

**STAYTON CITY COUNCIL  
MEETING MINUTES  
October 03, 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, excused  
Rich Sebens, 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

**PRESENTATIONS/COMMENTS FROM THE PUBLIC**

- a. **Presentation to Library Employees:** Mayor Vigil presented congratulatory letters to Library Staff members Cass Portner, Heydi Smith & Crystal Neal, recent recipients of the Marion County Literacy Award.
- b. **Donation to Park Fund from Summerfest Car Show Committee:** Alan Kingsley, Chairman of the Summerfest Car Show Committee, presented a check to the City in the amount of \$1,000 to be donated to the Neitling/Pioneer Park fund. He thanked the City for all of their help with the event and stated they appreciated the fee being waived for the use of the park.
- c. **Housing Rehabilitation Program:** Mr. Fleishman presented a slide show to provide background information to the Housing Rehabilitation Program. The funding source is from Federal money awarded to the State to distribute to local jurisdictions for home owner improvements. Eligibility is based on income and no payment is due until the house is sold. When more funds come into the program from real estate sales, there is more money to loan out. In response to a question as to how long the homeowner has to live in the residence before applying to the program, Mr. Fleishman stated there is none. Councilor Loftus stated he would like to see the repayment process begin after six years so the funds are not tied up so long.

## ANNOUNCEMENTS

**a. Additions to the Agenda:** Mr. Eubank stated Councilor Loftus requested the discussion regarding a pool issue, which will be discussed under Business from the Council.

**b. Declaration of Ex Parte Contacts, Conflict of Interest, Bias, etc.:** Councilors Porter, Niegel, Quigley and Mayor Vigil stated that they have had discussions with the Wamplers in the past.

## CONSENT AGENDA

### **a. September 06, 2011 City Council Meeting Minutes**

**Motion:** From Councilor Emery, seconded by Councilor Loftus, to approve the Consent Agenda as presented. **Motion passed:** 5:0.

## PUBLIC HEARINGS - None

## UNFINISHED BUSINESS

### **Resolution 877 Re: Ownership of Open Space, Old Mill Village MPD**

**a. Staff Report:** Mr. Fleishman reviewed the staff memorandum included in the packet materials containing new information based on a recommendation from the City Attorney and the City's Special Counsel for Land Use. He stated he previously had interpreted the Code such that the ownership of open space in a Master Planned Development was the sole discretion of the City Council. The issue of open space ownership and control was presented to the City Council which, by voice vote, decided that some of the "Old Mill Village" open space parcels should be conveyed to the City. It is the City Legal Counsels' decision that the initial interpretation did not conform to the Code's text. In the opinion of Counsel, the applicant has the discretion to offer open space to the City, but the conveyance cannot be forced upon the City. The developer/property owner has the option to offer open space to the City and, if rejected, must convey the open space to a lot owners association or other non-profit group.

**b. Council Deliberation:** Councilor Loftus stated the issue before the Council was decided in December 2009 and if the applicants didn't want the property offered to the City, they should have withdrawn their application and resubmitted a new plan. The issue only came up because the City purchased a lot that may have been unlawfully created. Now the City is being asked to accept a new plan two years later. If the applicants are not happy with the process, they can refund the city the \$30,000 and start over. Mayor Vigil asked why the issue is coming back after two years. Mr. Fleishman stated the process for a Master Planned Development is a two step process before the Planning Commission. The first is a preliminary conceptual plan. Following approval of the conceptual plan, the Planning Commission asked the applicants to gain approval from the City Council on the determination of the open space issue. Then, when the applicant returned with the detailed development, they proposed a change from the 2009 decision by the City Council. The

Planning Commission's order on the detailed development required the applicant to come back the City Council to have the change approved.

Mayor Vigil asked if the property that was purchased by the City was a legally platted lot. Mr. Fleishman stated the lot was not platted, but was legally created. When the City was finalizing negotiations for access to the bridge, he raised the question as to it being a partitioning, and after consultations with the City Attorney and Special Counsel and reading the statute for partitioning and subdivisions, staff was able to determine that if the deed to the property indicated it was being deeded for public purpose, the transaction would be exempt from requiring approval from the Planning Commission or the requirement of filing a plat. The deed was drafted and the title company signed off on it. The County Assessor's maps do not show a separate parcel for the property; instead, it is considered part of the E. Florence Street right of way. Now that the City is the owner of the land, and that land will be part of the subdivision, the City needs to be a signatory on the plat. That is when tract B will be dedicated to the public in City ownership and not just owned by the City. When the plat is recorded the City will be a member of the homeowners association. In response to a question from Councilor Emery as to whether or not the City would be part of a homeowners association, Mr. Fleishman stated the city would be part of it as they will own lot 17 in Tract B.

Councilor Loftus asked for an explanation as to why the plan is changing after two years. Mr. Fleishman stated that in April/May 2011 the applicants, at a Planning Commission meeting stated they wanted to change the ownership of the open space from what the City Council decided. Under the previous interpretation of the Code that it was up to the City Council to decide, the Planning Commission approved the layout that the open space was part of but deferred the approval to the City Council. Mayor Vigil stated the purchase of the property was from staff's recommendation to ensure public access to the bridge since it is unknown what will happen to the property in the future. The lot the City owns is like a park in a subdivision and the City has no business being part of a homeowners association, it doesn't sound right. Mr. Fleishman stated that the City owns park land in other subdivisions and probably belongs to their homeowner associations, but never receives a bill for dues. Councilor Loftus asked how much open space is required for a Planned Unit Development in the community. Mr. Fleishman stated it varies depending on the development, what zone it is in, and the Code provides discretion of the Planning Commission to reduce the amount of open space, but generally the code requires a minimum of 25% of the land be open space, except in the downtown zone where the minimum is 10%.

### **c. Council Decision**

**Motion:** From Councilor Loftus, to move that staff revise Resolution 877 to reflect the July 18th decision of the City Council and to place the resolution on the October 17<sup>th</sup> agenda for consideration by the City Council, and to amend it to extract any portions of Tract B from the homeowners association plat.

**Discussion:** Mr. Fleishman stated the ownership of Tract B would not be part of the homeowners association. Councilor Loftus stated that his motion again was to move to revise Resolution 877 to reflect the Council's previous decision that Tracts A, B, C & D, only if D is found to have any other city ownership adjacent to it, otherwise it reverts to the homeowners association, the rest of it the vacation of Florence Street lots 47 through 53; and why does the Council have to approve it again for second time, he asked. Mr. Fleishman stated it would need to be brought back to the Council for a second time as the draft resolution did not reflect the previous motion. Mr. Fleishman stated the vote in July by the Council was that they wanted staff to prepare a resolution and to bring it back to the Council at a later meeting.

**Motion died for lack of second.**

**Discussion:** Councilor Emery asked why a work session was not held on the issue as the Council had directed. Mr. Fleishman stated it was determined by staff that due to various scheduling conflicts, and the fact that the information could be held at a regular meeting, the work session did not take place.

**Motion:** From Councilor Loftus, seconded by Councilor Emery, to move into a work session due to questions regarding the property and issues the Council was not made aware of before the purchase of the property.

**Discussion:** Councilor Niegel stated there was nothing further to discuss in a work session and that she did not want to set the City up for potential litigation; Councilor Porter agreed. Councilor Loftus stated a significant change in the plan did take place it was the purchase of lot 17 by the City.

Mr. Rhoten stated that in 2009 the property was offered and it was taken, but since that time things have changed and he is trying to keep the Council out of litigation. If the City is offered the property they can accept it, but if not the City cannot ask for it.

Councilor Emery rescinded his second.

**Motion:** From Councilor Loftus to move to an work session to openly vet the new information that was presented for the Mill Crossing property.

**Motion died for lack of second.**

**Motion:** From Councilor Niegel, seconded by Councilor Emery, to rescind the July 18<sup>th</sup> decision and to approve Resolution 877 as drafted.

**Discussion:** Mr. Fleishman stated a typographical error was found on page 2 that needed to be corrected. Councilor Niegel stated she would amend the motion to state just that, Councilor Emery amended his second. Councilor Loftus stated it appeared there are problems with the property and that the City could be facing legal issues down the road.

**Motion passed: 5:0.**

## **NEW BUSINESS**

### **Ordinance No. 940 Amending SMC 12.04 Streets & Adopting SMC 15.08 House Numbering**

**a. Staff Report:** Mr. Kinney reviewed the staff memorandum included in the packet materials.

**b. Council Deliberation:** Councilor Emery asked if the references to sidewalks should include curbs, as curbs are needed with sidewalks. He asked if the City has to provide an inspection for curbs and sidewalks. Mr. Kinney answered in the affirmative and stated that public works staff conducts an inspection and issues a Certificate of Occupancy for the dwelling once the inspection is completed.

Referring to 12.04.260, Councilor Loftus asked if the City could offer a payment structure incorporated on the utility bill for the assessment against the property. Mr. Kinney stated he would check with the Finance Director but that the Casselle software probably had a module to accommodate such request.

Referring to 12.04.230 (2), Mayor Vigil questioned the liability to the city based on the wording that "... the Public Works Director shall notify the affected property owner to repair," Mr. Kinney stated he and CIS and the City Attorney would be discussing the shall, vs will, vs may, in the wording.

Referring to 12.04.140, charges for excavation outside travel lanes, Mr. Kinney explained that the section was to cover small cuts that need to be performed such as those for gas leak repairs.

The meeting was recessed at 8:52 pm, and reconvened at 8:58 pm.

Referring to 15.08.020.3.a. "reflective materials", Councilor Loftus asked if paint would be considered reflective. Mr. Kinney stated it could be but staff would defer to what the fire district would like to see.

Mr. Kinney said it will come back to the council at the first meeting in Nov, as he will not be here on 10/17.

**c. Council Decision:** Mr. Kinney stated staff would make the corrections and prepare the drafts for the Council's review at their November 07, 2011 meeting, as he will not be in attendance of the October 17, 2011 City Council meeting.

## STAFF/COMMISSION REPORTS

### Finance Director's Report

**a. Monthly Finance Department Report:** Mr. Eubank stated that the auditors finished their work at City Hall on the 30<sup>th</sup>. Everything was in good order and hopefully the report will be coming back soon. In a response to a question from Councilor Loftus as to the loss of 100 to 130 water users and how it will affect the city financially, Mr. Eubank stated he would check with the Finance Director and have an answer at the next meeting.

Councilor Porter stated that he would be interested in seeing the past six month statistics for water shut offs in the community. Councilor Loftus stated he monitors the statistics pretty closely and that the delinquencies have doubled.

**b. Utility Billing Process:** Mayor Vigil stated that the process is laid out to where the customers are given four separate notices before their water is shut off for non payment; which seems adequate.

### Police Chief's Report

**a. Crime Rate Comparison Statistical Sheets August 2011:** Chief Sebens stated he had been watching the person type crime rates go up, and that they seem to be a problem in other jurisdictions also. Mayor Vigil asked if the Stayton Police Department was conducting patrols in Sublimity, or handling animal complaints; Chief Sebens stated no.

Councilor Loftus asked if the City of Turner had approached the Stayton Police Department regarding Stayton providing police services to Turner. Chief Sebens answered in the affirmative and stated Turner determined it was not feasible due to the distance of Stayton from Turner, their budget was too low and some insurance concerns.

### Public Works Director's Report

**a. August 2011 Monthly Operating Report:** Mr. Kinney reviewed the Monthly Operating Report included in the packet materials, Public Works Update regarding the Tenth Avenue and E. Pine Street water main project, Sixth Avenue Water Main Upgrade, Virginia Street Water Line Abandonment & Services Relocation, Pool Evaluation & Recommendations for Improvements, Santiam Park Improvements and the Third Avenue Decorative Street Light Conversion.

### Pool Manager's Report

**a. August 2011 Pool Monthly Operating Report:** Ms. Meeks stated that yearly maintenance at the pool started August 27<sup>th</sup> and lasted longer than anticipated, but the finished product looks great.

### Library Director's Report

**a. August 2011 Activities:** Ms. Meyers stated that the Stayton Library has been chosen to exhibit Lincoln's term as president and the affect of the constitution on his term. The NW Civil War Council will be performing a living history event, on Oct. 27<sup>th</sup>. The exhibit will be open until Dec. 17<sup>th</sup>.

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

**BUSINESS FROM THE CITY ADMINISTRATOR** – Mr. Eubank stated that preliminary negotiations are being worked out with a company from Georgia to get their broadband up and working.

**BUSINESS FROM THE MAYOR** – Mayor Vigil stated he was working with Public Works staff regarding street lights on Third Avenue, suggestions he has for a skate park will be discussed at the Park and Recreation Board meeting, and that he attended a meeting of downtown business owners in Stayton interested in revitalizing the downtown area.

**BUSINESS FROM THE COUNCIL** – Councilor Loftus stated Councilor Emery recently violated the Council Protocol when he referred the railroad issue to Marion County Commissioners, with no apparent consequences involved such as the ones he (Councilor Loftus) received. Councilor Loftus stated that apparently issues with the swim team had been resolved but that there was much to be desired with city communications and the swim team. He chose not to bring the letter from a parent of a swim team participant and the coach, stating they felt they had been intimidated and threatened by staff. He (Councilor Loftus) wanted to let those know in the public that if this happens the Council will deal with it. Mr. Eubank stated that no one was threatened or intimidated, and that Staff had met with the swim team coach and Lisa from the YMCA to resolve the perceived issue. Councilor Quigley stated that he too was present at the meeting and that staff did address their concerns and issues.

Councilor Emery stated that after the recent Town Hall Meeting he sent out an email to the County Commissioners on his own regarding the railway issue; he apologized for not staying within the Council Protocol.

**ADJOURN**

There being no further business, the meeting was adjourned 9:36 pm.

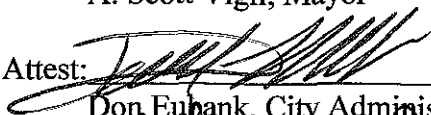
APPROVED BY THE STAYTON CITY COUNCIL this 17<sup>th</sup> day of October 2011, by a 4:0 VOTE OF THE STAYTON CITY COUNCIL.

CITY OF STAYTON

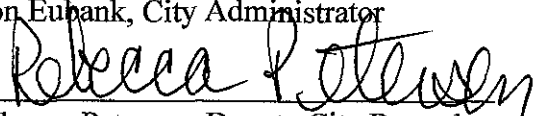
Date: 10/17/2011

By:   
A. Scott Vigil, Mayor

Date: 10/17/2011

Attest:   
Don Eubank, City Administrator

Date: 10/17/2011

Transcribed by:   
Rebecca Petersen, Deputy City Recorder