

**STAYTON CITY COUNCIL
MEETING MINUTES
June 21, 2010**

CALL TO ORDER

7:00 p.m.

Mayor About

FLAG SALUTE

ROLL CALL

Mayor Gerry About
Councilor Frank

Councilor Loftus
Councilor Vigil
Councilor 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, excused
Jeffrey M. Strickland, Assistant City Attorney, excused
Rebecca Petersen, Deputy City Recorder

PRESENTATIONS/COMMENTS FROM THE PUBLIC

a. SPOTLIGHT: Overview of Water Project: Mr. Kinney presented a pictorial overview of the water treatment project, as toured earlier in the evening by council and staff members. Mayor About gave thanks to Bob Zeller, Mike Brash and Steve Sundseth for their contribution to the project.

b. David Wu, owner of Mick & Mom's, Stayton. He stated his opposition to social gaming due to the problems that social gaming brings. From his experience he has seen first hand what problems arise as he used to gamble, and people loose their mind on gambling. When people get mad and they are drinking, and with a lack of security things can get out of hand. He wants the town safe and doesn't want social gaming to scare people away.

Brad Archibald, Stayton. Mr. Archibald stated he is a patron at Mick & Moms and provides a lot of designated driving to patrons. Social Gaming will not help promote business in the city and might deter it.

Gerald Lackner, Stayton. Mr. Lackner stated Stayton already has enough problems with gambling and petty crimes, peoples' attitudes when they drink and loose money can get out of hand and the city doesn't need anymore problems.

Mary Fish, Stayton. Ms. Fish stated she does not want Social Gambling in Stayton. She has bartended in several establishments and has seen the meth problem in this town, to put social gaming in town is not a good idea as there are residential areas within close proximity to where the gambling would be taking place. It doesn't make money for the community as serious gamblers don't eat and drink at the establishment they just gamble their money away. Social gaming ruins

peoples' lives and it doesn't help them. With the downturn in the economy and Phillips and Karsten Homes going out of business, the city should think more about economic development to get folks back to work instead of helping them lose their money.

ANNOUNCEMENTS

a. Additions to the Agenda: Mr. Eubank stated staff had no additions to the agenda. Councilor Vigil stated he would like to discuss the Rules of the Council under Business from the Council.

CONSENT AGENDA

- a. City Council Meeting Minutes of June 07, 2010**
- b. Santiam Historical Society Agreement**
- c. NorthWest Senior & Disability Services (NWSDS) Use Agreement for Community Center**
- d. USDA Grant Agreement & Loan Resolution**

Ms. Shaffer provided copies of the Santiam Historical Society Agreement that was revised after the council packets had been prepared.

Councilor Loftus pulled item d. of the Consent Agenda.

Motion: From Councilor Loftus, seconded by Councilor Frank to adopt the consent agenda items a, b, c. as amended. Motion passed: 4:0.

Staff answered questions from council regarding the grant agreement.

Motion: From Councilor Loftus, seconded by Councilor Vigil, to adopt item d. of the consent agenda. Motion passed: 4:0.

PUBLIC HEARING

Ordinance No. 926 Natural Resources Overlay District

- a. Commencement of public hearing:** Mayor Aboud opened the public hearing at 7:30 pm, he then read the opening statement.
- b. Ex parte contact, conflict of interest, bias, etc:** Councilor Frank declared he had spoken with John Brandt about the overlay district but that he (Frank) is not biased nor does he have a conflict of interest. Councilor Loftus stated he had had discussions with some folks regarding the issue.
- c. Staff Report:** Mr. Fleishman stated the proposed amendments are to the width of the Natural Resources Overlay District (NROD) along the Salem Ditch and the Stayton Ditch. The district is 100 feet wide along the natural bodies of water (North Santiam River, Lucas Ditch, and Mill Creek) and 50 feet wide along the man-made bodies of water (Salem Ditch & Stayton Power Canal), except that it is designated to be 100 feet wide on the portions of Salem Ditch north of Shaff Road when those areas are annexed into the City. The proposed amendment also moves the Riparian Setback and Vegetation standards from Chapter 17.20 to Chapter 17.16, making them effective only with the NROD rather than throughout the City. He reviewed the six limited uses in the District that would have the least environmental impacts to maintain existing vegetation, balance on impacts to the area on the protected water body. Mr.

Fleishman explained the area that is in the overlay zoning area, only regulates property in the city, and does not apply in the high density residential, commercial retail, and commercial general, downtown use zones and interchange development zones, when natural overlay district does not apply to the downtown area. Using a power point presentation he showed various slides. The Planning Commission reviewed the overlay district and after further discussions researched how and why buffer strips are used and why they are required. The research suggests in order to maintain the effectiveness for water quality, natural buffer areas should be twenty five feet wide. Following the planning commission's March hearing, they chose to reduce the width from twenty five feet to fifteen feet. Only four principal structures that are within fifteen feet of the ditch will be impacted.

d. Proponent's Testimony: None.

e. Opponent's Testimony: Brent Stevenson, Manager Santiam Water Control District, Stayton. Gave testimony for opposition. He apologized for the late comments from the district as they feel very strongly against the proposal. City has approved TMDL and it should not be changed. Storm water management plan, and parks plan would have to be changed requiring additional staff time. The proposal does not look at state wide planning goals and the districts plans.

f. General Testimony: Susan Horvat, Stayton. Ms. Horvat referring to the woolen mill area property stated under the NROD plan, the water issues can be addressed by the CC&R's but not the TMDL plan. Let us use the tools that we have put into our plan instead of changing them, she said.

Larry Emery, Stayton. Mr. Emery stated the Salem Ditch runs through his back yard. Nearly all of the properties along the Salem Ditch will be out of compliance with this proposal. No property owner notices were given under the NROD, and the city should not take away property owners rights. The existing NROD rule will only affect a few people, so why do it. Leave the man made areas out of the NROD. He is in favor of changing the NROD to 15 feet, but is against putting the NROD setback in the riparian rules.

g. Questions from the Public: None.

h. Questions from the Council: In response to a question from Councilor Loftus, Mr. Stevenson stated the SWCD needs to be able to get access to the ditch to keep it operational, along with a water quality issue. Allowing buffer zones and maintaining the ditch is what they need to do.

Councilor Vigil asked if putting in a new structure would affect the water quality. Mr. Fleishman stated it would depend what was there before the building was built. Paving before the ditch, construct building with roof and gutters it would be an improvement. Wooded area, will not get nutrient loading, sediment loading, temperature, the best water quality condition would be a natural state.

Councilor Loftus asked if it was possible to mitigate up to 15 feet of the property line. Mr. Fleishman stated the current code does not include water quality standards for run-off.

Councilor Vigil stated there has to be a way to keep the water quality high, and property owners should be able to use their property without affecting the water stream. Mr. Fleishman stated unless the water can be channeled into the ground so every lot has retention, they're not real feasible. Councilor Vigil suggested adding a condition of approval that every lot needs to

have some type of a retention system. Councilor Walters stated it would be difficult to enforce having only one ordinance officer.

Councilor Frank stated that the water quality would not be an issue if the ordinance is left the same.

Mr. Fleishman stated if the council was going to make a policy decision, reduce the width of the overlay district to 15 feet you should get rid of the district as you already have the riparian setback and management standards.

Mayor Aboud asked what plans would need to be amended. Mr. Fleishman stated the TMDL would need to be amended and the other plans need to be looked at to see if they would be affected.

Mayor Aboud stated if councilors have changes get them to Dan to assimilate the information to be brought back to the council.

Councilor Loftus asked what the intent of the code originally and the rationale behind setting up the districts? Mr. Fleishman stated he did not conduct any research as to why the change, but believes the overall purpose was to make sure things did not happen along the Stayton ditch that could affect the water quality.

Is there anyway to calculate what the TMDL is from the stream, asked Councilor Loftus? Mr. Fleishman answered no.

Councilor Vigil asked if the building is destroyed would they be able to rebuild it. Mr. Fleishman answered in the affirmative.

- i. **Staff Summary:** Mr. Fleishman stated notices were sent out to property owners in late 2006, but the notice did not specifically mention this particular amendment as the amendments were a wide range.
- j. **Close of Hearing:** Mayor Aboud closed the public hearing at 9:10 pm.
- k. **Council Deliberation:** Councilor Frank stated the code should be left as is and not changed. Councilor Vigil stated paragraph b. should be left at 50 feet, and add medium density and low density to the list of exceptions. Also, in the future look into the cause as to why a change was made to an ordinance. Councilor Loftus stated he liked adding medium density and low density to the exceptions.

l. Council Decision

Motion: From Councilor Loftus, seconded by Councilor Vigil to approve ordinance 926 as amended to incorporate adding the medium density and low density to the list of exceptions. 2:2 (Loftus & Vigil, aye) (Frank & Walters, nay), Mayor Aboud did not break the tie vote, therefore the motion dies.

Motion: From Councilor Frank to leave the code unchanged. Motion dies due to lack of second.

Motion: From Councilor Loftus to have further deliberations in regards to care, control and custody the homeowner has along the ditch, as he exercises the CC&R's and that the city can meet the TMDL. Mayor Aboud denied the motion.

Discussion: Consensus of the council was to defer the issue to the first meeting in August.

Motion: From Councilor Loftus, seconded by Councilor Walters to reopen the public hearing to the first meeting in August. Motion passed: 3:1 (frank)

Recessed at 9:30 pm, reconvened at 9:35 pm.

UNFINISHED BUSINESS

Ordinance No. 925 SMC 12.08 Standard Specifications Public Works Constr.

a. Staff Report: Mr. Kinney reviewed the staff report.

b. Council Deliberation: Councilor Loftus asked if the council grants sole authority to the building review standards what process could citizens use if they don't agree. Mr. Kinney stated an appeals process is built into the ordinance. Councilor Loftus asked if wording could be added that would allow for certain type of changes to come before the Council. There needs to be delineation between major and minor modifications instead of it all going to staff. Mr. Kinney stated the standards have kept the same and the old standards are not being used, it is current design practices that are being reviewed. If the council does not like the policy, they can always change it.

Councilor Walters asked if the Council could receive quarterly or monthly updates as to what standards have been changed. Mr. Kinney stated a clause could be added to the ordinance to give the council the ability to review it. Mr. Eubank stated when a change is made, it can be sent to the Council. Dave said sending an email out on all the changes could be done.

c. Council Decision:

Motion: From Councilor Loftus, seconded by Councilor Walters to adopt Ordinance No. 925 with the amendment that the City Administrator and Public Works Director compile a list semi annually of design standards and modifications that have been changed.

Discussion: Councilor Vigil stated if the Council finds at a later date that staff made a decision that they don't agree with can it be changed. Mr. Fleishman stated under the call up process for administrative decisions, the Council would have that option.

Motion passed: 4:0.

Resolution No. 857 Discretionary Immunity for ADA & Sidewalk Maint.

a. Staff Report: Mr. Kinney reviewed the staff memorandum regarding a policy identifying financial limitations and providing policy direction to staff to focus on priority improvements based on a facilities list that was approved last year. The priority list would be updated annually, as the city does not have the dollars to do everything, but the city is at risk if they don't address issues in their public facilities.

b. Council Deliberation: Councilor Walters stated by taking an affirmative action based on a policy action, the city would be complying in a way that they can afford it.

Councilor Loftus asked if any of the ADA proposed improvements at the Waste Water Treatment Plant could be used as meeting requirements. Mr. Kinney stated if the city is negligent in making the repairs or negligent in addressing the issue, then the city would have some potential for liability.

c. Council Decision:

Motion: From Councilor Frank, seconded by Councilor Vigil, to approve Resolution No. 857.
Motion passed: 4:0.

NEW BUSINESS

Resolution No. 860 City Administrator Evaluation Process

a. Staff Report: Mr. Eubank reviewed the staff memorandum explaining the City Administrator Evaluation Process and how the proposed resolution breaks down the questions into various sections to simplify the process.

b. Council Deliberation: None.

c. Council Decision:

Motion: From Councilor Vigil, seconded by Councilor Walters, to approve Resolution No. 860. Motion passed: 4:0.

Abstract of Election Results from May 2010 Primary

a. Staff Report: Ms. Petersen reviewed the staff memorandum.

b. Council Deliberation: None.

c. Council Decision:

Motion: From Councilor Vigil, seconded by Councilor Walters, to move to direct the City Administrator to execute the Acceptance of Abstract form. Motion passed: 4:0.

Tenth Avenue & Hospital Off-Site Public Improvements

a. Staff Report: Mr. Kinney asked that the council not take action on this issue, as Santiam Memorial Hospital would like a draft agreement in place.

ODOT Grant Applications & Resolutions

1. Bike/Pedestrian - 2. Transportation Enhancement

a. Staff Reports: Mr. Kinney declared that he is a North Santiam School District Board Member, and that he did step down from the board when he presented it to the school district board.

b. Council Deliberation:

c. Council Decision

Motion: From Councilor Frank, seconded by Councilor Loftus, to approve Resolution No. 862 authorizing submission of a Bicycle and Pedestrian Grant application to the Oregon Department of Transportation.

Motion: From Councilor Loftus, seconded by Councilor Walters, to direct staff to not proceed with Resolution 861 as proposed, but to do Tenth Avenue.

Discussion: Councilor Loftus asked staff if the city would have a better chance of receiving grant funds for the Tenth Avenue project. Mr. Kinney stated the Marion Street application would not compete as well as the Tenth Avenue would.

Motion passed: 3:0, 1 abstained (Frank)

STAFF/COMMISSION REPORTS

Finance Director's Report – Christine Shaffer: Ms. Shaffer stated effective July 1st the city will be able to receive on line payments. Garage Sale permits are now featured on the city website with maps provided by Stayton Events. Two inquiries have been received for Revenue Sharing money and one application has been filed.

Acting Police Chief's Report – Rich Sebens: There were no questions regarding the Statistical Report for May 2010.

Library Director's Report – Louise Meyers: There was no discussion on the May 2010 Activities/Statistics.

Public Works Director's Report – Dave Kinney

- a. **May Monthly Operating Report:** Mr. Kinney did not add anything additional to the report.
- b. **Pedestrian Bridge Project:** Mr. Kinney stated three quotes have been received for the bridge and Mike Brash is checking on designs and is reviewing for Parks Board requests for the bridge. The trail access easement with the Wampler's is in the final stages. Oregon Parks approved the full amount of the grant. In response to a question regarding the cost of the bridge, Mr. Kinney stated it would be between \$85,000 and \$95,000 for the bridge.
- c. **I-Serve Project June 26, 2010:** An I-Serve Community Project Day is scheduled for June 26th. The Westown wall will be painted along with fire hydrants. Brush along Florence Street will be cut down where the bridge will be located.
- d. **Washington Street Signal:** Mr. Kinney stated Marion County is still working on the traffic counts of the signal and that they should have something back to the city within the next week.

Pool Manager's Report – Rebekah Meeks : There was no discussion on the May 2010 Monthly Operating Report.

PRESENTATIONS/COMMENTS FROM THE PUBLIC – None.

BUSINESS FROM THE CITY ADMINISTRATOR

a. Letter from Dave Karr: Mr. Eubank stated he had received a letter from Dave Karr regarding the Library Endowment funding, and that he would like the city to discuss their next years contribution to the Children's Program in January 2011.

b. Appointment of Chief of Police: Mr. Eubank stated he would be making the official appointment of Rich Sebens to the Chief of Police position at the July 6th City Council meeting.

c. Vacation: Mr. Eubank stated he will be on vacation July 9th to July 26th but will be attending the city council meeting on July 19th.

d. Schedule Evaluation: Consensus of the council was to schedule an Executive Session for August 9th, 7:00 pm, City Hall Conference Room.

BUSINESS FROM THE MAYOR

a. Election of Council President: Mayor Aboud stated this item would be moved to the July 06, 2010 Council Meeting.

BUSINESS FROM THE COUNCIL

Referring to Rules of the Council, Councilor Vigil pointed out various sections of the document that are not being adhered to.

Councilor Loftus voiced his concern for a recent political sign that was located in a city employee's front yard, while a city vehicle was parked at the residence. The appearance it gives is that the city is approving the political sign. Mr. Eubank stated he would discuss the issue with Legal Counsel and forward the recommendations back to the City Council.

In response to a question as to filling the vacant council seat, Mayor Aboud stated he was not planning on appointing anyone to the position as the election is coming up in November, and by the time someone got trained it would be the end of their term. It would make it more confusing for the next couple of months.

PROJECT STATUS REPORT – No discussion.

FUTURE AGENDA ITEMS – No discussion.

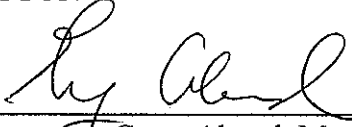
ADJOURN

There being no further business to come before the Council the meeting was adjourned at 10:55 pm.

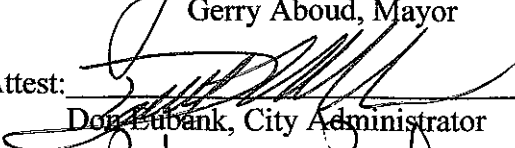
APPROVED BY THE STAYTON CITY COUNCIL this 6th day of July 2010, by a **3:0** VOTE OF THE STAYTON CITY COUNCIL.

CITY OF STAYTON

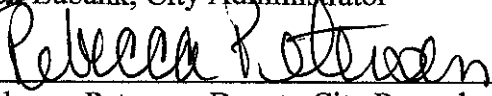
Date: July 10, 2010

By: 
Gerry Aboud, Mayor

Date: 7/14/10

Attest: 
Don Leubank, City Administrator

Date: 07/07/2010

Transcribed by: 
Rebecca Petersen, Deputy City Recorder