

**STAYTON CITY COUNCIL
MEETING MINUTES
May 02, 2011**

CALL TO ORDER

7:00 p.m.

Mayor Vigil

FLAG SALUTE

ROLL CALL

Mayor Scott Vigil	Councilor Jennifer Niegel
Councilor Larry Emery	Councilor Henry Porter
Councilor James Loftus	Councilor Brian Quigley

STAFF:

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

(Scrivener's Note: The Pocket Recorder audio shut-off for the first 45 minutes of the meeting.)

PRESENTATIONS/COMMENTS FROM THE PUBLIC

- a. GROW North Santiam Annual Work Completed:** Allison Ford-McKenzie, Enterprise Facilitator with GROW North Santiam, stated they provide free confidential economic development in the Santiam Canyon area. Ms. McKenzie presented an overview of the groups' focus, accomplishments since 2008, business clients they have helped relocate to Stayton, and clients wishing to relocate from Stayton to other areas. Several members of the resource board live in the Stayton area as well as surrounding areas. Ms. McKenzie stated GROW requested funding again this year, and appreciated the city's support in the past.

- b. Water System Update:** Steve Sundseth, Public Works Supervisor, Tom Etzel & Kendall Smith, Utility Maintenance Workers, presented a detailed overview of the City of Stayton Water System, upgrades of the facilities, ongoing & future maintenance of the equipment for the system, long range plans, policy leadership and funding. Mr. Sundseth complimented staff for doing the work, upper management for working together to get the improvements done, and the Council for providing the resources to get the job done.

ANNOUNCEMENTS

- a. Additions to the Agenda:** None.
- b. Declarations:** Councilor Quigley declared that he had spoken with staff and community members regarding an agenda item that would be discussed, but that it would not affect his

decision in anyway.

CONSENT AGENDA

- a. City Council Meeting Minutes of April 18, 2011**
- b. Oregon Public Works Emergency Response Mutual Aid Agreement**
- c. Resolution No. 869, Authorizing changes to the adopted 2010-2011 budget**
- d. Quitclaim Deed for one foot reserve strip east end of Hollister Street, Estate of Francis Freres**

Motion: From Councilor Emery, seconded by Councilor Niegel to approve the consent agenda. **Motion passed:** 5:0.

Mayor Vigil changed the order of business for some of the agenda items.

UNFINISHED BUSINESS

Second Reading of Ordinance No. 934 re: Drug Paraphernalia

- a. Staff Report:** Chief Sebens stated that since the Council's last meeting, he had met with the store owner selling drug paraphernalia and that they were willing to comply with removing the items in question.

- b. Council Deliberation:** Councilor Loftus stated he was concerned with the liability issue for the city if someone had a pipe with residue on it, that it would be assumed to be drugs. Chief Sebens stated that in the field when an officer pulls someone over, they have a test kit to check the residue. If the residue is not illegal then the person is on their way. Councilor Emery stated that he was in favor of the ordinance. Councilor Quigley stated that he researched the ordinance further and it mirrors state statute, therefore he no longer had an issue with it.

- c. Council Decision:**
Motion: From Councilor Emery, seconded by Councilor Niegel to approve Ordinance No. 934 as presented. **Motion passed:** 5:0.

A recess was called at 8:05 pm, and re-convened at 8:10 pm.

PUBLIC HEARINGS

Proposed Rate Increase for Solid Waste Management in the City of Stayton

- a. Commencement of public hearing:** Mayor Vigil opened the public hearing at 8:10 pm. He read the opening statement.

- b. Ex parte contact, conflict of interest, bias, etc:** Councilor Loftus declared that at the break he had a conversation with David Rhoten, City Attorney regarding Marion County Solid Waste.

- c. **Staff Report:** Ms. Shaffer reviewed the staff memorandum included in the packet materials.
- d. **Applicant's Testimony:** Carol Dion, General Manager with Allied Waste, Steve Brumm, Controller, and Brett Davis, Operations Manager were present to answer questions.
- e. **Proponent's Testimony:** None.
- f. **Opponent's Testimony:** None.
- g. **General Testimony:** None.
- h. **Questions from the Public:** None.
- i. **Questions from the Council:** Mayor Vigil asked why Silverton gets weekly recycle service and Stayton does not. Mr. David stated Silverton was originally on a pilot program that offered weekly recycle for an additional fee. If more recycle bins are needed Allied Waste will provide them for a nominal fee, he said.
- j. **Staff Summary:** None.
- k. **Applicant's Summary:** None.
- l. **Close of Hearing:** There being no additional testimony, Mayor Vigil closed the public hearing.

Santiam Park – Exemption of Public Bidding Process

- a. **Commencement of public hearing:** Mayor Vigil opened the public hearing at 8:40 pm. He read the opening statement.
- b. **Ex parte contact, conflict of interest, bias, etc:** none
- c. **Staff Report:** Mr. Kinney reviewed the staff memorandum included in the packet materials.
- d. **Proponent's Testimony:** None.
- e. **Opponent's Testimony:** None.
- f. **General Testimony:** None.
- g. **Questions from the Public:** None.
- h. **Questions from the Council:** Councilor Loftus asked if any bids other than Slayden's had been received. Mr. Kinney stated no.
- i. **Staff Summary:** none.

- j. **Close of Hearing:** Mayor Vigil closed the public hearing at 8:50 pm.
- k. **Council Deliberation:** Councilor Emery asked if the grant application would be affected in any way by not following the bid process. Mr. Kinney stated that the city's legal staff reviewed it and that they were ok with it.
- l. **Council Decision:**
 - MOTION:** From Councilor Loftus, seconded by Councilor Niegel, to approve the exemption from public bidding requirements for Santiam Park Improvements, and adoption of the findings dated April 2011.

MOTION PASSED: 5:0.

NEW BUSINESS

Ordinance No. 931 Amending 8.04 Health & Safety Re: Graffiti

- a. **Staff Report:** Chief Sebens reviewed the staff memorandum included in the packet materials. The ordinance would help encourage owners to get the graffiti cleaned up on their properties he said.
- b. **Council Deliberation:** Councilor Loftus asked if offenders are caught. Chief Sebens stated that they were. Councilor Loftus asked if the perpetrator has to clean up the graffiti. Chief Sebens stated that Oregon State Statute provides that they can be required to do so. If the offender is a juvenile and is sent to Peer Court, Peer Court can require the juvenile to clean it up the graffiti. Mr. Kinney stated that currently individuals performing Community Service work are utilized in the city park system. Councilor Emery stated that the ordinance needs a time frame. Chief Sebens stated that the time frame is addressed in another section of the code.
- c. **Council Decision:**
 - MOTION:** From Councilor Niegel, seconded by Councilor Emery, to approve Ordinance No. 931, Amending 8.04 Health & Safety RE: Graffiti, as written.

DISCUSSION: Councilor Quigley stated that as long a mechanism is in place to help those property owners that cannot afford to cover up paint, ie: seniors, he supports the ordinance.

MOTION PASSED: 5:0.

Ordinance No. 935 Business Licenses, Permits & Regulations

- a. **Staff Report:** Mr. Fleishman reviewed the staff memorandum included in the packet materials regarding Title 5, establishing the provisions in the code that require certain business operations to receive a license from the City. The proposed draft ordinance was forwarded to the Council for their input, and concerns raised by Councilors Emery & Quigley have been addressed with no additional changes to the draft. Generally the

amendments include clarifying the code, repealing provisions that conflict with state law by deleting licensing requirements for occupations or activities for which municipalities have been pre-empted by state law. A distinction is made between itinerant merchants and solicitors, as currently the terms are defined together and how the city actually applies the licensing makes a distinction. An itinerant merchant is one that sets up temporarily and the customer comes to them. A solicitor goes door to door and sells or takes orders for their services. The specific fees for licenses are removed from the code and the fees would be reflected in a resolution. The code would allow minors to purchase items in a secondhand store. A provision in the current code does not allow minors to sell items to a second hand store, and the proposed code does not change that. The ability of the City Administrator or City Council to waive various provisions of the Code is also being repealed.

Mr. Fleishman stated with the ordinance officer being eliminated, the Council may wish to consider repealing the provision for amusement devises. If you have no personnel to conduct background checks, licensing, etc. the city may wish to reconsider.

Council Deliberation: Councilor Loftus asked if the proposed ordinance would prohibit a farmers market. Mr. Fleishman stated that the proposed code says that a permit is not needed if you are selling the goods on the property of where they were raised. Therefore, those selling farm products, under the current code, are exempt from needing an itinerant license. Referring to fundraising events or activities, Councilor Niegel stated the proposed code states a fee would not be required but that they would need to register with the City. Would this be worth while if the City does not have the staff to enforce it, as it would make more work for the scouts, school groups, etc. needed to register? Mr. Fleishman stated that if you eliminate the itinerant merchant license all together it would take away part of it, but if non-profits are going door to door, they would still need to meet the solicitation requirements. Councilor Porter asked how effective or how necessary would the ordinance be if there is no one to enforce it. Referring to page 2, collectable definition, Councilor Emery pointed out that there are a lot of collectables that are not necessarily written materials. Mr. Fleishman stated the definition of collectables falls under second hand dealers. Councilor Loftus asked what classification would antique dealers come under. Mr. Fleishman stated it would be a second hand dealer.

Council Decision:

MOTION: From Councilor Loftus, seconded by Councilor Quigley, to amend Title 5 Business Licenses, Permits & Regulations to include staff's recommendation of removing itinerant merchants section and amusement licensing requirements, and adopt Ordinance No. 935, including Councilor Niegels suggestion of deleting the registration requirement of civic organizations, but require it if they are soliciting.

DISCUSSION: Councilor Porter asked for consideration of removing the requirement of fees for second hand stores with no ordinance officer or staff to collect the fees. Councilor Loftus withdrew is motion, and Councilor Quigley

removed his second.

AMENDED MOTION: From Councilor Loftus, to adopt Ordinance No. 935, Title 5 Business Licenses, Permits & Regulations, incorporating the recommendations of Councilor Porter, Councilor Niegel, and staff, and to remove the itinerant merchant licensing requirement in the absence of an code ordinance officer, remove the second hand fees, remove the provision for non-profits as itinerant merchants but do require them as solicitors, remove the amusement devices licensing requirements.

DISCUSSION: Mr. Fleishman stated that if the itinerant merchants licensing requirements were going to be removed, non-profits would not need to register as itinerant merchants. Councilor Niegel clarified that she would recommend eliminating any registration requirements of civic groups going door to door, and to require licensing for non-civic organizations going door to door. Councilor Loftus withdrew his motion.

MOTION: From Councilor Loftus, seconded by Councilor Emery, to send the ordinance back to staff for the first re-consideration of the second draft.

MOTION PASSED: 5:0

Resolution No. 868, Proposed Rate Increase for Solid Waste Management

- a. **Staff Report:** Ms. Shaffer reviewed the staff memorandum included in the packet materials.
- b. **Council Deliberation:** Councilor Emery asked if the rate increase was not approved, would garbage still be picked up. Ms. Shaffer answered in the affirmative and stated that without a rate increase, the city would be asking a for profit company to not make a profit on their business. Mr. Davis stated the company did take into consideration the economic community and how a rate increase would impact them.
- c. **Council Decision**
MOTION: From Councilor Emery, seconded by Councilor Quigley, to move to approve Resolution No. 868, Establishing Rates for Solid Waste Management Services in the City of Stayton.

DISCUSSION: Councilor Quigley stated that he was not in favor of rate increases, but that Allied Waste was just trying to recoup their costs.

MOTION PASSED: 5:0.

STAFF/COMMISSION REPORTS – None.

PRESENTATIONS/COMMENTS FROM THE PUBLIC – None.

BUSINESS FROM THE CITY ADMINISTRATOR – Mr. Eubank reminded council

members of upcoming meeting dates.

BUSINESS FROM THE MAYOR – None.

BUSINESS FROM THE COUNCIL – None.


ADJOURN

There being no further business, the meeting was adjourned.

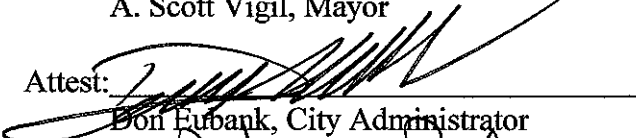
APPROVED BY THE STAYTON CITY COUNCIL this 16th day of May 2011, by a 4:0 VOTE
OF THE STAYTON CITY COUNCIL.

CITY OF STAYTON

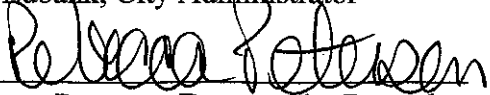
Date: 5/17/2011

By: 
A. Scott Vigil, Mayor

Date: 5/17/2011

Attest: 
Don Eubank, City Administrator

Date: 05/19/2011

Transcribed by: 
Rebecca Petersen, Deputy City Recorder