelrod: Are we getting to, I don't see, do we get a doodle poll on that or anything? Or do, was there something being put out on that or...?

City Manager Stein: I thought Kathy was doing a doodle poll but we'll check on, or we'll do that.

Mayor Axelrod: Look for doodle poll.

City Manager Stein: Yeah, look for doodle pull on that.

Mayor Axelrod: And I maybe will they be clear about how much time we need for that. Have you gotten clear about how much time is needed for, to finish that up? I mean, it's two hours one hour. I don't know exactly the extent to which or kind of need to discuss or present I don't, I don't, I don't know exactly. What it is that they have, so maybe that would help to understand that at least the slot that we're looking for on the doodle poll and if they could clarify rough timeframe they think their best estimate, I guess, so we know. Councilor Cummings?

Council President Cummings: I thought we already identified two hours.

Mayor Axelrod: I don't know, I just...

Council President Cummings: I mean, the other one, the other suggestion was three, certainly no less than two.

Mayor Axelrod: Okay. Councilor Sakelik.

Councilor Sakelik: I suggested three midafternoon like a two to five so that we can make sure to be done with it. If we're done in two hours or an hour and a half there's no problem with that. But if we run over, there's a problem potential problem so...

City Manager Stein: We'll test two to five in the doodle poll.

Mayor Axelrod: Or a three hour slot or whatever. Yeah. Okay. Mr. Ramis anything on the attorney side to report?

City Attorney Ramis: Mr. Mayor, just a short report on the county. The council's goal of adopting workplace harassment policies and schedule and what's ahead on that. The objective, of course is to get this done by the end of the year. The plan is to bring a specific proposal to you to work on December 2, at the work session creating then the path to potential adoption on December 9th. So that's the schedule. What you'll be receiving will have two components. One is the policy and the other is the process for investigating complaints. The policy component we're working with the staff and the statute, and Elissa to take what you've seen and make sure that that's in order for a common policy for staff and for council and volunteers. Probably not a lot of room for movement and wordsmithing on that because it's heavily influenced by the statute, the investigation resolution reporting side of it, though, there are a lot of options and we'll be crafting a process for your consideration that would apply both to matters involving the council and matters involving volunteers and boards and commissions.

That one will be fashioned largely on the template of the approach that the legislature took through house that sets up the process for the state legislature on how these matters are to be handled. It seems to me to do a good job of addressing some of the things that the council has been concerned about in the past confidentiality, options for reporting, checking back after a complaint to see what's happened, what changes have been made, changes in policies and procedures, those things are all part of the procedures. So it's a pretty complete document, I think. So we'll be trying to use that as our model. so that's what you'll be seeing and we'll see you on December 2.

Mayor Axelrod: Thank you, December 2, okay. Councilor Cummings?

Council President Cummings: And we also had asked to just have some recommendation for a sentence that we could add that acknowledges that we welcome people to use their preferred pronouns that we welcome that.

City Attorney Ramis: Yes, we had a meeting today with staff on that subject and how we might address it. And I don't know if we'll be able to incorporate it here, but we'll certainly be coming forward with a proposal on that.

Council President Cummings: Yeah, just a sentence that doesn't mean the policy that is required or anything like that. But just a very simple sentence that that acknowledges that we support that.

City Manager Stein: So couple thoughts on that, I've started to do some research with other cities today, trying to find out what other policy cities have put into place. I want to make ... be careful that we keep this compliance with the state as pure as possible. So whether we end up talking about these two together is fine. But I just want to make sure that we were not adding a new topic into something that relates to compliance with the new state law, if that makes sense. So, I understand the need for having the discussion about gender titling, but I don't know that gender titling relates to compliance with the Oregon Workplace Fairness Act. If it does, we'll work it in, but I just want to make sure that we're not intentionally confusing two different topics.

Council President Cummings: I certainly wouldn't want to try to insert it into anything that has to do with compliance. That's not the intention. It would be pretty much under the statements that have to do with our supportive, equity and inclusion and that sort of thing. That's all. Yeah.

City Manager Stein: I understand.

Mayor Axelrod: Councilor Walters?

Councilor Walters: So what I thought we had sort of come to last time was that maybe in Council rules that would be a more appropriate place and that we keep this policy really separate so that we're complying with the state mandates. I mean, I think that we should really have part of our council rules, our diversity, equity, inclusion policy including respecting the use of pronouns. But I don't know if it should cross over into the state mandated policy.

Mayor Axelrod: Councilor Cummings?

Council President Cummings: Well, the ... I think I remember having that conversation. But the thing about our rules is that it only applies to us and our boards and commissions and we would support having that be in our city's overall policy as well.

Mayor Axelrod: If I could just chime in too, I think that was the interest, was just to make it show the sensitivity, because it's an element, it could be considered an element of harassment and we want to make sure that all our employees are comfortable in the workplace and I think it was an element of a simple statement about that to address it more. But I didn't think it would be too big a deal, but I don't know. I mean, maybe ...

City Manager Stein: That's the... I think that's the point. Please don't take my hesitation as opposition at all. My hesitation has to do with ultimate sensitivity to a very emerging new policy area and particularly as it relates to application to our personnel policies. I don't want to not do it. I don't want to do it wrong.

Mayor Axelrod: Right. That's all right. That makes a lot of sense.

Councilor Walters: I agree with that. And I think that, just like you say reaching out to other cities looking at what they're doing, even nationally, if necessary, so that we have a sense of where those rules fit in, in our overall personnel policy as well as our policy for our elected and our boards and commissions.

Mayor Axelrod: You know and even in our sorry ... but in along these lines, reading our standard script that we have for hearings, it's ladies and gentlemen. Still in their print, ladies and gentlemen, I didn't say it tonight. I think I've said that before. And in much more sensitive ... it's broader sensitivity to me already around this issue. And I do not say, ladies and gentlemen anymore.

City Manager Stein: And that's where I think we're just going to end up with as I understand the intention. But I want to make sure that we don't create unintended consequences by virtue of trying to do the right thing. Again, I still think this is a very new and evolving subject area, and I just want to make sure it's sensitively handled.

Mayor Axelrod: Sounds good. Alright, if there's no other business we are adjourned. Thank you.

[2:32:35] [RECORDING STOPPED]