

**STAYTON CITY COUNCIL
MEETING MINUTES
February 16, 2010**

CALL TO ORDER

7:00 p.m.

Mayor Aboud

FLAG SALUTE

ROLL CALL

Mayor Gerry Aboud	Councilor Loftus
Councilor Frank	Councilor Vigil
Councilor Hemshorn	Council Walters

STAFF:

Don Eubank, City Administrator
Christine Shaffer, Finance Director
Rich Sebens, Acting Chief of Police
Dave Kinney, Public Works Director
Dan Fleishman, Director of Planning and Development
Louise Meyers, Library Director
David A. Rhoten, City Attorney
Jeffrey M. Strickland, Assistant City Attorney
Rebecca Petersen, Deputy City Recorder

Mayor Aboud moved item 14. BUSINESS FROM THE COUNCIL, a. Council Communications – Don Walters to the beginning of the meeting: Councilor Walters read a document titled “COUNCIL COMMUNICATION” that he drafted for the Mayor and Council. The document emphasized respect to Councilor Decorum and Respect to the Individual and Collective Responsibility to those that the Council oversees. To help ensure that the matters will be addressed, Councilor Walters asked that two motions be approved. He read the following motions:

FIRST MOTION: I move that the Council recognize that the Mayor, as presiding officer, has the authority and should diligently exercise the practice to maintain civility and decorum throughout Council meetings, and that any disrespectful behavior such as bullying, name calling, or belittling shall not be tolerated and shall be called out of order.

SECOND MOTION: I move that the City Administrator be directed to initiate a written policy that establishes a procedure regarding appropriate interaction between the City Administrator and individual councilors. Though welcomed, it shall be clearly understood that the Council shall ensure that all City employees, including the Administrator, are not subjected to individual councilor undue influence, interference with the business of the City; or conduct which lacks civility and respect. This policy shall be submitted to the Council for review and action.

First Motion: From Councilor Walters, seconded by Councilor Hemshorn, to move that the Council recognize that the Mayor, as presiding officer, has the authority and should diligently exercise the practice to maintain civility and decorum throughout Council meetings, and that any disrespectful behavior such as bullying, name calling, or belittling shall not be tolerated and shall be called out of order.

Motion to amend First Motion: From Councilor Loftus to amend the motion. He would like to see the Mayor included. He would also like a sentence that says the Council has ultimate authority as to what is considered disrespectful behavior. **Motion dies for lack of second.**

Discussion of First Motion: Councilor Loftus stated these are already the Council's rules; they are already part of Roberts's Rules of Order. This is the third attempt to in affect try to have the collective, or have the Council act as a collective, and he wanted to make it clear that what one person considers disrespectful another person may not. For the most part this issue before us has been continually ongoing and it deals primarily with whether or not a councilor is acting as a councilor or acting as a citizen, when making an inquiry to try and get information. Mr. Loftus stated he has been subjected to absolute impediments, interference, and in his assessment insubordination in dealing with staff. There is no way he will be voting for this as it is already part of the Council's rules.

Councilor Walters stated that the first motion pertains to City Council meetings only and not the rest of the hours in a week. He stated when the Council is bickering they are not getting the job of the City done, and they need to act like adults. He added calling names and belittling doesn't need to be done and we need to act like adults. Since the Council is already supposed to be doing this and isn't, this is just a reiteration of those points that it needs to be done.

Councilor Hemshorn stated it continues to be a problem as this issue keeps coming up. Council protocol was not accepted at the beginning of the 2009 term. If a protocol cannot be accepted, then one needs to look at why they are on the Council and whether or not they are being a positive part of the Council. Council members need to be able to address each other and staff respectfully during a meeting.

Councilor Loftus stated some of the belittling comments have come from the Mayor as he has attempted to shut down citizens in addressing the Council and Mr. Loftus is very concerned when this is specifically targeting individual councilors and there is absolutely no recourse for the Mayor. Councilor Loftus stated again he is not supporting this. Mayor Aboud stated he had nothing to do with the "Council Communication" proposal and only read it the same day the Councilors received it.

Councilor Walters stated Roberts Rules of Order allows the Council to take care of the Mayor if he/she gets out of line. The document is for all of the Council, himself included. He is not pointing the finger at anyone he is just saying that all members of the Council needs to act like adults.

First Motion Passed: 3:2 (Frank & Loftus)

Second Motion: From Councilor Walters, seconded by Councilor Hemshorn, to move that the City Administrator be directed to initiate a written policy that establishes a procedure regarding appropriate interaction between the City Administrator and individual councilors. Though welcomed, it shall be clearly understood that the Council shall ensure that all City employees, including the Administrator, are not subjected to individual councilor undue influence, interference with the business of the City; or conduct which lacks civility and respect. This policy shall be submitted to the Council for review and action.

Motion to Amend Second Motion: From Councilor Loftus, seconded by Councilor Vigil, to include the word Mayor anywhere the word "Councilor" is used; that the Mayor shall have not have undo influence or inappropriate interaction.

Discussion of Second Amended Motion: Councilor Walters stated he has no issue with adding the word Mayor to the motion he somewhat assumed that he probably should have put it in the motion. The Mayor during his duties is going to have more contact with City staff than the rest of the Council as that's his job.

Councilor Loftus stated that should this be passed he wants the City Administrator in the written policy to clearly comply with the Attorney Generals manual on Open Meetings Laws and Public Records, whether it is a City Councilor or a private citizen who asked for information. Mayor About pointed out that the discussion is on the specific amendment that Mr. Loftus made and not the main motion.

Amendment #1 to Second Motion Passed: 4:0, 1 abstain (Frank)

Second Motion passed as amended: 3:2 (Frank & Loftus)

PRESENTATIONS/COMMENTS FROM THE PUBLIC

- a. Richard Silva, Stayton: Mr. Silva read a prepared statement regarding the inaccuracy of the January 19, 2010 City Council meeting minutes, and holding all City managers to a higher performance standard.
- b. Jack Fiske, Stayton: Mr. Fiske expressed his concern that one person on the Council has done more damage to the City, berates the City Administrator and berates staff. Its amazing how one person can bring down the City and it needs to be stopped. He encouraged the other Council members to not stand for it.
- c. Art Christensen, Stayton: Referring to the Council Communication Second Motion, Mr. Christensen stated that while the communication has a lot of good intent, it's not the City Administrator's job to write a policy for the City Council as it's not right to put him in that position. The City is not going in the right direction and many votes by the Council are 3:2, which is not a unified City Council. The Council needs to discuss this issue and become more unified. Councilors should be able to speak their mind and debate at a meeting instead of being limited.

ANNOUNCEMENTS

- a. **Additions to the Agenda:** None from staff.

Councilor Loftus stated he had some issues to be brought up under Council Business.

CONSENT AGENDA

- a. **City Council Meeting Minutes of January 19, 2010**
- b. **City Council Meeting Minutes of February 01, 2010**
- c. **Ballot Title Referendum Petition for Urban Renewal Plan**

Mayor Aboud stated corrections to the February 01, 2010 meeting minutes were provided to the Council therefore the approval of item b. of the consent agenda would include the corrections.

Councilor Loftus pulled items a and b from the consent agenda.

Motion: From Councilor Vigil, seconded by Councilor Loftus, to approve Consent Agenda item c only. **Motion passed 5:0.**

Mayor Aboud asked Councilor Loftus to explain his concerns with items a. & b. of the consent agenda. Councilor Loftus asked to defer the issue until later in the meeting under Council Business and Mayor Aboud stated it would be discussed at this time.

Councilor Loftus stated: "Beki, can you please..." Mayor Aboud interrupted him and stated according to the Council Rules, questions are to be addressed to the Mayor.

Council Loftus stated: "Mr. Mayor, I would like the City Recorder to please address the issue of how she ended up with the minutes that were initially submitted, and explain to me whether it was under direct orders from either the Mayor, the City Manager or whether she took her own initiative to modify those minutes".

Mayor Aboud stated he did not feel this was appropriate, the minutes have been corrected.

Councilor Loftus interrupted Mayor Aboud. "We need to gain the facts on how did it happen, where did those notes or minutes originate from because this is a serious violation". Mayor Aboud stated it would be put down as a mistake, the mistake was corrected and that is what DRAFT MINUTES are for.

Councilor Loftus stated, "No Sir, DRAFT MINUTES means simply not has been adopted by the Council it doesn't mean that DRAFT is for me to then read it and go through and factually check everything that is in there, that should be Don's job if he's present and reading it he should be able to catch those type of mistakes". Mayor Aboud stated that may be the case and it is the councilors' job to read the minutes for corrections, that's what we are here for.

Councilor Loftus stated he would like to make a motion that we reorganize our City administrative government functions, and place the Mayor as the City Administrator and we do away with the Council. Councilor Hemshorn stated "James your being absurd at this point". Mayor Aboud stated

“That’s enough, we are going to approve the meeting minutes”. Council Loftus stated he attempted to have this discussion with the City Administrator but he refused me.

Motion: From Councilor Vigil, seconded by Councilor Walters, to move to accept the January 19, 2010 Council meeting minutes. **Motion passed:** 4:1 (Loftus)

Mayor Aboud stated corrections to the February 01, 2010 meeting minutes were made to pages 1 and 11, and asked if there were any further corrections from the Council. Mr. Loftus stated that on “page 7 of 14, second paragraph, last sentence, second word, it says paining instead of painting.” The word will be corrected from “paining” to “painting”.

Motion: From Councilor Vigil, seconded by Councilor Walters to accept the February 1, 2010 Council meeting minutes as amended. **Motion passed:** 4:0, 1 abstain (Hemshorn).

PUBLIC HEARINGS – None.

UNFINISHED BUSINESS

Ordinance 918 Second Consideration to Bring Annexation procedures in the Code into Compliance with the City Charter

- a. **Staff Report:** Mr. Fleishman reviewed the staff report included in the Council packet materials.
- b. **Council Deliberation:** Councilor Loftus stated that at the last meeting he asked Mr. Fleishman if he had any idea of what costs for an election would be for a citizen who wanted to have an acre of land annexed into the City. Mr. Fleishman stated that costs would be approximately \$5,000.

Mayor Aboud commented that this issue of costs is of no consequence as the voters of this community voted to put it in place and all the Council is doing is placing it in the Stayton Municipal Code. This item is in the Charter, which states that this has to be done.

Councilor Loftus stated that he understands this but feels it’s important for the citizens to understand what they’ve done and how much it is going to cost.

- c. **Council Decision:**

Motion: From Councilor Frank, seconded by Councilor Walters to approve and enact Ordinance 918 Amending Annexation Requirements of Stayton Municipal Code, Title 17 as presented. **Motion passed:** 5:0.

Ordinance 919 Second Consideration to Amend the Regulations regarding Electronic Message Signs

- a. **Staff Report:** Mr. Fleishman reviewed the staff report included in the Council packet materials. He explained the changes requested by the City Council have been incorporated into the ordinance.

The first change requested was that a corner lot may only have one electronic message sign, whereas the current sign code states that a corner lot may have a regular sign on each street. To make the change, Mr. Fleishman deleted the provision stating that you can only have one electronic message sign on a corner lot. The current code already states that you are allowed two signs on a corner lot, so there is no reason to restate this again.

The second change incorporated into the code was whether electronic message signs would be allowed in the two downtown mixed-use zones. This change was added into section 10.a.

The final unresolved issue is whether or not the electronic message signs should be allowed to have lighting other than white or amber. He explained the reasoning behind the Planning Commission's recommendation that the colors be limited to white and amber.

- b. **Council Deliberation:** Councilor Walters commented that he has noticed that the electronic signs that have red really do make a big difference and it is difficult to keep your eyes on the road and not look at them compared to the ones with white.

Motion: From Councilor Frank, seconded by Councilor Walters to that electronic message signs are limited to white or amber.

Discussion of Motion: Councilor Loftus stated that once again, they are setting limitations on business owners who are spending their money to purchase these signs. For business owners, it may be nice if they wanted to put a holiday message such as "Seasons Greetings" and be able to use Christmas colors or on the 4th of July be able to use the colors red, white, and blue. He understands the objections of light pollution and lights being too bright, but feels this issue has been addressed with the automatic dimmer switch and a default off. Councilor Loftus feels it would be appropriate and colorful if something other than just white or amber were allowed.

Councilor Vigil agrees with Councilor Loftus. If the signs are limited to white or amber, this may limit their signs. He feels it's not the government's job to dictate what color signs should be.

Mayor About stated that his observation would be that the code can always be modified at a later date to allow more colors.

Councilor Vigil responded that while this is true, how we will know that it's a problem when it's not allowed. He doesn't agree that the City will be telling businesses what color their sign can be. It limits variety in signs and may cause some businesses to choose not to install an electronic message sign because of the inability to be different.

Councilor Walters clarified that the color limitations of white or amber are only limited to the electronic message sign and not the regular business sign. Mr. Fleishman responded that this is correct.

Motion passed: 3:2 (Loftus and Vigil)

c. Council Decision:

Motion: From Councilor Frank, seconded by Councilor Hemshorn to approve and enact Ordinance 919 Amending the Stayton Municipal Code, Title 17 to Revise the Standards for Electronic Message Signs as presented. **Motion passed: 4:1 (Loftus).**

Amendment of Lease Agreement, 352 E. Florence Street (Moose Lodge)

- a. **Staff Report:** Ms. Shaffer reviewed the staff report included in the Council packet materials.
- b. **Council Deliberation:** Mayor Aboud asked if the rental income is assigned to a specific budget line item. Ms. Shaffer stated that it is placed in the Facilities Development and Maintenance Fund 50.

Councilor Walters inquired about the other half of the building which was used for storage by the City. Ms. Shaffer explained that when the Stayton Food Bank moved to their new location on 2nd Avenue, all items being stored at 352 E. Florence Street were moved to the former Food Bank location on Ida Street. Councilor Walters then asked if what used to be the storage area at the Florence Street building will now be turned into something else. Ms. Shaffer stated that this was correct and that any changes or improvements made by the Moose will be done at their own cost with permits if required.

Councilor Vigil stated that Ms. Shaffer had explained that the Moose had agreed to what is presented in her staff report. However, what he sees from the Moose is that they only wanted to extend their lease. Ms. Shaffer explained that the letter from the Moose was to extend their lease back in September, which was a two year lease with the option to extend for an additional 2 two year terms. Staff brought this to the City Council in July 2009, and looked at increasing the rent for the half of the facility they were renting and there was no decision made at that time. At this time being the lease hasn't been officially extended, the Moose have been paying on a month to month basis but had expressed an interest in extending their lease.

Councilor Loftus stated that it seems to him that if the intent of the City and the City Council is to eventually demolish this building and put a City Hall there. In reference to

the Lease Agreement, page 6 of 9, section 8.3.2, he felt this is something that needs to be addressed and if 30% to 40% of the building is damaged at that point in time it should be turned over to the Fire Department for a "Learn to Burn" rather than investing more money into the restoration of the facility. This is the only concern he has with the contract and he feels the Council should consider revising this paragraph to state that if 30% to 35% of the building is damaged, the lease is terminated and the building should be demolished. Mayor Aboud asked him what specific percentage he would like to see this changed to. Councilor Loftus stated he would like to see this changed to 30%.

Councilor Frank asked Councilor Loftus to further explain the reasoning behind changing the percentage from 60% to 30%. Councilor Loftus stated that if the building is 60% damaged, it's not worth the investment to replace it. He continued that it's a 3,000 square foot building and if 30% of the building is damaged this will take out approximately 1,000 square feet. Based on the layout and footprint of the building, that's most of the building. Councilor Frank asked if someone else could further elaborate on this.

Councilor Walters pointed out that this section refers to 60% of the value of the building, not square footage. He stated that only 100 square feet could be damaged and that may be enough to knock off 60% of the value of the building. The statement is not based on square footage; it is based on the value of the building.

Councilor Frank asked Mr. Eubank if there would be a problem with changing the percentage. Mr. Eubank responded that the City's insurance agent Alan Kingsley was present at the meeting and asked if he would be able to comment on this. Mr. Kingsley stated that he wasn't prepared to speak on this but could do some research and get back to the City.

Councilor Vigil stated that the way this makes sense to him is if something is going to cost more to fix than its worth, then you don't fix it and he feels 60% is that threshold. He feels this section is ok as stated.

c. Council Decision:

Motion: From Councilor Vigil, seconded by Councilor Walters to approve the lease amendment between the City of Stayton and the Stayton Loyal Order of Moose, Stayton Lodge #2639 and authorize the City Administrator to sign the lease amendment. **Motion passed:** 5:0.

NEW BUSINESS

Resolution No. 849 to Apply for an Oregon Parks & Recreation Department Local Government Grant for Improvements to Santiam Park

- a. Staff Report:** Mr. Kinney reviewed the staff report included in the Council packet materials.

- b. Council Deliberation:** Mayor Aboud asked when the grant application is due. Mr. Kinney indicated that the application is due in early April and a presentation will be given to the decision committee in early June. This year the Oregon Parks and Recreation Department (OPRD) has very limited funds available, and it is expected to be a very competitive process. Staff is hoping by receiving commitments from local organizations and from Slayden Construction, it will give the City's application more of a competitive advantage.

Councilor Vigil stated that he would like to declare an Ex Parte Contact because he is the Parks and Recreation Board's Council liaison. Also, his sister lives in this neighborhood. He continued that he has no personal benefit nor does his family for the improvements to this park.

Councilor Walters inquired about the play surfacing to be included in the grant application and whether it was as safe as the hog fuel currently being used. Mr. Kinney stated that it is at least equal to the hog fuel for safety when falling. He wasn't sure about exact statistics but it is his experience that they work effectively.

c. Council Decision:

Motion: From Councilor Frank, seconded by Councilor Hemshorn to approve Resolution No. 849 which authorizes the City Administrator to apply for and sign the Oregon Parks and Recreation Local Government Grant application for improvements to Santiam Park, other grant applications and funding requests to private foundation, local corporations and civic groups in order to provide a broad-based local match for the OPRD Local Government Grant. **Motion passed:** 5:0.

Resolution No. 850 Grant Application to update Transportation Master Plan

- a. Staff Report:** Mr. Fleishman reviewed the staff report included in the Council packet materials.
- b. Council Deliberation:** Councilor Vigil asked what is keeping the City from fixing the problems with the Stayton Transportation System Plan (TSP) that we already know about. Mr. Fleishman stated that these are policy decisions that need to be based on a detailed modeling of traffic projection in the future and requires specialized consultants to complete. The grant is to pay these consultants to do this. Mr. Kinney stated the staff is working with Marion County and developers on these issues as they arise. However, if the City is able to receive a grant to do a more comprehensive review, staff would like to do that.

Mayor Aboud asked if the City is required to have a TSP and if the City does adopt a TSP, do we have to have someone such as DLCD sign off on it. Mr. Fleishman stated that the City is required to have a TSP, but is not required to update it. However, when it is updated it will be required to be reviewed by ODOT and DLCD for compliance with the State's Transportation Planning Rule. Mr. Kinney added that Marion County would

also have to review it to be sure it coordinates with their planning.

Councilor Vigil stated it makes sense that the detailed study the City had done reflected that Stayton would have a lot of growth which may have assisted with being approved for the new interchange. Now that the City has a new interchange, we can look for something more realistic that will assist with growth in Stayton, such as reviewing the System Development Charges (SDC). Mr. Kinney stated that reviewing the SDC's would be a logical follow-up to the completion of an updated TSP.

Councilor Frank stated that from what he understood, Stayton's SDC's were not high but actually moderate compared to other cities. Mr. Kinney stated that currently there are projects included in the Capital Improvement List that he and Mr. Fleishman don't necessarily see as something that will happen in the future. It is possible that when these projects are removed from the list, the SDC's could potentially decrease.

Councilor Hemshorn stated that she feels this update is very timely because of the changes in the economy and it's impossible for anyone to perfectly project what is going to happen in the future.

c. Council Decision:

Motion: From Councilor Hemshorn, seconded by Councilor Walters to approve Resolution 850 Authorizing the City Administrator to submit an application to the Transportation Growth Management Program.

Discussion of Motion: Councilor Loftus complimented Mr. Fleishman on his staff report. It was very thorough and informative. He asked Mr. Fleishman to explain the Dolan case mentioned on page 4 of 6 in the grant application form and how it impacts the City and future TSP's. Mr. Fleishman explained the U.S. Supreme Court's "Dolan" decision and its impact to the City.

Councilor Vigil stated that he is in favor of the City applying for the grant. However, he feels that if the City doesn't receive a grant for this project, they shouldn't just give up and wait for grant money. He suggested doing what we can in the meantime to move forward with addressing the issues that staff is aware of. Mr. Kinney stated that if the grant isn't awarded, there will be pieces that staff will need to start addressing as developments or proposals come in.

Motion passed: 5:0.

STAFF/COMMISSION REPORTS

Finance Director's Report – Christine Shaffer

- a. Monthly Finance Department Report:** No discussion.

Acting Police Chief's Report – Rich Sebens

- a. **Monthly Crime Rate Comparison Statistical Sheets:** No discussion.
- b. **Citizen Access to Local Crime Reports:** No discussion.
- c. **Yearly Statistical Report Police Department 2009:** Acting Police Chief Sebens reviewed the Annual Statistical Report for 2009. He also reviewed the Police Department's goals and the recent community survey results.

Councilor Frank asked why the Police Advisory Board is taking so long to implement. Mr. Sebens stated that it's a combination of the other projects that he has been working on and he is working with other agencies to gather their policies and guidelines for setting up this type of Board. Councilor Frank stated that an Advisory Board has been a high priority for him since he became a City Councilor. Mr. Eubank reiterated what Mr. Sebens had stated and that it is hoped the Board will be in effect by the end of the current fiscal year.

Councilor Hemshorn asked what group of individuals would comprise the Advisory Board. Mr. Sebens stated it would be a random selection from the community.

Councilor Vigil commented that he feels the Police Department is doing a good job looking after the taxpayer dollars. He spoke about the importance of upkeep of the Police Department's vehicle fleet.

Library Director's Report – Louise Meyers

- a. **January Activities:** Ms. Meyers reviewed the Library report for January 2010.

Councilor Vigil asked if there is an electronic eye that counts the patrons entering the Library. Ms. Meyers stated that this is correct and it counts only those entering the building.

Councilor Hemshorn commented that whether she is visiting the Library or City offices, she is always greeted nicely and every one is very kind.

Public Works Director's Report – Dave Kinney

- a. **January Monthly Operating Report:** Mr. Kinney reviewed the January Public Works Monthly Operating Report. He added that the Water Treatment Plant project is moving forward. In April and May, the Water Treatment Plant will be shut down for upgrades. During this time, the City will be purchasing water from the City of Salem.

SCTC is working on their fiber optic lines around the community. Occasionally, they will hit City utility lines. He spoke about the City's responsibility in locating these utility lines.

Councilor Loftus asked if GPS technology would help correct the utility line locating

issues. Mr. Kinney stated for the new systems GPS will help. Staff is working to use GPS technology to record exact locations whenever lines are exposed and transferring this information into the GIS system so that it is usable.

Councilor Loftus asked in regard to the Water Treatment Plant shutdown, if the City had any water reserves. Mr. Kinney stated that for the amount of water that is pumped daily, the City does not.

- b. **10th Avenue Property Cleanup:** Mr. Kinney reviewed his staff report and provided an update regarding asbestos removal and disposition of a fuel tank.

Pool Manager – Rebekah Meeks

- a. **January Pool Monthly Operating Report:** No discussion.

PRESENTATIONS/COMMENTS FROM THE PUBLIC – None.

BUSINESS FROM THE CITY ADMINISTRATOR

- a. **Formation of Committee for Consideration of Updating City Codes:** Mr. Eubank provided the Council with a handout of a memo from the Planning Commission to the City Council in 2007. He stated there are two issues that keep coming up, one of which are SDC's and if the City receives the grant for updating the TSP, this may remedy some of those issues. The other issue is the sign code, which seems to come up time and time again.

Mr. Eubank asked the Council to review the handout and submit any comments to him over the next couple of weeks.

Mayor Aboud asked Mr. Christensen to step up to the podium. He stated that at a recent town hall meeting, Mr. Christensen suggested the idea of this Committee to look at updating City codes, to make the City more business friendly and assist with economic development issues. He asked if Mr. Christensen had any specifics he'd like to leave with the Council regarding the Committee. Mr. Christensen stated that he would be willing to serve on the Committee. He continued that he feels the Committee's assignment shouldn't be too specific. If done right, the Committee can do more and get it done in a shorter amount of time. He suggested the Committee meet and form a plan of what they want to do, bringing it back to the Council for approval. Also feels input is needed from people such as contractors and citizens.

Councilor Vigil stated that he sees this Committee meeting only on an as-needed basis.

Councilor Frank stated that he was perplexed as to how there were so many higher priorities than implementing the Police Advisory Board. He was under the impression that this was a high priority and he doesn't understand why it is taking so long.

Mayor Aboud stated that at the previous Council meeting he asked the Council to give suggestions on who they would like to see serve on this Committee. He continued that these meetings will be considered public meetings and will need to be posted as such. He sees the Committee looking at a wide variety of issues.

Councilor Vigil stated that his vision for the Committee is that this is the solution when a contractor comes in and has a problem with the Code. The Committee would review the problems and take steps to fix them.

BUSINESS FROM THE MAYOR – None.

BUSINESS FROM THE COUNCIL

- b. Second Motion from 14.a. Council Communications:** Councilor Frank indicated that he is concerned with the second motion made under 14.a. Council Communications earlier in the meeting. He asked what the current procedure is if Mr. Eubank feels there is inappropriate interaction between individual councilors and himself. Mr. Eubank stated that he had nothing to do with this motion and hasn't had a chance to think further about it. He continued that Mr. Christensen had a good idea of holding a work session between himself and the City Council to figure out how to work through a certain problem or issue.

Councilor Frank continued that he is interested in how the City Administrator currently handles an issue when one arises. Mr. Eubank responded that he would refer to his contract and what it states. He continued that at this point he doesn't want to go there and would like to get back to stability and respect.

Mayor Aboud stated that he would like to answer this question. He read from Mr. Eubank's contract on how a dispute would be handled if there were inappropriate interaction between the City Council and himself.

Councilor Loftus stated that he has found the last ten days of communication with Mr. Eubank to be evasive and denying him under the guise of Ms. Petersen doesn't have time to click and send a file to him. He continued that it was to the point that he couldn't get the information he was requesting and this caused him to go to the Attorney General's office. He spoke with a judge and several private practice attorneys. Councilor Loftus felt the solution Mr. Eubank reached was to deny Councilor Loftus information and not answer his questions. He said until he had received a return phone call from the Attorney General's office earlier in the day, the discrepancy was unclear to him. However, after receiving the call he discovered that because he is making the request as an acting City Councilor the Public Records Law does not apply to him. However, if he asked the question as a citizen, the ORS 192.410 applies. He stated that under ORS 192.410 to 505, any communications that are generated by any public employee for any purpose that is outside the very clear exemptions can be disclosed to the citizen, either upon inspection or provided copies.

Councilor Loftus stated that the reason he made the request he did was so that he could highlight mistakes in the minutes, not to edit or modify them, which he said Mayor Aboud had suggested he do in an email. He stated that when he asks the City Manager a question, he expects a yes or no answer if the question is phrased in a yes or no fashion. However, he could not get a yes or no answer when he asked Mr. Eubank if he had read the minutes or staff reports. He feels there was no acceptance of responsibility.

Mayor Aboud stated that he'd like to explain a couple of items to those in attendance who may be hearing about these issues for the first time. He continued that Councilor Loftus did send the Mayor and councilors a document on access to public documents. He stated that while the rules are very clear, Mr. Eubank did provide the documents requested by Councilor Loftus. The issue seemed to be whether it was in a PDF file or a Word document. The Word document can be altered whereas the PDF cannot be easily altered. Mayor Aboud stated that the City Attorney reviewed this request and it was determined that this information shouldn't be sent out in a Word file but rather a PDF so it cannot be modified. In regard to the issue with the minutes, Mayor Aboud stated that he had sent Ms. Petersen an email with corrections to the minutes and she made the requested corrections. He stated that this really is a simple process. He felt that the communications he was a part of with Mr. Eubank regarding this were very clear.

Councilor Loftus disagreed and stated that he was very specific with his request for which files he wanted. He stated the first request he made was via the phone and the Mayor wouldn't have been privy to this communication. The issue of a Word document then came up as Councilor Loftus felt it was easier for him to go through the document, highlight it, and email it back so that he is not wasting his time of printing it and going through it on paper and typing it in to the computer. He would have preferred to highlight the issues in red and email it back to staff.

Mayor Aboud responded that he understands what Councilor Loftus' concern is. He continued that he does not want the public left with the view that Mr. Eubank did not provide the information. The information was provided not only in hard copy but via email.

Councilor Hemshorn stated that she has copies of the email communications. She stated that in looking back over the emails, during a workday this perpetual dialogue was not accomplishing much of anything and creating conflict. When she reads through it, she sees where the City Administrator says that protocol was followed. To her this is yes answer. She continued that there is a liability issue for the City to release documents that could be altered before the Council has had a chance to vote on it.

Councilor Walters commented that nobody sends out information like this in a Word document as it is too easily altered. He continued that Councilor Loftus shouldn't

demand special dispensation. The City can pay \$200 to \$300 per meeting to have someone transcribe the minutes word for word or continue doing what has been done for many years. He stated that he doesn't see what the problem is as the minutes are a draft and everyone has a chance to comment and suggest corrections. He feels this has been made a much bigger deal than it should have been and there staff who is ready to quit over it.

Councilor Loftus stated that he feels the simple fact is that no one has answered his question. He stated he was unsure how one could deviate from the specificity in the language in the minutes.

Councilor Hemshorn stated that Councilor Loftus is creating problems and can't accept that a mistake was made.

- c. **February 22, 2010 Planning Commission Meeting:** Councilor Loftus inquired about the upcoming Planning Commission meeting and stated he was under the impression they would be discussing the sign code. Mr. Fleishman stated that on the agenda for the February 22, 2010 Planning Commission is a public hearing for non-conforming lots and discussion of potential changes in the code for uses in the Downtown Residential Mixed-Use zone.

Councilor Loftus asked if an inventory for those signs has been produced for the Planning Commission. Mr. Fleishman stated that one had not been produced. He continued that a discussion of signs is not on the February 22, 2010 agenda.

- d. **City of Sublimity Policy to Repeal SDC's:** Councilor Loftus stated that recently the City of Sublimity adopted a policy to repeal SDC's for commercial development. He stated that he feels in order for Stayton to stay competitive, they should consider doing the same. Based on the last 8 – 12 weeks he has in his book, the City hasn't generated any SDC's. Therefore, he feels the City isn't losing anything by repealing the SDC's for commercial development.

Councilor Loftus began to make a motion. However, Mayor Aboud interrupted and stated that he feels this is not the appropriate time to make a motion on this and that Councilor Loftus could ask that this be added to the next Council meeting agenda.

Councilor Loftus stated that he would like this be added to the next City Council meeting agenda.

Mayor Aboud continued that he feels this is one of the issues the new Committee mentioned earlier in the meeting would be looking at. He stated he would rather the Council wait to discuss this issue until the Committee has a chance to review this and make a recommendation to the Council.

Councilor Loftus continued that in his opinion, it's not going to hurt the City of

Stayton to repeal the SDC's and it would help us to stay competitive with the City of Sublimity.

Councilor Vigil felt that this is something the Committee could review this issue.

Councilor Walters stated that the City of Sublimity is a different situation and only takes in smaller businesses. Stayton's losses could be potentially huge if the SDC's are repealed.

Mayor Aboud stated it seemed to be the consensus of the Council to wait for the Committee to work on this.

- e. **Community Advocate Award:** As part of being the Park and Recreation Board Council Liaison, Councilor Vigil has also been working with the City's Community Participation Coordinator Angie Lehnert. They have been discussing creating a Community Advocate Award which would potentially be awarded at the National Night Out event each August. Ballots could be sent out in the water bills, giving neighbors a chance to nominate people from their neighborhoods. The Park and Recreation Board could look over the nominations.

Councilor Vigil stated that if the Council is in support of this, he would look into the opportunity further. The Council supported Councilor Vigil looking into this further.

- f. **Committee for Consideration of Updating City Codes:** Councilor Frank expressed that he is confused by the wide range of issues being potentially assigned to the Committee for consideration of updating City codes. He was under the impression they would be focusing on the Comprehensive Plan, not all these other issues. Mayor Aboud stated that there are many different ideas for this Committee to look at and it is up to the Council to decide what these are.
- g. **First Motion from 14.a. Council Communications:** Councilor Frank stated that he has serious concerns with the first motion made under 14.a. Council Communications earlier in the meeting. He clarified that this motion means that when items described in the motion are occurring, the Mayor will call that person out of order. Mayor Aboud stated that this is correct and he sees the motion as coming out of concern from the Council that this is taking place.

Councilor Walters stated that the rules are already in effect and this motion isn't changing that. It's stating that the Council will stand behind the Mayor when enforcing the rules that are already in effect.

Councilor Hemshorn added that as a Council, the motion is stating that they don't condone that type of behavior and would like it stopped.

- f. **CONTINUED – Committee for Consideration of Updating City Codes:**

Councilor Vigil commented that he sees the Committee as not having a specific task and consisting of business people who actually may experience problems with the requirements in the Code or with SDC's.

Councilor Walters stated that we should look at how we do business with all our customers, whether it's the people paying their water bill or contractors installing a water line. Talk with them about how business is currently done and ask them how we can do it better next time. He would like to see the City learn to be a part of the solution instead of the problem. This is part of what he'd like to see this Committee do.

Councilor Hemshorn stated that she sees this as a chance to hear new ideas and information, and looking forward to hear what is proposed to the Council.

ADJOURN

There being no further business, the meeting was adjourned.

APPROVED BY THE STAYTON CITY COUNCIL this 16th day of March 2010, by 5 VOTE OF THE STAYTON CITY COUNCIL.

CITY OF STAYTON

Date: 3/17/2010

By: 

Gerry Aboud, Mayor

Date: 3/17/2010

Attest: 

Don Eubank, City Administrator

Date: 3/16/2010

Submitted by: Alissa Angelo

Alissa Angelo, PW Administrative Assistant