

**STAYTON CITY COUNCIL  
MEETING MINUTES  
July 18, 2011**

**CALL TO ORDER**

**7:00 p.m.**

**Mayor Vigil**

**FLAG SALUTE**

**ROLL CALL**

Mayor Scott Vigil  
Councilor Larry Emery  
Councilor James Loftus

Councilor Jennifer Niegel  
Councilor Henry Porter  
Councilor Brian Quigley

**STAFF**

Don Eubank, City Administrator, excused  
Christine Shaffer, Finance Director  
Rich Sebens, Chief of Police, excused  
Danielle Wetzel, Administrative Sergeant  
Dan Fleishman, Director of Planning and Development  
Louise Meyers, Library Director  
David Kinney, Public Works Director  
Rebecca Petersen, Deputy City Recorder

**PRESENTATIONS/COMMENTS FROM THE PUBLIC**

**a. SPOTLIGHT: Geographic Information System (GIS) Update:** Due to technical difficulties the presentation did not take place.

**ANNOUNCEMENTS**

**a. Additions to the Agenda:** Mayor Vigil stated under business from the Mayor he would be making Library Board Appointments.

**b. Declaration of Ex Parte Contacts, Conflict of Interest, Bias, etc.:** None

**CONSENT AGENDA**

**a. City Council Meeting Minutes of July 05, 2011 were deferred to the next meeting**

**b. AFSCME, Collective Bargaining Agreement July 01, 2011 – June 30, 2014**

Item b. of the consent agenda was pulled by Councilor Emery. Referring to page 14 item 13.3 (e) Councilor Emery asked if the 40 hours is accrued annually, monthly or yearly. Ms. Shaffer stated it's ongoing not to exceed 40 hours at anytime. Councilor Loftus asked why the city was just rubber stamping the contract given the current economic climate and other jurisdictions furloughing workers. Mayor Vigil stated staff had met with the union and there was give and take from both sides, and the proposed agreement was the end result.

**Motion:** From Councilor Niegel, seconded by Councilor Emery, to adopt item b. of the consent agenda. The Council was polled and the vote was unanimous to approve the agreement.

**PUBLIC HEARINGS - None**

**UNFINISHED BUSINESS- None**

**NEW BUSINESS**

**Ownership of Open Space, Old Mill Village Master Plan Development & Vacation of a Portion of E. Florence Street**

- a. **Staff Report:** Mr. Fleishman reviewed the staff memorandum included in the packet materials.
- b. **Council Deliberation:** Councilor Emery asked what would happen when the porous street meets the regular street. Mr. Kinney stated there would be a barrier between the two.
- c. **Comments from Public:** John Brandt, Stayton, Oregon. Mr. Brandt stated he did not have anything additional to add to his comments that were included in the packet materials. He is in total support of the proposal, in what's outlined in the development, as it's consistent with the downtown revitalization plan which he was involved with. He supported the urban renewal district and this development would have achieved that goal. Mr. Brandt stated he was troubled that the proposal cuts what many expected as far as the ditches and the trail plan. He encouraged council members to honor the master plan of Stayton, and let the open space remain in public ownership.

Dan Brummer, Stayton. Mr. Brummer stated his main concern was with Tracts A and C and the existing plans for trails and public access along the ditch. He read a prepared statement regarding ownership of open spaces/waterways and how they should be retained by the public.

Mark Grenz, Multi-tech Engineering, Salem. Mr. Grenz stated Multi-Tech were the Project Engineers/Planners for the Wamplers, and has been involved with the project from the beginning. Referring to Tract C, Mr. Grenz explained why and how the requests were made to the Planning Commission. When the applicant's met with the Council in the fall of 2009 there was no walkway connection proposed to Pioneer Park. The applicants did not feel after meeting with the Council that it was the city's wishes that they wanted an access in Tract C as pedestrian access has been provided down Florence Street. The Transportation System Plan (TSP) does not have a path along the waterway, the Planning Commission was following the TSP and there was no requirement to build a path. The applicants would like the homeowners association to be able to maintain the open space area instead of the public.

Brent Stevenson, Manager of Santiam Water Control District (SWCD). Mr. Stevenson wanted to express to the City that SWCD has worked very hard with the Wamplers to reach an agreement for access and operational maintenance along the Stayton Power Canal and the Salem Ditch. The District has ownership, easement rights, and operation and maintenance requirements for those facilities. The District is supportive of the homeowners having ownership. If the City had ownership there could be some questions and differences of opinion on how the area would need to be managed. The power canal serves not only City drinking water, but is also a federal power project of which SWCD has a FERC (Federal Energy Regulatory Commission) permit to generate hydro power. The Water District's responsibilities do not allow for trees and other permanent growth in and around the Natural Resource Overlay District (NROD). Councilor Quigley asked if the District was opposed to a trail through the

development. Mr. Stevenson stated the District has not analyzed whether or not they would want a trail, but that it would add additional costs to their operations if they needed to go into the area for maintenance purposes. In response to a question from Mayor Vigil, Mr. Stevenson stated the district has an agreement with the Wamplers, of the wants and needs of both parties which is separate from the development.

Jim Wampler, Stayton. Mr. Wampler stated this has been a long discouraging process. Originally the proposal was for a private path along the waterway. The Council at that time stated they wanted it to be in public ownership, and then the previous Mayor wanted a parking lot which was started before the Wamplers gave permission, and also requested an access to Pioneer Park that was never discussed in the original proposal. The City had the opportunity previously to purchase the property and chose not too. The Wamplers then sold the bridge property to the City for \$30,000. They (Wamplers) are asking that the property owners be able to retain the open space area and keep the public out of it.

Mayor Vigil asked if Florence Street became a private street could the parking lot at the pedestrian bridge still be accessed for public entry. Mr. Fleishman stated the street would have a public utility and access easement so folks would be drive on the street and walk on the sidewalks. Councilor Loftus asked if the City had reviewed the deed/restrictions for the right of ways. Mr. Fleishman stated staff had reviewed the third draft of the CC&Rs and that the final draft would be submitted to staff prior to the plat being recorded. Councilor Loftus asked about prohibition on fencing heights. Mr. Fleishman stated he did not recall discussion on fencing heights, but the preliminary plan approval did include a landscaping plan for the rear yards, along the north side of the power canal. The restrictions included appropriate landscaping, plantings that would be a hindrance to the public from leaving the open space and entering private property, and provision for a four-foot chain link fence. Councilor Loftus asked if the City would require the Homeowners Association to be bonded just in the event they would go bankrupt. Mr. Fleishman stated the City would require that they be capitalized to set up a funding mechanism to assure the long term maintenance for the streets. Mr. Kinney stated staff had discussions with the owners regarding maintaining the street/storm drain system, and to guarantee the maintenance of the landscaping and open spaces.

Councilor Porter asked for an example of a functioning homeowners association. Mr. Fleishman stated Mill Stream Woods has an active functioning homeowners association and that his belief of a successful homeowners association is in the documents that establish it and its basic structure. If a homeowners association is formed at the time the plat is recorded, then all the homeowners have a say in the association instead of waiting for the entire development to be built out. Councilor Loftus asked if there would be any provision prohibiting a gate across the road. Mr. Fleishman stated that the plan indicates there is a public access easement on the entire right of way of E. Florence Street so the public would have a right to access it at any time.

Councilor Quigley stated Mr. Grenz had indicated what the applicants were proposing is inline with the transportation plan. Mr. Kinney stated he was not with the City when the TSP was adopted but that on the document itself it states the location of where the trails are proposed, but the rights of an individual property owner would not be abridged in the development of the trails system. The location on the map of the trail is general and not really detailed.

Councilor Loftus asked if the Trails Master Plan shows the trail going down to the ditch. Mr. Kinney stated it appeared to him that the trail goes across Florence Street and then dies. Councilor Loftus stated that from his recollection it was very clear that the Council wanted the City to maintain ownership of Tracts A, C & D. Part of the issue had to do with the SWCD, part of it had to do with a trail system that did go along the end of the ditch, and if it is left up to the homeowners association the City might not know how it would be developed. If the City had ownership of it then they would have the right to go in and put a hog fuel trail through the property, to connect up to the bridge so one could stay in the dirt and not have to walk on pavement if they chose to do so.

Councilor Emery stated he is all for what the applicants have designed. The public has access to the bridge now, having a trail along the waterway does not connect the parks in any way, and the trail system is designed to connect the parks. The applicant's have shown how they are connecting the parks and have stayed with the transportation plans. The only concern is with Tract D and the City should probably be able to own Tract D also.

Mayor Vigil asked if the owner of the property is responsible for the upkeep in the NROD district in Tracts A & C. Mr. Fleishman answered in the affirmative and stated that the NROD district is 50' in from the bank.

**d. Council Decision:**

**Motion:** From Councilor Loftus, seconded by Porter, that Tracts A, C, & D be City owned as per the staff report.

**Discussion:** Mr. Fleishman stated the motion should include Tract B. Councilor Porter withdrew his second, Councilor Loftus withdrew his original motion.

**Motion:** From Councilor Loftus, seconded by Councilor Porter, that the City own the open space of Tracts A, B, C, & any portion of Tract D that falls adjacent to City property, then the City takes over Tract D, otherwise Tract D would remain in ownership of the Homeowners Association.

**Discussion:** Mr. Quigley asked Mr. Fleishman if he had earlier stated there were some swaths that were owned by the SWCD. Mr. Fleishman stated no, there is a piece along the bank that is owned by the water district. Councilor Emery stated that he would like to see Tracts A & C owned by the Homeowners Association as the City currently has problems with taking care of the parks they currently have. Councilor Porter asked if the Planning Commission with their approval assumed the City Council would work out the details. Mr. Fleishman stated the only details that need to be worked out by the City Council are the final issues of ownership of the open space, and the street vacation issue. Councilor Quigley, referring to page 4 of 6 of the staff report, Tract C asked for clarification as to why the staff is recommending City ownership of Tract C and the Planning Commission did not. Mr. Fleishman stated that a majority of the Planning Commission members thought there would be no purpose for the City to own Tract C. Staff feels that looking at it long term, there is the possibility that the slough way could be closed off at some point, and that Tract C could provide for access to trails into Wilderness Park.

**Motion passed:** 3:2 with Emery & Quigley opposed

**Motion:** From Councilor Loftus, seconded by Councilor Emery to move that the City initiate the proceedings to vacate a portion of E. Florence Street east of the Community Gardens plot, and direct staff to schedule a public hearing and provide appropriate notice.

**Motion passed:** 5:0.

### **10<sup>th</sup> Avenue Area Public Improvements**

**a. Staff Report:** Mr. Kinney reviewed the staff memorandum included in the packet materials for the Tenth Avenue Engineering Services Agreement, ODOT-IOF Grant Agreement & OBDD-SDWF.

#### **b. Council Deliberation:**

Mayor Vigil referring to the Engineering Services Agreement, asked why the staff report did not include all of the bidders information with the dollar amounts shown, as was shown in previous memos. Mr. Kinney stated the cost proposal amounts ranged from \$225,000 to \$350,000, and the selection process was qualification based with the secondary being the cost. HHPR was not the lowest but the second lowest. The lowest cost firm was ranked last on the rating schedule.

Councilor Emery stated that HHPR has a good reputation and is a good choice.

#### **c. Council Decisions for:**

##### **Engineering Services Agreement:**

**Motion:** From Councilor Niegel, seconded by Councilor Emery, to approve the professional engineering services agreement with HHPR for the 10<sup>th</sup> Avenue area improvements in an amount not to exceed \$210,000, subject to final legal counsel revisions to ensure consistency with the ODOT-IOF grant agreement.

**Motion passed:** 5:0.

**Oregon Department Of Transportation-Immediate Opportunity Fund Grant Agreement:** Mr. Kinney stated he had met with the hospital and there was discussion regarding modifying the existing agreement with the hospital that was signed in September 2010, anticipating two funding sources. One was the Economic Development Administration (EDA) grant and the second without the EDA grant. Staff was able to work with the Business Development Department at the State to obtain and Immediate Opportunity Fund (IOF) grant and the EDA grant did not pan out, so that agreement needs to be modified to include the job creation issue modification. Councilor Loftus stated the City would need some indemnification or agreement that amends the growth anticipated by the hospital, in case the total number of FTE's is not met.

**Motion:** From Councilor Loftus, seconded by Councilor Porter, to accept the ODOT-IOF grant agreement with a provision to indemnify the City grant in the event the Full Time Employee (FTE) numbers are not met by the hospital, and to bring the amendment back to the Council when it is

completed.

**Discussion:** Mr. Kinney stated staff could have a discussion with the Oregon Business Development Department (OBDD) to adjust the number of FTE's. Councilor Quigley asked what the time frame would be that the jobs at the hospital would need to be created. Mr. Kinney stated under the grant agreement it would be five years or under an amendment to extend it a couple of years. Councilor Loftus stated he was glad the hospital was able to get their grant, and asked if the reduction in hospital staff being hired would limit the funding to the city. Mr. Kinney stated he did not know and would be having discussions with the State regarding the issue.

**Motion passed:** 5:0.

**Oregon Business Development Department-Safe Drinking Water Loan Agreement**

**Motion:** From Councilor Loftus, seconded by Councilor Niegel, to approve an amendment to the OBDD-Safe Drinking Water Loan agreement to extend the completion date for the project.

**Discussion:** Councilor Quigley asked how long of an extension would be needed and would there be liability if the City misses the deadline. Mr. Kinney stated the extension would be until March 2012 and that the City would probably not be liable if they missed the date.

**Motion passed:** 5:0.

**STAFF/COMMISSION REPORTS**

**Finance Director – Christine Shaffer**

**a. Monthly Finance Department Report:** Councilor Loftus asked if the City really had no invoices to send out. Ms. Shaffer answered in the affirmative.

**Police Chief's Report – Rich Sebens**

**a. Statistical Report June 2011:** Danielle Wetzel, Administrative Sergeant was present to fill in for Chief Sebens vacationing. As Ms. Wetzel had to leave the meeting, Mr. Kinney referring to page one, stated offenses of family had jumped 400% but the change was due to a couple of isolated cases.

**Public Works Director's Report – Dave Kinney**

**a. June 2011 Monthly Operating Report:** Mr. Kinney urged folks to go down to Santiam Park to enjoy the new covered picnic shelter that will be finished by the end of the month.

**Pool Manager's Report – Rebekah Meeks**

**a. June 2011 Monthly Operating Report:** Councilor Loftus asked for clarification as to why the Swim Lessons were over \$8,000 in sales for June 2001. Ms. Shaffer stated that large increase in the number of sign ups were due to changing adjustments in lesson schedules, and more classes being offered.

**Library Director's Report – Louise Meyers**

**a. June 2011 Activities/Statistics:** Ms. Meyers stated she wished to congratulate the Children's Library Staff that were nominated for a literacy award from the Reading for All organization. They were recognized at the Marion County Fair, and the winner will be announced in August at a Volcanoes game.

**PRESENTATIONS/COMMENTS FROM THE PUBLIC – none.**

Mr. Fleishman stated the Assistant City Attorney brought to his attention, that the motion the City Council passed regarding the open space in the Old Mill Village Master Plan, indicated the disposition of four open space tracts but was silent about the other three. Was it the intent of the Council that the Homeowners Association owns the other three tracts? Consensus of the Council was that it was their intent that the Homeowners Association will own them.

**BUSINESS FROM THE CITY ADMINISTRATOR – None.**

**BUSINESS FROM THE MAYOR**

**a. Appointment of Library Board Members:**

**Motion:** From Councilor Emery, seconded by Council Niegel, to move to ratify the appointments of Signe Woods, Chris Jackson and Margaret Ables to the Library Board. **Motion passed:** 5:0.

**BUSINESS FROM THE COUNCIL**

Councilor Emery reminded everyone that the Santiam Summerfest will be held on Saturday, July 30<sup>th</sup>. Be sure to check out the car show at Pioneer Park and the Stayton Fire Volunteers will be down there serving breakfast & lunch.

**ADJOURN**

There being no further business, the meeting was adjourned at 8:55 p.m.

APPROVED BY THE STAYTON CITY COUNCIL THIS 1<sup>st</sup> DAY OF AUGUST 2011, BY A 4-0 VOTE OF THE STAYTON CITY COUNCIL.

CITY OF STAYTON

Date: 08/01/2011

By: [Signature]  
A. Scott Vigil, Mayor

Date: 8/2/11

Attest: [Signature]  
Don Eubank, City Administrator

Date: 08/01/2011

Transcribed by: [Signature]  
Rebecca Petersen, Deputy City Recorder