

WEST LINN CITY COUNCIL PUBLIC MEETING AGENDA

(The order of business is subject to change at Council discretion)

February 13, 2006

West Linn City Hall - Council Chambers - 22500 Salamo Road

6:30 p.m. Agenda Work Session (Rosemont Room) The regular meeting will be preceded by a one-half hour work session wherein the agenda items will be discussed on an informational basis.

7:00 p.m. Regular Session

- Call to Order / Pledge of Allegiance
- Proclamations, Recognitions and Presentations
- Community Comments -- **[30 Minutes]** The Council President will call for statements from citizens regarding issues related to City government, properly the subject of Council consideration, and not issues on this agenda. Persons wishing to speak shall be allowed to do so only after completing forms provided in the foyer in advance of Community Comments. All remarks should be addressed to Council as a body. **Council will not engage in discussion with those making comments. The time limit for each participant will be determined by the Mayor.**
- Consent Agenda -- Items appearing below are routine and will not be allotted individual hearing time. The items may be passed upon by Council in one blanket motion. Any Council member may remove an item for discussion or questions by requesting such action prior to consideration.

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| 1. Agenda Bill 06-02-03 | Approve Minutes of January 9, 2006 |
| 2. Agenda Bill 06-02-04 | Set Public Hearing date of <u>March 13, 2006</u> , to Consider Vacation of Public Right-of-Way Adjacent to 1810 Carriage Way |
| 3. Agenda Bill 06-02-05 | Motion to Authorize the City Manager to Sign a Dedication Deed Dedicating a Tract on Geer Street as Public Right-of-Way |

- Report from the City Manager
- Business from the City Council
- Business Meeting -- Persons wishing to speak on agenda items shall be allowed to do so only after completing forms provided in the foyer and turning them in to the Council prior to the item being called for discussion. A separate speaker slip must be turned in for each item. Time limit -- 5 minutes for each participant, unless the Mayor decides prior to the item to allocate more or less time.

- **PUBLIC HEARING**
1. Agenda Bill 06-02-06 PUBLIC HEARING - Step Two Annexation Hearing - 21 Properties totaling 20.5 acres
- RESOLUTION - Submitting a Proposed Annexation Requiring Voter Approval to the Registered Voters of the City for their Approval at the May 16, 2006, Election
- **PUBLIC HEARING**
2. Agenda Bill 06-02-07 PUBLIC HEARING - (ANX 05-04 and ANX 05-08) - Step Two Annexation Hearing - 3000 and 3130 Haskins Road
- RESOLUTION - Submitting a Proposed Annexation Requiring Voter Approval to the Registered Voters of the City for their Approval at the May 16, 2006, Election
3. Agenda Bill 06-02-08 RESOLUTION - Adopting Policies Discouraging Destruction of Natural Resources Prior to Annexation
4. Agenda Bill 06-02-09 Motion to Recommend Approval of Liquor License Application Renewals, Subject to Any Sanctions that OLCC May Impose
- Executive Session pursuant to ORS 192.660, if needed
 - Adjournment

West Linn City Council Meeting Minutes
February 13, 2006

Council Present: Mayor Norman B. King, Council President Scott A. Burgess, Councilor Michele S. Eberle, and Councilor Mike Gates

Council Absent: Teri Cummings

Staff Present: Chris Jordan, City Manager; Bryan Brown, Planning Director; Gordon Howard, Senior Planner; John Atkins, Community Services Coordinator; William Monahan, City Attorney; and Shirley Richardson, MinuteTaker

[The Council met in Executive Session pursuant to ORS 192.660(2)(h) to consult with counsel concerning the legal rights and duties of the Council with regard to current litigation or litigation likely to be filed.]

Call to Order / Pledge of Allegiance

Mayor King called the meeting to order at 7:05 p.m. and Councilor Gates led the flag salute.

Proclamations, Recognitions and Presentations

Mayor King recognized Representative Scott Bruun who is here tonight in the audience.

Community Comments

Ole Olsen, 3993 S. Kenthorpe Way, stated he has lived in West Linn for 34 years. He placed himself under oath. He presented a Notice to Quit and read portions of this document into the record. The entire document was made a part of the record.

He indicated that the last time he was here it was inferred by people that he was not telling the truth. He knows the difference between a utility and a facility. When he presented excerpts on the public meeting laws, he testified exactly what it was; it was written by the legislature and should be enforced according to law. He was concerned that no one was giving oaths. The City of West Linn needs to go to the statutes to find out their procedures.

Mr. Olsen discussed election laws, activity by Chris Jordan, West Linn's form of government, the City's corporate seal, and asked whether the Notice to Quit would be addressed or not addressed.

Councilor Gates asked if Mr. Olsen is saying that everything the City has done since 1980 is illegal. Mr. Olsen stated that he didn't say anything is illegal. He is just quoting specific laws that the City has to comply with. If he felt something was illegal, he would

take it to the Police Department and sign a formal complaint. He is in support of this Council. Corporate laws dictate that members of the City have to be members of the corporation as required by law.

Andy Rocchia, 957 Willamette Falls Drive, stated that he is here this evening to voice concern over the number of situations at the new Fields Bridge Park. His chief concern is the suitability of soils at Fields Bridge Park for purposes of ball playing fields. This morning he took soil samples from the playing fields and indicated he has been taking samples for the past five weeks. He brought along samples for examination by Council. The samples were delineated by outfield, left field, etc. He passed out the samples to the Council.

He stated that all of the samples were to the depth of about four inches. The soil is clay, typically found in a wetland area or marsh. In the *West Linn Tidings* on February 2nd, Ken Worcester was quoted a number of times about the quality of the turf in the park. He said the grass was yellow for lack of fertilizer. He disagrees and provided soil samples to show that the grass roots are drowning. There is water retention in that area and the soil is such that water does not move through it easily.

This morning when he was taking his samples there were a couple of employees from the Parks Department and they were getting ready to apply fertilizer to the fields. He is not a soils expert, but he feels the drainage situation in the field should be re-examined. If you apply soluble fertilizers to it, it is not going to percolate down. It will go to the side. The way the drainage system is oriented, all the runoff does not go down; it goes sideways into the available ducts, pipes, and the Tualatin River. This may be a possible environmental hazard.

There were two inches of standing water on January 26th between second and third base. This will pose future problems for the maintenance of these fields in the way they will need to be treated, and the ongoing costs of maintenance for the purpose of a ball field will be considerable. He submitted into the record his response to the *West Linn Tidings* article where Mr. Worcester discusses this issue.

Jack Simpson, 1671 Killarney Drive, stated that at some point Council would consider an ordinance. It brought to mind a song called "The Fox" and he read the words into the record. He doesn't think it is a good idea to consider any ordinance where Council will be the cop, the jury, and the judge passing the sentence. He doesn't think Council will ever find itself guilty of any offense, so why bother.

Bob Thomas, 2563 Pimlico Drive, stated that at the meeting on February 6th he submitted a document that responds to Chris Jordan's chronology of the illegal placement of the pipe in the park. Attached were two maps, which showed the April 2000 update of the Montgomery Watson plan, which shows the 20-inch pipe going along Skyline and a 16-inch pipe going up Summit.

The attempt to blame the previous council for the pipe going through Wilderness Park is not true. He objects to any implication of that council having anything to do with routing that pipe through the park. The 1999 Water Plan by Montgomery Watson and the update in 2000 did not do so. Council assumed that everything was going to be followed, and capital improvement project #55 somehow was slipped in by engineering with no comment. He attended all the meetings and, if it hadn't been for him, there would have been many errors. He or no one else could go through 58 projects listed for capital improvements and determine that this capital improvement project 55 had abandoned the previous plan and had only allocated 1600 feet of 12-inch pipe which can only reach the end of Gloria Drive and Summit by going through the park. This was never pointed out to the previous council and it was not their responsibility to check out every one of the projects. He would appreciate no further reference of the previous council being involved. They were never told about it nor was there a map. The first map shown was when it was on the Consent Agenda to be considered by this council.

Mr. Thomas stated that Agenda Bill 02-04-17 of April 17, 2002, discredits the false claim by Councilor Gates in *the Tidings* that the previous council did not abide by the Charter and did some things in the Maddox Woods Park that should have gone to the voters. He looked that up and it is nonsense. The map does not show anything. It just indicates Bolton Pump Station to Summit.

He suggested that the pipe be removed and re-routed around the streets as it properly should have been done by three methods: (1) bonds and insurance; (2) staff remove the pipe; or (3) take the extra cost of removing the pipe and putting it around the streets as an incorporation into the water system development charge schedule as is done with cost overruns. The citizens should not have to pay a dime to take out the pipe or re-route the pipe where it should have been routed in the first place.

Skip Ormsby, P.O. Box 1072, Lake Oswego, Oregon, stated that at a meeting on December 19, 2005, Council was apprised of the Portland to Lake Oswego Transit and Trails Alternative Analysis. He urged the City to keep an eye on this issue. There was a tour on January 5th of the corridor where they presented a corridor map. This map shows no reference to West Linn. It basically looks at the Jefferson Street alignment (trolley). Again, West Linn is being shut out to the side. He urged that West Linn keep apprised of this issue and know what options are available.

Mr. Ormsby noted an article in the *Portland Tribune* regarding the central transit mall. It's getting to be a mess in downtown. There will be two transfers required for people from West Linn, if the streetcar is selected as the locally preferred option to get to downtown Portland. Two transfers will diminish people desiring to ride transit from West Linn to Portland. He again urged Council to keep an eye on it. The next meeting will be tomorrow night. He hopes someone can show up and keep an eye on it. Transportation options will be made that will affect West Linn for the next 25-50 years, and at this point West Linn does not have a vote.

Consent Agenda

1. Agenda Bill 06-02-03 Approve Minutes of January 9, 2006
2. Agenda Bill 06-02-04 Set Public Hearing date of March 13, 2006, to Consider Vacation of Public Right-of-Way Adjacent to 1810 Carriage Way
3. Agenda Bill 06-02-05 Motion to Authorize the City Manager to Sign a Dedication Deed Dedicating a Tract on Geer Street as Public Right-of-Way

Councilor Gates moved to approve the Consent Agenda consisting of the minutes of January 9, 2006, as presented, and Agenda Bills 06-02-04 and 06-02-05. Councilor Eberle seconded the motion.

Ayes: Eberle, Gates, King

Nays: Burgess

The motion to approve the consent agenda carried 3-1.

There was brief discussion regarding the Consent Agenda items, and there was clarification and Council consensus that the minutes of January 9, 2006, were approved, as revised.

The revisions to the minutes were as follows:

Page 12, second paragraph: Council President Burgess asked **why the staff findings referred to whether the properties were in the Metro UGB, and they noted “not applicable.”** ~~for clarification of whether these properties are within Metro boundaries.~~ Mr. Brown stated that all of the properties are within the Metro boundaries **but were not expanding the Metro UGB.**

Page 27, sixth paragraph, third from last sentence: Compatibility **of house types** with the neighborhood is not something the Council can control.

Report from the City Manager

Mr. Jordan announced:

- There is a public meeting tomorrow night of the Lake Oswego-to-Portland Transit Option Study. A staff person will be attending that meeting.
- Parker Road will be closed beginning one week from now for a three-week period for improvements to that road.
- The auditors are here this week working on the 2004 audit. After that one is completed, the 2005 audit is projected to be completed in April.

Business from the City Council

Councilor Gates stated that he is pleased with the progress in Pascagoula. There is a company donating \$200,000 worth of computer servers and mainframes for the school district. He thanked the West Linn School District and the citizens in the area who have done a good job in helping out the technology needs of this school district, which enables them to pass on equipment to Pascagoula. It is very much appreciated. He reported that the softball organization in West Linn has provided equipment donations, and individual donations have continued. Everything presented has been deeply appreciated by the families.

Council President Burgess announced that the Oregon Department of Transportation is inviting people to speak Thursday, February 16th, from 4-8 p.m. at the Willamette Falls Hospital Community Health Education Center on the Statewide Transportation Improvement Program. He feels that West Linn is behind the eight ball in terms of transportation issues in the City, and these issues are very significant in terms of how lives are affected daily.

Council President Burgess asked that there be a response given to Mr. Rocchia regarding ball fields. There has been other correspondence on similar issues relating to Fields Bridge Park. He would like staff to address building ball fields without adequate drainage. There are other issues in terms of safety and protection for neighbors that also need a response.

Agenda Items

1. Agenda Bill 06-02-06 PUBLIC HEARING - Step Two Annexation Hearing –
21 Properties totaling 20.5 acres

Gordon Howard reported that this is a step two hearing on an annexation proposal. There are 21 properties involved, 17 privately owned and four owned by the City of West Linn. The properties total 20.5 acres in size. This is a City-initiated annexation proposal in step with the City's adopted annexation policy. All of these parcels are two acres or less in size and all developed with single-family homes. There is one exception of a property where the home was destroyed by fire.

The step one land use process for annexation was approved. The zoning for these properties was either R10 or R7. A second step one hearing was on January 23rd for two additional properties. The step two hearing tonight is on all properties encompassed in the previous step one annexation hearings. At this meeting the Council has the discretion whether to put these properties on the ballot, what ballot to put it on, and whether to consolidate all into one ballot measure or divide it into individual ballots. All property owners involved have consented to consolidation if Council so chooses.

Staff has conducted a fiscal and community impact analysis. Staff has found the potential of 48 potential new dwelling units. None of the parcels have major environmental constraints and no significant negative direct facilities impacts to streets, water, sewer, storm or parks.

Pursuant to a 2004 annexation analysis, the cost of infrastructure items for which the City cannot get SDC's is approximately \$13,700 per new dwelling unit. That is the current ordinance that was looked at in this analysis. Based on current assessed valuations, approximately \$15,000 annually of additional tax revenues can be brought into the City and, if new dwellings are put up to the maximum allowed, there would be an increase of \$58,000 annually to the City in property taxes.

There have been several letters received on this item, three of which are in the packets from Valerie Ramaswamy and Ken Snow in the Tanner Basin area, in opposition; Alice Richmond in support; and Robert Musalo on 2115 Fircrest Drive in opposition to the annexations.

A map was displayed that showed the properties being discussed tonight. Staff is recommending approval of these step two annexations and a consolidated ballot measure for the May 2006 ballot that encompasses this entire proposal.

Mayor King asked if there was any additional correspondence. Mr. Howard stated there is a second item received from Alice Richmond repeating her support.

Councilor Gates stated that several emails have been received regarding this issue (Pryor, Schwarz, etc.). Council President Burgess reported that he had correspondence from the Riveras who live on Suncrest and are in support of this annexation.

Council President Burgess asked if all the parcels fall into the range of R-40 to R-7. Mr. Howard stated that R-7 or greater are the only options for these properties.

Council President Burgess asked for confirmation that there is a condition that there will be no connections to Rosemont for existing or new homes. Mr. Howard stated that this provision is addressed in the final order of the step one process; that no further connections to the City water system are allowed for these properties until the City Engineer certifies improvements to the Rosemont Pressure Zone that eliminate any deficiencies are constructed and operational.

Storm drainage is reviewed at the time of a development proposal for land division, and there are specific requirements that the storm drainage be detained on the site to the level of a 25-year flood event. If there weren't storm lines, the applicant provides an on-site detention facility that reduces flows to the current level of a 25-year flood event. Just because they are annexing doesn't mean they are developing.

Councilor Gates asked what costs the City is incurring to bring these properties forward. Mr. Howard stated that the total of all the properties is \$15,000 annually in additional taxes. He has kept records of his costs to bring these properties forward going back to last summer. Including his time, Bryan Brown's time, the cost of notices, and for administrative staff time to date, the amount totals approximately \$8,000. If this were a private application, this amount would have been charged to an applicant.

Councilor Gates asked if there are un-recovered costs if additional homes were built on these properties. Mr. Howard stated that the \$15,000 is based on the current assessed valuations annually, not additional homes. They are taxed relative to City services, not schools, not highways, etc.; these are the un-recoverable costs. Staff anticipates that the taxes recovered will more than cover the cost associated with putting these annexations on the ballot.

Councilor Eberle asked about other expenses besides staff costs. Mr. Howard stated that there is approximately \$1,000 in non-staff cost for notices, signs, etc.

Councilor Gates noted that there are some open space areas currently zoned R-7. He asked if there has been any discussion of bringing these open space areas into the City and selling them as properties. Mr. Howard stated that of the four City-owned properties involved, two of them constitute a City storm pond. The City does not have the ability to fill that pond and sell it, as it is a part of the storm system. The third City-owned property includes the Bland Water Reservoir that is needed for City water reservoir services. There is no intention of selling that property. The fourth property is an open space site at the corner of Salamo and Barrington Road, which is in the City's open space inventory or park system and would require a vote to change that.

Council President Burgess noted that there are times when the City does things that affect the entire City as a whole such as paying for the Bolton Neighborhood Plan. The City is required to give all the City-owned property a zoning designation; there is no open space zone. Most of the parks, school sites, etc., are designated R-7.

Council President Burgess suggested an explanatory statement to inform the public what the zoning is for City-owned properties.

Testimony in Support

Council President Burgess reported that Alice Richmond had another meeting but has submitted her testimony in writing that was in support. A copy of this testimony has been made a part of the record.

At this point Mayor King indicated that this hearing on Agenda Bill 06-02-06 is for a step two annexation hearing for 21 properties totaling 20.5 acres. William Monahan, City Attorney, explained the purpose of the hearing and the hearing format.

Mayor King asked if there were any conflicts of interest or *ex parte* contacts to declare. There were none.

Testimony in Opposition

Barbara Eden, 6222 Tack Court, stated that she is in opposition to these annexations and it is the same objection that she has for some of the individual properties that have been up for annexation. She does not feel that the West Linn infrastructure at this point is prepared to take on this many new homes (possibility of 48 homes). She asked for confirmation that the costs, above and beyond the SDC's, is \$13,000 per unit (times 48). This is a large amount of money. She asked, if these properties were to go through the normal process and annex individually, what would the income to the City be on SDC fees compared to what is happening here with no fees. She is concerned that this is being bundled together and rushed through and the City is not prepared for this kind of growth.

Councilor Gates asked Ms. Eden about her concerns regarding the cost to the City if a property is being annexed. Ms. Eden stated that her concern centers around the cost of individual property owners who are trying to get into the City on an individual basis versus this group annexation process where there are no charges. There is a lot of money left on the table here.

Bob Thomas, 2563 Pimlico Drive, stated that to go ahead with this mass annexation would be a violation of the single subject rule for ballot measures and also a violation of the West Linn Municipal Code. It does no good to comment on individual properties. The way they are all going on one ballot measure, you can only vote yes or no on the whole bunch. There was a challenge to this type of thing several years ago. He talked with Mr. Howard and was informed that the City did not have enough room to put into the ballot the information that would be required under Chapter 2, subsection 2.950, of the Municipal Code and suggested that he go to the website. The Code requires it to be in the voters' pamphlet, not on the website and at City Hall.

According to his figures, the number of dwelling units possible (if fully developed) is 62 instead of 48. In a discussion with Mr. Howard he indicated that he rounds down. Mr. Thomas stated that he used a figure of 3.57 dwelling units per acre for R-10 and 3.5 dwelling units per acre for R-7. He rounded up three units. If you multiply 48 times \$13,696 (the cost borne by taxpayers that isn't covered by SDC's for infrastructure) it is \$657,408. For 62 units it would be \$849,152. The amount of taxes received according to Mr. Howard will be \$15,000 with no development on them and it does not begin to pay for staff time spent this year. There was a lot of staff time generated on these annexations starting with the interim City Manager; he has information at home confirming time spent with Ken Worcester and others. It was not just Gordon Howard's time. It was everyone on staff that was involved with the annexations, which should be recorded. This will not be covered with taxes. The taxes derived are of no benefit. Housing developments don't bring in enough taxes to pay the annual on-going costs of

serving them. Other tax-derived dollars are spent to fully service these properties. This is not addressed in documents nor will it be in the voters' pamphlet. There is no benefit to existing residents; only a benefit to those who are coming in. It would cost a lot less to leave things the way they are.

Mr. Thomas stated that he feels this is a policy to entice people to get a free ride to come in and get annexed. He is concerned that, when these properties are developed, the City will have to look to Area 37. He is opposed to putting this on the ballot the way it is being done. It is a violation of the law.

Ed Schwarz, 2206 Tannler Drive, stated that he is in opposition to this measure. He is not opposed to individual pieces of property coming into the City if it is done through the normal process. He is very much opposed to the way this was handled by this council and the previous interim City Manager. It bothers him greatly that the City went out and solicited property owners to bring them into the City. If someone wants to come into the City, they are welcome to apply as with the previous process of paying a fee. He feels that this group is being treated differently from the way that others have been treated in the past and those that will be applying in the future.

Mr. Schwarz stated that he is also concerned about lost potential income for City. In the past everyone else who applied to be annexed had to pay a fee. Through this solicitation the fee has been waived for 17 properties. Staff time is not the only expenditure. He suggested that the City look at the lost revenue to the City by not charging these people the normal fees for coming into the City.

It is indicated that the un-recovered cost is \$14,000 based on Carole Connell's analysis for the previous council. Previous measures this Council approved for the ballot for annexations to the City had various un-recovered costs listed that were nowhere near \$14,000. The previous Council commissioned this study and he and his wife paid money to have it updated. It bothers him that things are put on the ballot knowing that these numbers were out there. He asked why Council chose to put previous measures on the ballot with significantly lower estimates than the current estimates. He is opposed to this measure. Citizens would not agree that the way this is handled is the proper way to be annexing properties into West Linn.

Neutral Comments

Anna Withers was called and it was found that she wanted to testify on the Geer Street right-of-way. It was explained that the matter had already been approved on the Consent Agenda.

Don Henry, 3870 Kenthorpe Way, stated that he has not been involved in this issue in any way and asked why the City is annexing property; what is the motivation behind it.

Additional Staff Comments

Mr. Howard stated that in response to Mr. Thomas's comments in terms of the calculation of the number of units, there were five properties where he subtracted one potential unit because of the way the house was configured on the site. As a practical matter, it would be unlikely that one house would be demolished to put two houses in. Staff rounds down when looking at density. It is a City code policy.

In terms of on-going costs not being addressed, they are not addressed in particular because the annexation code specifically states to look at infrastructure costs, not the issue of ongoing services, when doing an analysis.

Clackamas County allows 500 words to be used on the ballot explanatory statement. With one measure on the ballot staff has to be very careful. All information required is addressed in the 500 words that they are allowed to put in. There is a requirement that all the addresses of the properties involved be included within the 500 words. There is a draft that includes the addresses. There is a reference to a full staff report on the website that contains additional information.

Councilor Gates asked staff to explain the process of rounding down housing to reduce density. Mr. Howard explained that, if someone in the R-10 zone where the minimum lot size is 10,000 square feet has a lot that is 19,999 square feet, the City does not allow them to round up to 20,000 and create two lots. They are only allowed one lot. It applies to all proposals whether they be subdivisions, planned unit developments, etc., in the City.

Council President Burgess asked if the resolution included the two properties that had not yet consented. Mr. Howard said, yes, it does. Written consent was received after the staff report.

Councilor Gates asked if there is rationale on how to split this ballot into more than one measure that would be appropriate. Mr. Howard stated that one possibility would be to separate out the City-owned parcels from privately-owned parcels, or only doing properties that are contiguous to each other (16 ballot measures). Staff did not find a good rationale for splitting the annexations into multiple measures.

Councilor Gates asked Mr. Monahan to address Mr. Thomas's comment on an action regarding using more than one ballot. Mr. Monahan stated that he is not aware of that case. It was not clear to him if Mr. Thomas's reference was to a ballot title on annexations or a single question ballot title. He can research this information and get back to Council if they desire.

Councilor Gates asked staff what the timeline is for getting this issue on the May ballot. Mr. Jordan stated that a decision on this issue could be postponed until the February 26th Council meeting and still meet the noticing requirements of the ballot. Everything

needs to be turned in to the County 60 days in advance of May 16th, which puts the deadline at March 16th.

Council President Burgess noted that it is the City Attorney's position that all of the alternatives before Council tonight are legal. It is a question of which alternative the Council chooses, not whether it is legal or not legal. Mr. Jordan confirmed that this decision is a policy issue, not a legal issue.

Mayor King closed the public testimony portion of the hearing and opened the meeting to discussion among the Council.

Councilor Gates stated that he believes the un-recoverable costs are a floating number that changes constantly. Until the City decides to create a formula so the float can be converted into a process, he suggested using the Connell number. He went on to comment on several issues raised tonight:

- The SDC's are paid when a structure is built and the land developed. It is not something that would be affected by this annexation process.
- The phrase "leaving money on the table" has been used. If the City did nothing and deferred for five years, the \$15,000 figure being used results in \$75,000 in taxes not being recovered. The amount of fees involved, if every residential property paid \$2,000 and the cost were calculated, would be \$34,000. Beyond two to three years, it is a wash if deferred because the City is losing those taxes now.
- How much has the City lost in taxes over the past year by deferring these residents from coming into the City?
- These residents have not been paying for the libraries, streets, schools, and using other services of the City and not paying any taxes for it.
- Some streets have not been taken care of by the City because they are County streets. Now they can be improved.
- The number of 48 possible homes being built does not take into consideration any restrictions or constraints that each of these properties might have. Of the properties that were toured by Council, a good number of them had restraints (water, sloping, siting of the existing house, etc.). There will be a lot fewer homes built than the math indicates.

Council President Burgess moved to approve Resolution No. 06-06 submitting a proposed annexation requiring voter approval to the registered voters of the City for their approval at the May 16, 2006, election and further that this be separated into two measures, one for residential properties and one for City-owned properties. Councilor Gates seconded the motion.

Council President Burgess stated that Council saw the issue of annexations coming before them and it was consuming a lot of time and not allowing the Council to deal with priorities. A policy was developed and work sessions were held to review the drafts. Properties were separated out and this policy was the result of that work. The City has

requested that these properties be in the City since the 1991 when the Tanner Basin Master Plan was adopted. SDC's are charged on the basis that these properties will be in the City, and they are currently using City services. Annexation brings properties into the City. It means that these owners will be paying taxes. It does not mean that there will be development; that SDC's will or won't be charged; or that there will be unrecovered costs. It is only when development occurs that costs are involved. Property taxes only pay about 33 percent of the City's budget. These properties don't even pay that.

The City was incorporated in 1913, and it would not be wise if the annexations are deferred until all the neighborhood plans are completed. These properties are included in the Tanner Basin Plan, several Comprehensive Plans since that time, several Water Master Plans, Transportation Plans, Park Plans, etc. These properties will be developed someday and the City is planning right now for transportation systems. These properties should be included. He supports one ballot for the residential pieces as one application for efficiency.

Councilor Gates noted that one argument is that, if these properties are annexed, it will force development of the Stafford Basin more quickly. The City has to address what is happening in Stafford Basin. Metro has already laid all the groundwork for going right past West Linn. The previous Council filed a lawsuit to prevent Area 37 from being brought into the City. This administration supported that, stayed with it, and succeeded in having that beat down. Metro is making sure that they satisfy all the requirements that were not satisfied in the original effort. The debate in the Stafford area is not if they are going to be brought in, but how they will be brought in. Clackamas County has already rolled over on the issue, and they are working with Metro on how to bring it in. The primary driving force in Metro's decision-making is transportation issues. If West Linn wants to define its community, there needs to be a better growth boundary fixed or City boundaries fixed.

Councilor Eberle stated that annexations have been discussed for over a year now. As a Council member, her primary objective is to set policy. This City did not have any policy on how to address annexations. This policy will allow the Council to review annexations on a yearly basis; this excites her. One of the goals of this Council is to provide the highest quality of City services efficiently and effectively. By looking at when annexations are addressed is achieving that goal. Each of the parcels being considered has a home on it; these are not vacant lots. The City is celebrating its sense of community by telling these neighbors that they are part of our community and deserve the right to vote and be a part of this community. This achieves another Council goal. She will be supporting this motion.

Mayor King stated that there have been comments that the City should wait until the neighborhood plans have been completed so that some of the land can come in as parks. There is no park zone or an open space zone; all parks have a residential zone. If properties are annexed, it makes it possible that it could be a park. If outside the City

limits, it could not be developed as a park. He likes having these annexations grouped because of the cost effectiveness of the proposal. This is welcoming into the City people that have not been able to vote but have been using the City facilities.

Ayes: Burgess, Gates, Eberle, King

Nays: None

The motion to approve Resolution No. 06-06 carried 4-0.

Council President Burgess moved to adopt Resolution No. 06-07, submitting a proposed annexation requiring voter approval to the registered voters of the City for their approval at the May 16, 2006, election for the four city-owned properties included in the staff report. Councilor Gates seconded the motion.

Mayor King noted that the one parcel on Salamo Road that is open space would not be a buildable lot once right-of-ways are determined. By being annexed it will come into the City under this policy.

Ayes: Gates, Eberle, Burgess, King

Nays: None

The motion to approve Resolution No. 06-07 carried 4-0.

[A recess was taken at 9:00 p.m. and the meeting reconvened at 9:15 p.m.]

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| 2. Agenda Bill 06-02-07 | PUBLIC HEARING (ANX 05-04 and ANX 05-08) Step
Two Annexation Hearing - 3000 and 3130 Haskins
Road
RESOLUTION No. 06-08, Submitting a Proposed
Annexation Requiring Voter Approval to the
Registered Voters of the City for their Approval at the
May 16, 2006, Election |
|-------------------------|---|

Mayor King opened the hearing on Agenda Bill 06-02-07 for annexation applications ANX 05-04 and ANX 05-08. This is a step two public hearing on two requests to annex a total of 6.6 acres to the City of West Linn. The two landowners have agreed to combine the two properties into one ballot measure.

William Monahan, City Attorney, explained the purpose of the hearing and the hearing format.

Mayor King asked if there were any conflicts of interest or *ex parte* contacts to declare. There were none.

Mr. Howard reported that these two applications have been combined. The two parcels on Haskins Road are adjacent and are being considered in all or in part as a park by the City. The owners have submitted in writing that they agree to a consolidation of this as one ballot measure if Council chooses to do so.

The 3.9-acre property owned by Walid and Vivian Jajou at 3000 Haskins Road has a single family residence, and the 2.7 acres adjacent to that property is owned by ICON Construction at 3130 Haskins Road and is undeveloped. Both of these applications have been reviewed and approved through the step one process with R-10 zoning. The decision tonight is whether to put these on the ballot, for what date, and whether to combine them as one measure.

Fully developed, if not used for a park, this site has the potential of a maximum of 23 additional dwelling units on these properties. The costs have been set by the September 2004 Council analysis on that subject. Staff recommends approval of this step two matter, to put it on the May 2006 ballot, and to put it together as one item.

Mayor King asked if there was any additional correspondence. Mr. Howard said no.

Council President Burgess stated that Mr. Jajou and he are friends; they work together in their respective businesses. They have discussed this issue earlier, but have not discussed it again since before Mr. Jajou made this application for a step one decision. He does not feel his relationship will impair his ability to vote on this issue.

Testimony in Support Council President Burgess reported that a letter was received from Alice Richmond in favor of this item. This letter was made a part of the record.

Testimony in Opposition

Bob Thomas, 2563 Pimlico Drive, stated that his reasons for opposition are the same as in the previous hearing. He is disappointed that staff does not show the development potential. There is no way of knowing how many dwelling units this could develop into. It should be included in the staff report. He wished there were a way that people who keep up on things in the City like he does could counter or refute Council speeches. Council does have a lot of power. There is no way that anyone can hold them in check. He feels that Council does what they please and then give speeches to justify it.

He wished he could refute what has been said that the taxpayers' burden is only limited to infrastructure costs; not true. Money that has been lost because of not annexing properties is better than having their taxes. The taxes they bring in don't cover the cost to service them. Housing developments don't pay for themselves.

There is no mandate to have to annex these pockets of land. These people have preferred not to be annexed because they were benefiting from lower taxes. The only incentive is that they can develop and make money. Many of the previous annexations rushed down to beat the deadline of the new voter-approved annexation laws that he, his wife, and David Dodds got signatures for, long before Dodds was mayor. He feels that some residents didn't meet the deadline and now they are being enticed to come in

with the lure of no fees. It doesn't make sense to round down. In his opinion, the way the City is approaching annexations is incorrect; forced and illegitimate.

Council President Burgess noted that the staff report mentions 22 lots in several places throughout the report.

There were no questions, additional staff comments, or questions of staff from the Council. Mayor King closed the public testimony portion of the hearing.

Council President Burgess moved to approve Resolution No. 06-08, submitting a proposed annexation requiring voter approval to the registered voters of the City for their approval at the May 16, 2006, election. Councilor Gates seconded the motion.

Councilor Eberle stated that these two properties do not fall into the guidelines of those who could come in under the policy. She will not be in support of this resolution.

Mayor King noted that both of these applications have been delayed several times. They were submitted before the annexation policy was adopted and before the policy was being discussed.

Council President Burgess stated that both applications have also been before prior Councils with requests to be on the ballot. Mr. Howard stated that Mr. Jajou's property was defeated in the 2000 election. In 2001 Mr. Jajou returned and the Council denied putting it on the ballot. Both properties have paid their \$2,000 deposit for this application.

Ayes: Gates, Burgess, King

Nays: Eberle

The motion to approve Resolution No. 06-08 carried 3-1.

3. Agenda Bill 06-02-08 RESOLUTION 06-09, Adopting Policies Discouraging Destruction of Natural Resources Prior to Annexation

Mr. Atkins reviewed the staff report with the Council. This policy comes before Council at their request. Staff was asked to review a similar ordinance adopted by Lake Oswego to conform to Goal 5 and the City's planning process. This policy will provide a mechanism to prevent the wholesale damage and destruction of natural habitat, trees, and riparian corridors outside the City prior to annexation.

This policy looks at three different scenarios:

1. Where a property owner has logged the property and cut down trees of a certain size that meet the current tree preservation code. When they apply for annexation, they will be required to replant the trees or pay a penalty to the City so the trees can be replanted, or a combination of actions.

2. A property has been inventoried by the City as part of the Goal 5 process. A similar mitigation process is required prior to annexation.
3. If someone damages a riparian corridor or a stream or re-routes a water course and then applies for future annexation. The Council will require certain actions to be taken to restore the damage pursuant to State law in terms of what the Oregon Natural Resources requirements would be, as well as any other actions that might be suitable in the judgment of the City Manager.

The Council at any time can determine on a case-by-case basis how far or to what extent to enforce this policy.

Council President Burgess asked if there is an adopted Natural Resource Inventory and is there a Goal 5 process. Mr. Atkins stated that there is a Goal 5 process and the inventory will be adopted at some point. The maps are available; however, they are not adopted yet. This policy is an enforcement document; a recommendation will come from the City Manager as to what to do. Mr. Jordan stated that this only enforces if someone applies for annexation. The appeal process is that they apply for an annexation; staff recommends denial based upon this document that they have not done the mitigation associated with this policy. At this point Council determines yes or no whether the annexation is to go forward or not. That is the appeal process.

Mayor King asked staff for clarification of the waiting period if a violation has occurred. Mr. Atkins stated that there is a two-year waiting period if you have created a violation, and there is a post-annexation period of maintenance of the restoration as well. The effective date would be the date of adoption (enactment forward). The point of this policy is to make sure everyone in the surrounding area understands what's at stake. Council is saying that, if you are interested in annexing, it cannot be done unless this resolution is followed. This only covers land annexable inside the urban growth boundary (UGB). In the first scenario, if the UGB were removed, staff would need to go back and do the Natural Resources Inventory of the future land that comes into the UGB. This policy applies the City's tree code standards to the trees. This policy gives the City Manager and Council quite a bit of latitude to require an appropriate remedy or mitigation.

Council President Burgess asked how retroactive this policy is for those outside the UGB that are brought inside the UGB in terms of mitigation. Mr. Atkins stated that the property owner could not have known about the policy and wouldn't have been affected by it until they are brought into the UGB. Mr. Monahan stated that Mr. Atkins is right; the condition exists at the time that the property enters the UGB and is under consideration by the City when the Natural Resources Plan is set for that property without the existence of trees that may have been cut.

Council President Burgess asked if all the properties that are not annexed will get some sort of notice that this resolution has been approved. Mr. Jordan stated that there is a public notice requirement. Staff will distribute the policy to the listed parties as well.

Testimony in Support

Alice Richmond, 3939 Parker Road, inquired that after notices are sent out, if a property owner sells his property, how will the new owner be informed? She asked that her written testimony be made a part of the record.

Mayor King indicated that the rules run with the land.

Council President Burgess stated that Barbara Eden submitted a testimony form in support but is not present at this time. Mayor King stated that Ms. Eden spoke to him at the break and indicated that she had to leave but she was enthusiastically in support of the resolution.

Mayor King closed the public testimony portion of the hearing.

Council President Burgess moved to approve Resolution No. 06-09, adopting policies discouraging destruction of Natural Resources prior to annexation. Councilor Eberle seconded the motion.

Mayor King suggested a revision to the first sentence of the third paragraph, "Removal of natural features may contribute to erosion and water quality problems. . ." Council President Burgess concurred with the suggestion and Councilor Eberle agreed.

A vote was taken on the amended motion to approve Resolution No. 06-09 adopting policies discouraging destruction of Natural Resources prior to annexation with the change in paragraph three to read, "Removal of natural features may contribute to erosion and water quality problems. . ."

Ayes: Eberle, Burgess, Gates, King

Nays: None

The motion carried 4-0.

4. Agenda Bill 06-02-09 Motion to Recommend Approval of Liquor License
Application Renewals, Subject to Any Sanctions that
OLCC May Impose

Chris Jordan reported that the City has received 30 applications for liquor license renewals. There is a report from the Police Department that there is no reason not to recommend approval for 29 of these businesses. The only issue is Cheers II, which is currently the subject of an OLCC investigation for suspension of its liquor license. The staff recommendation is that Council approve the renewal applications for all businesses subject to any further action that OLCC takes regarding Cheers II.

Council President Burgess stated that he feels that the Cheers II offense is pretty significant. He would like to see Cheers II pulled out and voted on separately. Earlier this year there was a complaint letter by a neighbor that there was inappropriate entertainment (a wet t-shirt contest) going on at this facility.

Councilor Eberle stated that, in the minutes from last year where the Council was approving requests for licensing, there is a reference to this inappropriate activity. She shares the concern. There was a complaint last year and a lot of involvement with the Neighborhood Association. She, too, would like this polled separately for a vote.

Councilor Eberle stated that on the list is the Oasis Café and it is no longer in business. She asked whether it should be included in this decision.

Mayor King stated that he would not be in support of this recommendation if Cheers II and the Oasis Café were included on the list.

Councilor Gates explained that in March/April 2005, the Police Department acting on complaints about drug activity in the area of Cheers II and a residence nearby sent an undercover person to the premises. This undercover person was able to acquire marijuana on the premises, discovered that the purchasing was going on through the bartender, and it ended in the execution of 11 search warrants and the arrest of eight individuals, including the bartender.

Councilor Gates stated that he would like to know what has been done to clean this process up. This business should be removed from the list and voted on as a separate issue. The approvals do not have to be in until April 1, 2006. He asked if a report could be provided by staff on the status of Cheers II.

Mr. Jordan stated that, if the City wants to recommend denial of a liquor license, they must hold a public hearing with proper notice and invite the owner of the establishment to testify. Staff can request an extension from OLCC to conduct the investigation and have the hearing regarding Cheers II or any other facility.

There was no public testimony on this issue.

Councilor Gates moved to recommend approval to OLCC for liquor licenses for 28 of the 30 applications requested. Further, Cheers II and the Oasis Restaurant are not included in that recommendation, and Council is asking for an extension (from OLCC) regarding these two businesses for possible hearings for denial. Councilor Eberle seconded the motion.

Chris Jordan stated that he will have the Police Department provide a report on what has occurred at Cheers II since that time based upon their knowledge and any investigations that they have done. If that is not adequate, staff will schedule a public hearing.

Council President Burgess moved to amend the motion to recommend approval to OLCC for liquor licenses for 28 of the 30 applications requested, except Cheers II and the Oasis Café. Councilor Eberle seconded the motion.

Ayes: Eberle, Burgess, King

Nays: Gates

The motion to amend carried 3-1.

The pending motion, as amended, was voted on as follows:

Ayes: Burgess, Gates, Eberle, King

Nays: None

The motion carried 4-0, to recommend approval to OLCC of liquor licenses for 28 of the 30 applications requested. Cheers II and the Oasis Café are not included. Councilor Eberle seconded the motion.

Staff was asked to provide a status report on Cheers II and the Oasis Café. Mr. Jordan stated that, when he sends in the recommendation to approve the 28 applications, he will ask for an extension regardless if a public hearing will be scheduled or not.

Adjournment

Mayor King announced that the Council would meet in Executive Session pursuant to ORS 192.660(2)(e) to deliberate regarding real property transactions. The Council will not be taking action after the Executive Session.

The meeting adjourned at 10:16 p.m.