



22500 Salamo Road  
West Linn, Oregon 97068  
<http://westlinnoregon.gov>

# **WEST LINN CITY COUNCIL MEETING NOTES September 14, 2020**

## **[Pre-Meeting](#)**

### **[Call to Order \[2:00 pm/5 min\]](#)**

#### **Council Present:**

Mayor Russ Axelrod, Council President Richard Sakelik, Councilor Teri Cummings, Councilor Bill Relyea, and Councilor Jules Walters.

#### **Staff Present:**

City Manager Jerry Gabrielatos, Deputy City Manager John Williams, City Attorney Bill Monahan, IT Director Shane Boyle, Assistant to the City Manager Dylan Digby, Senior Project Engineer Amy Pepper, Public Works Director Lance Calvert, Parks & Recreation Director Ken Warner, and Acting Planning Manager Darren Wyss.

This meeting was conducted via Webex due to COVID-19 and federal and state restrictions on public gatherings.

Mayor Axelrod welcomed new City Manager Jerry Gabrielatos.

### [Approval of Agenda \[2:05 pm/5 min\]](#)

Council President Richard Sakelik moved to approve the agenda for the September 14, 2020 West Linn City Council Meeting with the addition of Item 7b. Wildfire Updates. Councilor Teri Cummings seconded the motion.

**Ayes: Mayor Russ Axelrod, Council President Richard Sakelik, Councilor Teri Cummings, Councilor Bill Relyea, and Councilor Jules Walters.**

**Nays: None.**

**The motion carried 5 - 0**

### [Public Comments \[2:10 pm/10 min\]](#)

#### [Public Comment - Angela Liang](#)

Jeff Bernasconi, West Linn, demanded the pickleball courts at Skyline Ridge Park be closed permanently because of their impact on his right to quality of life in his home. The noise created by pickleball increased when the park reopened in May, and he had recorded impact noise higher than 90 dB in his house. He had been subject to piercing noise damage for 92 days from those playing pickleball. He had been working from home since March and had purchased noise-canceling headphones in an effort to be a good neighbor, but he should not be required to wear headphones in his home all day long. He had reached out to City staff, but he did not believe their proposal to install Acoustiblok on one side of the court would be sufficient. The players had pulled down the caution tape installed by Parks & Rec and used portable nets to continue to play.

Mayor Axelrod apologized for not bringing up the issue at the last meeting and for the discomfort Mr. Bernasconi was experiencing in his home. Council would not discuss the matter today, but would give direction to staff and others to advance the process.

Jane Forbes, West Linn, stated the problem with the pickleball noise and associated issues was impacting her everyday life in her home. She had provided Council with audio and visual representation of the noise inside and outside of her home and had detailed costs about noise mitigation fencing, but that would still not bring decibels to acceptable levels nor eliminate the "thwacking" noise caused by pickleball. She noted the U.S. Department of Labor Occupational Safety and Health Administration Practical Manual on Impact Noise stated that impact noises were considered to be much more harmful to hearing than continuous noises. Pickleball created a new and different noise that had not been present in the last 30 years and should not qualify as exempt, regular park noise under the West Linn noise ordinance. Players had set up nets purposely close to her house and played for hours, caused parking issues, verbally accosted community members, and openly disregarded the Parks Department attempt to cease pickleball. Her home was 60 feet from the courts and the slope of the courts forced noise

in her direction. The acoustics of the large trees and two story homes surrounding the courts reverberated and intensified impact noise. Qualitative evidence existed that the noise was intolerable outside and inside her home. She asked that pickleball be banned in the park.

Katherine Ferruzzi, West Linn, stated she lived adjacent to the Skyline Ridge Park for 11 years. She had been in contact with Parks & Rec Director Warner regarding the noise from the pickleball court and he recently forwarded a letter he sent to the City Council. She verbally summarized the questions she had asked him to clarify and noted she had not received a response. She and her next door neighbor and several other neighbors had not been contacted about the change to the courts. She believed the survey sent through the Skyline Ridge Homeowners Association was not official and the results should not be used. Director Warner had mentioned noise abatement and she wanted details on the research used to determine that abatement. In addition, the inadequate parking needed addressing. COVID-19 was having a great impact most people's lives, and she asked that the pickleball courts be removed immediately and the two tennis courts returned so the park could again become a quiet neighborhood park for kids and families. She asked that Parks & Rec in the future be held accountable to do due diligence and not waste the limited resources of time and taxpayers' dollars. She also asked that changes be made to the 20-year plan to keep Skyline Ridge Park as the quiet neighborhood park it was intended to be.

Giulio Ferruzzi spoke to the disenfranchisement of the residents adjoining the park who were not part of the Skyline Ridge Homeowners Association. His property backed the park from Marylhurst Drive. Neither he nor his next door neighbor was contacted by the City about the change to the courts. Since their installation, he had not been able to leave his windows open during the games. His home was not air conditioned. Several times, outdoor dinners had been interrupted and his family had to go indoors because the noise drowned out their conversation. He asked for a complete dismantling of the pickleball courts because people were still playing the game by bringing their own nets. The pickleball courts had divided the neighborhood into 'for' and 'against' camps. He asked Parks & Rec to do due diligence to find an appropriate location that did not negatively impact nearby residents.

Councilor Cummings read into the record a letter dated September 11<sup>th</sup> by Karie Oakes, President of the Marylhurst Neighborhood Association (MNA). In summary, the letter expressed opposition to the telecommunications tower proposed by the Clackamas C800 Radio Group. Locating such a tower in an established residential neighborhood on property zoned as future R-10 was inappropriate. If the property were under City jurisdiction, the tower would not be allowed. Furthermore, the Parks Master Plan and the Marylhurst Neighborhood Plan intended that the property, which is owned by the Oregon Department of Transportation (ODOT), be used for completing Marylhurst Heights Park. MNA was encouraged by the solution being explored to possibly annex the ODOT property to bring it under City jurisdiction. Councilor Cummings stated she lived in the Marylhurst neighborhood and was among those who voted unanimously against the tower at the MNA meeting.

Mayor Axelrod returned to the pickleball issue, stating he would like Council to direct the Parks

& Recreation Advisory Board (PRAB) to take up the issue at their meeting tonight. An expedited approach was needed to evaluate the feasibility and appropriateness of pickleball operations and to create a strategy for the city's parks. He recommended that measures be taken to stop pickleball operations temporarily and immediately, particularly in the small courts like at Skyline Ridge Park, while a determination was made on to how offer pickleball operations that did not unreasonably disturb the community.

Councilor Cummings acknowledged that the pickleball courts were installed with good intentions because the sport was very popular, but believed the process might have been rushed. Clear criteria were needed for this new use of city parks. She had requested a list of City-owned parks in residential areas to determine those that might be problematic.

Councilor Bill Relyea moved to ban pickleball at Skyline Ridge Park, to post signage enforceable by the City stating pickleball is not allowed in the park until further notice with violators subject to fines, and to give direction to the Parks & Recreation Department to remove the pickleball resources. Councilor Teri Cummings seconded the motion.

City Attorney Monahan confirmed the language regarding signage was acceptable and would give staff direction regarding the Nuisance Code and his office would assist staff in creating the appropriate notice.

Mayor Axelrod noted that it would be necessary to also physically prevent people from setting up their own nets.

Councilor Walters replied that the PRAB had called for that at their last meeting and they are meeting again tonight after this meeting. She asked if staff are doubling the efforts that have already been done and it is just that people are not following through.

Director Warner believed the only likely option was to chain shut the door to the courts. All resources for pickleball had been removed, but people set up their own nets or used the tennis net on the other court. A noise abatement product would be delivered Wednesday and he had studies showing it worked, but it would not eliminate all noise. Parks & Rec would use meters to test the product for noise. If Council did not want to have the product installed at Skyline Ridge Park, Parks could find another location for its use.

Councilor Walters understood why residents adjacent to the park were disturbed, but noted many people across the city loved pickleball and were looking for ways to enjoy themselves outside during COVID-19. She recommended the analysis Council was considering be done quickly and to select a court to try the noise abatement product.

Council President Sakelik pointed out that locking the court would deny access to the tennis court as well. He did not believe signs prohibiting pickleball would be very successful unless an officer was posted there. He asked to see the exact process Director Warner used to determine placing the pickleball courts in Skyline Ridge Park. Because the neighborhood was so divided, it was necessary for them to understand the process used, and to identify a new process for determining where to locate the courts that the public understood. He agreed with preventing access to the courts and to not install the noise mitigation there for the time being.

Director Warner said the only way to know if the noise abatement product would work for the neighbors at Skyline Ridge would be to try it and conduct noise level measurements.

Councilor Cummings raised the issue of the City's noise ordinance and the lack of measurement of noise levels. Over 10 years ago the City quit using noise meters, but people heard different levels of sounds, so clear criteria was needed to measure noise and noise-producing activities. The pickleball court at Skyline Ridge Park should be closed; the loss of the tennis court would only be temporary.

**Ayes: Mayor Russ Axelrod, Council President Richard Sakelik, Councilor Teri Cummings, Councilor Bill Relyea, and Councilor Jules Walters.**

**Nays: None.**

**The motion carried 5 - 0**

### **[Announcements, Proclamations, and Recognitions \[2:20 pm/10 min\]](#)**

#### **Constitution Week Proclamation**

##### **[Constitution Week Proclamation](#)**

Councilor Walters read the proclamation on behalf of the City Council declaring September 17-23, 2020 to be Constitution Week in the City of West Linn.

#### **National Preparedness Month Proclamation**

##### **[Preparedness Month Proclamation](#)**

Councilor Cummings read the proclamation on behalf of the City Council declaring September to be Preparedness Month in the City of West Linn. She urged people to read the information on emergency preparedness available on the City's website and to get involved in the Public Safety Advisory Board's Map Your Neighborhood (MYN) program. She also shared information received from Nadine McCrindle from the American Red Cross noting one of the first emergency shelters had been set up and people affected by the wildfires were being moved there. The effort took a lot of money and volunteer hours and financial donations were encouraged instead of donating supplies. Funds could be donated at [redcross.org](http://redcross.org) and volunteers could register online as well.

[Consent Agenda \[2:30 pm/5 min\]](#)

**Agenda Bill 2020-09-14-01: Approve Draft Notes for July 6, 13,20 and August 10, 2020**

[Draft Notes Information](#)

Council President Richard Sakelik moved to approve the Consent Agenda Councilor Bill Relyea seconded the motion.

Councilor Cummings reiterated her concerns about not receiving the minutes in a timely manner and the impact on those who could not hear or see well.

Councilor Relyea reminded of the pre-meeting discussion where Interim City Manager Williams had explained the reason for the backlog. It appeared the minutes would be caught up by the next Council meeting.

**Ayes: Mayor Russ Axelrod, Council President Richard Sakelik, Councilor Bill Relyea, and Councilor Jules Walters.**

**Nays: Councilor Teri Cummings.**

**The motion carried 4 - 1**

[Business Meeting \[2:35 pm/35 min\]](#)

**Agenda Bill 2020-09-14-02: ORDINANCE 1710, AMENDING WEST LINN MUNICIPAL CODE CHAPTER 8.050 RELATING TO THE CONSTRUCTION OF PUBLIC IMPROVEMENTS**

[ORD 1710 Information](#)

Mayor Axelrod confirmed that this agenda item was not a public hearing as incorrectly stated on the agenda.

Deputy City Manager Williams stated Ordinance 1710 would amend the Municipal Code to require financial guarantees for certain improvements. Council had discussed the matter at a work session last week and again at today's pre-meeting.

Public Works Director Calvert noted City staff had been working to find a good system to improve the efficiency and effectiveness in following through on development, developers, and building permits for any required improvements that were part of the permit process. Traditionally, the City required or relied on occupancy and stop work orders to ensure improvements were completed. Staff had researched a number of jurisdictions and ways to address the issue based on the history of previous problems. A table in the meeting materials highlighted some of the research that went into the preparation of the ordinance and showed that most other jurisdictions in the area required financial guarantees amounting to about 125

percent of the work required to obtain a building permit. Using the same approach would mean the City would not be as reliant on the occupancy and legal processes which would result in a reduction of costs to the citizens. The text of the ordinance contained strike-throughs and underlines of the relevant sections of the Municipal Code requested to be modified. The changes were vetted with a building official and Community Development and Public Works staff. Future changes would be brought to Council and the City Attorney as staff continued to fine-tune the process and attempted to improve on the delivery of projects.

Mayor Axelrod clarified that the ordinance and the protocols addressed by it were consistent with those implemented by neighboring cities, so the City would be bringing its Code in line with standard practices.

Public Works Director Calvert provided an example of how the system would work, noting that people building a new house could be required by Code to do certain off-site improvements such as a curb or a sidewalk. Those improvements were permitted currently only under the building permit, and it was up to the individual to build them as part of the private improvements. The new system would require a financial guarantee for the improvements to ensure they would be built to avoid the situation that sometimes arose where private improvements were occupied and the public improvements were never made. It would lift the City's burden of pursuing the improvements through the legal system. Another option would be to do the construction improvements first so a financial guarantee would not have to be posted. The process would also be relevant for development outside of a land-use, such as for off-site improvements on commercial or industrial sites. For land use processes like a new subdivision, a similar process under the Development Code required a financial guarantee. He confirmed a fee-in-lieu instead of improvement was an option. Council needed to address in more detail where and when some improvements were warranted or not warranted and what the ultimate build out of the city would be. The issue would likely come up in the next several months as neighborhood development started to transition to the new uses required under House Bill 2001.

Council President Richard Sakelik moved to approve first reading Ordinance 1710 amending West Linn Municipal Code Chapter 8.050 relating to the construction of public improvements and set the matter for second reading. Councilor Bill Relyea seconded the motion.

**Ayes: Mayor Russ Axelrod, Council President Richard Sakelik, Councilor Teri Cummings, Councilor Bill Relyea, and Councilor Jules Walters.**

**Nays: None.**

**The motion carried 5 - 0**

Council President Richard Sakelik moved to approve second reading of Ordinance 1710 amending West Linn Municipal Code Chapter 8.050 relating to the construction of public improvements and adopt the ordinance. Councilor Teri Cummings seconded the motion.

**Ayes: Mayor Russ Axelrod, Council President Richard Sakelik, Councilor Teri Cummings, Councilor Bill Relyea, and Councilor Jules Walters.**

**Nays: None.**

**The motion carried 5 - 0**

**[Agenda Bill 2020-09-14-03: Public Hearing: Amendments to Implement Minimum Paved Width for Public Streets in New Subdivision Proposals \(CDC-20-01\)](#)**

**ORDINANCE 1713, RELATING TO THE AMENDMENT OF WEST LINN COMMUNITY DEVELOPMENT CODE CHAPTER 85 TO IMPLEMENT A MINIMUM PAVED WIDTH FOR PUBLIC STREETS IN NEW SUBDIVISION PROPOSALS**

**ORDINANCE 1714, RELATING TO THE AMENDMENT OF WEST LINN 2016 TRANSPORTATION SYSTEM PLAN TO IMPLEMENT A MINIMUM PAVED WIDTH FOR PUBLIC STREETS IN NEW SUBDIVISION PROPOSALS**

**[ORD 1713 & ORD 1714 Information](#)**

Mayor Axelrod noted this Agenda Bill addressed strictly the minimum standard for street widths in new subdivisions. The staff report contained an expanded discussion of land use considerations and Code suggestions from the Planning Commission. The Commission had been conducting a vetting process that produced some recommendations for Council's consideration and had made requests for additions to Council's planning docket. Some were addressed in the staff report in Attachment 3 but were not intended to be part of the hearing or Council's decision tonight. Council would consider moving forward on those elements later tonight under Mayor and Council Reports. He then called the public hearing to order.

City Attorney Monahan cited the legal requirements of Council's decision, read the conduct of hearing format, and asked any Councilors for any declarations of bias, conflicts of interest, or ex parte contacts. None were declared.

Acting Planning Manager Wyss stated the proposal before Council tonight was to amend the Transportation System Plan (TSP) and Development Code Chapter 85 to implement a 28-ft minimum pavement width for new streets in new subdivisions. Attachment 3 in the meeting materials was the Planning Commission recommendation memorandum which succinctly outlined their recommendations. He reviewed the history leading up to the amendments, noting community concerns had been brought to the Planning Commission about the width of the streets in some new subdivisions and the lack of parking and access by emergency vehicles.

Councilor Relyea inquired about what the Planning Department was considering regarding the potential implications of HB 2001. He expressed concern about the time restrictions on the City's processing of applications for duplexes, triplexes, and quadplexes and the need to make any necessary modifications to the Code before the applications started coming in. He wanted Council to start thinking a bit ahead about what was necessary to do in anticipation of those new developments. He thanked the Planning Department, the Planning Commission, and the members of the Transportation Advisory Board for their contributions during the lengthy process involved in getting the ordinance amendments to the City Council.

Acting Planning Manager Wyss replied that HB 2001 required implementation in West Linn by the end of June 2022. The rulemaking would be finalized this November and once the Planning Department knew the final rules, it would be able to start addressing where the City met the rules and what required changing. The current Code required only one off-street parking spot for single family homes, so that would probably need to be considered, but the rules being written regarding duplexes, triplexes, and quadplexes would not be more restrictive than those that applied to single family homes. The City had a consultant on board to assist with the initial evaluation of the Code and the rules from the State. The amendment package tonight would codify a 28-ft pavement width standard for new subdivisions and then on- and off-street parking would need to be addressed regarding HB 2001. The amendment process was done intentionally to allow for some flexibility in older neighborhoods who might not want to widen their streets. The direction from Council was not to consider widening streets throughout the community which was why the amendments came forward just for new subdivisions. He confirmed the 28-ft width included the pavement and parking lanes and not a multi-modal cycle track. He clarified the amendments would apply only to local streets in neighborhoods which shared bike and vehicle travel.

Council President Sakelik expressed thanks to the Planning Department and Planning Commission for the amendments which he believed would satisfy the community and avoid the problems experienced on Satter Street where emergency vehicles would potentially have difficulty getting to a resident needing medical assistance due to insufficient street widths and parked cars.

Mayor Axelrod confirmed staff's position was to make the amendments now and address any further refinements to accommodate HB 2001 at a later date. He also pointed out that the standard was for a minimum street width of 28 feet and wider street widths could be proposed for new subdivisions should the need arise for more street parking in areas to accommodate multiplexes required by HB 2001. Also, Council had previously given a policy recommendation which staff had been implementing since April 2019 and the amendments would integrate that policy recommendation into Code. He confirmed there was no public testimony and closed the hearing.

Council President Richard Sakelik moved to approve first reading of Ordinance 1713 relating to the amendment of West Linn Community Development Code Chapter 85 to implement a

minimum paved width for public streets in new subdivision proposals and set the matter for second reading. Councilor Jules Walters seconded the motion.

**Ayes: Mayor Russ Axelrod, Council President Richard Sakelik, Councilor Teri Cummings, Councilor Bill Relyea, and Councilor Jules Walters.**

**Nays: None.**

**The motion carried 5 - 0**

Council President Richard Sakelik moved to approve second reading of Ordinance 1713 relating to the amendment of West Linn Community Development Code Chapter 85 to implement a minimum paved width for public streets in new subdivision proposals and adopt the ordinance. Councilor Jules Walters seconded the motion.

**Ayes: Mayor Russ Axelrod, Council President Richard Sakelik, Councilor Teri Cummings, Councilor Bill Relyea, and Councilor Jules Walters.**

**Nays: None.**

**The motion carried 5 - 0**

Council President Richard Sakelik moved to approve first reading of Ordinance 1714 relating to the amendment of West Linn 2016 Transportation System Plan to implement a minimum paved width for public streets in new subdivision proposals and set the matter for second reading. Councilor Jules Walters seconded the motion.

**Ayes: Mayor Russ Axelrod, Council President Richard Sakelik, Councilor Teri Cummings, Councilor Bill Relyea, and Councilor Jules Walters.**

**Nays: None.**

**The motion carried 5 - 0**

Council President Richard Sakelik moved to approve second reading of Ordinance 1714 relating to the amendment of West Linn 2016 Transportation System Plan to implement a minimum paved width for public streets in new subdivision proposals and adopt the ordinance. Councilor Jules Walters seconded the motion.

**Ayes: Mayor Russ Axelrod, Council President Richard Sakelik, Councilor Teri Cummings, Councilor Bill Relyea, and Councilor Jules Walters.**

**Nays: None.**

**The motion carried 5 - 0**

[City of West Linn Response to COVID-19 Public Health Emergency \[3:10 pm/5 min\]](#)  
[Extend State of Emergency Declaration](#)  
[Emergency Declaration Extension](#)

Deputy City Manager Williams noted the proposal before Council was to extend the state of emergency declaration for COVID-19 until November 9<sup>th</sup> when Council could re-evaluate it. He reminded the state of emergency allowed the City to qualify for state, federal, and other funds and gave the City the backing to take other measures to protect public health and to keep City facilities closed as needed. A draft declaration was in the meeting packet.

Council President Richard Sakelik moved to extend the state of emergency enacted at the March 19<sup>th</sup> City Council meeting and extended at the April 20<sup>th</sup>, May 18<sup>th</sup> and July 6<sup>th</sup> meetings to November 9, 2020. Councilor Teri Cummings seconded the motion.

**Ayes: Mayor Russ Axelrod, Council President Richard Sakelik, Councilor Teri Cummings, Councilor Bill Relyea, and Councilor Jules Walters.**

**Nays: None.**

**The motion carried 5 - 0**

The following item was added to the agenda during tonight's Council pre-meeting.

[Wildfire Updates](#)

Deputy City Manager Williams stated that some improvement had been made in fighting the wildfires, but significant problems still existed around the state, including the poor air quality in the city. Late last week when the conditions were still pretty bad and the evacuation zones were advancing, he declared an emergency in West Linn prohibiting any outdoor flames modeled on a declaration adopted by the City of Lake Oswego just a day or two before. The declaration would perhaps give the City access to funds that might become available. The more significant issue was that the City wanted to ensure that it had the authority to enforce burn bans. Reports had been received about activities that should not be taking place considering the dry conditions. The emergency declaration gave police officers the authority to approach people with the force of a declaration behind them. The City's Department Directors met today and agreed a strong rationale existed for continuing an emergency declaration, but staff was looking for Council's decision on an extension, any changes to be made, or whether it wished to end the declaration.

Councilor Walters preferred to keep the declaration in place with the restrictions for another week until rain began and some containment was achieved on the closest fires. She expressed thanks to staff and sympathy to those whose lives and property had been affected by the wildfires.

Councilor Relyea thanked the first responders and the Public Works team for stepping up and taking care of the infrastructure in this time of need. He wanted to be very respectful of the limited resources available and to recognize that concern existed not just for the fire but for air quality as well. He asked Council to consider limiting the use of leaf blowers, lawn mowers and anything else non-essential that was contributing to a decrease in the quality of the air. It behooved Council to take the most conservative approach to limit the possibility of using vital resources needed to combat the many unprecedented conditions and threats throughout the state. As community leaders, the City Council should also address the other concerns regarding air quality and ensure the safest environment possible was provided for the community.

Councilor Cummings said she would also like to err on the side of caution. The declaration should be extended until the city had received sufficient rain and the air quality had improved.

Council President Sakelik stated enormous gratitude was owed to the firefighters all along the west coast. When the wildfires had passed, he would like West Linn and maybe some other cities to arrange a thank you to all the firefighters such as sky writing that hundreds of thousands of people could see.

Mayor Axelrod noted the draft emergency declaration had included a reference to outdoor equipment that could cause a spark.

Deputy City Manager Williams responded that the current language stated, "...use of powered yard maintenance and construction equipment that creates sparks including but not limited to..." He clarified that the declaration was written to last until October 5<sup>th</sup>. He noted residents were asking why they could not use propane grills and, if Council chose to keep that language, it should anticipate receiving those inquiries.

Mayor Axelrod replied that he wanted to wait at least a week before changing the declaration, even the language concerning outdoor grills. He was greatly concerned about the proximity of canyons and massive vegetation to the city and the speed at which wildfires traveled, noting they could not be outrun. He recommended Council err toward caution.

Council President Richard Sakelik moved to ratify and confirm the Declaration of Emergency for Wildfires enacted by the Interim City Manager on September 11, 2020 effective until October 5, 2020 and restrict use of outdoor maintenance equipment that further impacts the then-current air quality. Councilor Bill Relyea seconded the motion.

**Ayes: Mayor Russ Axelrod, Council President Richard Sakelik, Councilor Teri Cummings, Councilor Bill Relyea, and Councilor Jules Walters.**

**Nays: None.**

**The motion carried 5 - 0**

Public Works Director Calvert updated on the decision to switch to the Lake Oswego water source on September 11<sup>th</sup> at 6:30 p.m. due to concern by PGE about the potential impact of the wildfires on the power supply to the South Fork plant. The switch back to the South Fork plant happened on September 12<sup>th</sup> at 9:40 a.m. when Public Works felt it was safe to do so. About 4 million gallons was pulled from the Lake Oswego source, causing about \$5,000 worth of impact to South Fork. Complicating matters was the decision to give the majority of the city's water supply to Oregon City to fight a potential wildfire. South Fork was faced with going from a summer normal peak day of several million gallons production down to a sub-winter day as people came off the system and evacuated and the City went onto Lake Oswego's system. Public Works continued to deliver and participate in daily briefings and to work out the various issues that arose during the event.

### **Diversity, Equity, and Inclusion Update [3:15 pm/15 min]**

Deputy City Manager Williams reported that per Council's request he contacted one of the other proposers of DEI equity assessment. He hoped to have more information for Council's Monday meeting. He reminded Council wanted to discuss a liaison to the Police Oversight and Accountability Task Force which would have its first meeting on September 23<sup>rd</sup>.

Mayor Axelrod clarified it would not be a voting partnership, but rather the liaison would be there to answer questions or provide Council's perspective on general City matters. A staff person would also attend the Task Force meetings.

Council President Sakelik proposed starting with Councilors Relyea and Walters attending the September 23<sup>rd</sup> Task Force meeting as Council liaisons.

### **Mayor and Council Reports [3:30 pm/15 min]**

Mayor Axelrod reported on the status of the West Linn post office, noting he had encouraged the federal delegation to write a letter applying additional pressure because no public statements or clear responses were received from the USPS in the last 1 ½ months. He then saw the letter posted by Staff that Gramor would be closing the site in September which was not acceptable due to concerns of the impact on the community's ability to vote. He was pleased to announce that an extension was received for the post office to remain on the site through February 2021. He hoped the additional time would allow a resolution to the rebuilding issue and for a determination to be made on a retail/non-retail operation. He thanked Barry Cain of Gramor and Greg Shelton of the USPS and the federal delegation, especially Senator Merkley's office. Gramor and the USPS were aware of the City's willingness to support the commercial side in whatever they might need.

Deputy City Manager Williams clarified that the implication of separate retail and package locations was that packages for which no one was available to receive delivery would have to be picked up in a different location than the retail post office, or it would be necessary to wait while the package was re-routed to the West Linn retail location.

Council President Sakelik said that he had decided, based upon Interim City Manager Williams' explanation, that a community survey regarding the post office was no longer needed. He noted a resignation had taken place from the Planning Commission and suggested Assistant to the City Manager Digby announce the continued openings on the citizen advisory groups, especially the Planning Commission, so fresh resumes and applications would be available for review.

Deputy City Manager Williams clarified that the sound abatement for pickleball would not be installed at Skyline Ridge Park, but another location would be chosen to test it. The PRAB was trying to determine how pickleball could work in the community and part of that consideration could include whether and where to install the sound abatement.

Council President Sakelik requested a discussion on how to deal with citizens who might make harassing or inappropriate remarks during public meetings. The PRAB had asked for Council's input on the matter. He wanted to know Council's level of responsibility and if any legal ramifications existed.

City Attorney Monahan replied that someone in his firm was working on developing standards for public discourse. He did not know if the information had reached Director Warner. He further clarified that Council could not limit anyone's ability to participate in a meeting unless a process was created that stated Council was not taking public input. If an attendee at a public meeting was being disruptive, the chair of the meeting would have the ability to take a break and take some action to calm the waters. If the person was acting in a threatening way or was threatening to disrupt the ability of that body to take action, then that person could be excluded from the meeting. The Constitution did not allow Council to forbid someone's attendance at a meeting due to their acting inappropriately at a previous meeting. City Attorney Ramis and others at the firm were working on the guidelines for electronic communications, but he did not know if any means existed to prevent someone from sending electronic communications to City staff or another citizen.

Mayor Axelrod suggested having a copy of the civil discourse guidelines for the PRAB meeting tonight to be offered to any individuals as needed. If it appeared individuals could not follow the basic civil discourse guidance, the chair could take a break and respectfully ask the individual to refrain from activities that violated the guidelines. He confirmed the guidelines applied to board members as well as the public.

Councilor Relyea referred to the position paper that had been forwarded to Council and pointed out the purpose of electing a presiding officer was for that person to maintain order and decorum. He recommended that training be offered that would give the presiding officers the tools they needed to control public meetings, if necessary.

Councilor Cummings stated she had recently inquired whether a Councilor had the right to disclose that they had filed a workplace harassment complaint. Dian Rubanoff, the City's Employment Attorney, had advised that the City could require a complainant to maintain

confidentiality as long as it was clear that the complainant was not speaking on behalf of the City or the Council. Councilor Cummings said, speaking as a Councilor and not for the City, she had also asked if the City would consider it a matter of public interest to disclose that a complaint had been filed against an elected official and that an investigation was underway. Three months ago, she had filed a complaint of workplace harassment against Councilor Walters due to behavior at meetings that Councilor Cummings believed had been escalating for the last two years. It had not been possible to address the issue because Councilor Walters had refused to meet in mediated sessions. Councilor Cummings stated she looked forward to a resolution of the difficult issue.

Mayor Axelrod announced he and Dean Suhr had visited all three Tualatin Valley Fire & Rescue (TVF&R) stations on September 11<sup>th</sup> to deliver flowers and thank you cards to commemorate 9/11 and to recognize them for their work in protecting the community especially under the wildfire and COVID-19 conditions. The West Linn Police Department had also gone door-to-door during evacuations and helped other enforcement officials in getting people out of harm's way and thereby put themselves at risk. He also thanked Mr. Suhr for organizing the event. On another matter, Mayor Axelrod noted a draft response letter had been written expressing Council's thoughts on ODOT tolling and confirmed Deputy City Manager Williams would send the draft to the Councilors tonight for their comments. Finally, he referred to the Planning Commission's recommendations to Council in Attachment 3 of the meeting materials. The Commission had requested the recommendations be added to the planning docket in the near future. Mayor Axelrod suggested Council meet jointly with the Planning Commission in a work session to make sure everyone was included and in agreement.

Councilor Cummings stated she and Councilor Relyea had been discussing prior to COVID-19 doing something as a City to honor and recognize veterans and those in military service. She would like suggestions on how the recognition could be conducted. She would appreciate it if staff could reach out to surrounding communities to learn what they did for their veterans and others in the service.

#### **[City Manager Report \[3:55 pm/5 min\]](#)**

City Manager Gabrielatos thanked the Mayor, Council, and city for the opportunity to serve. It had become clear to him over the weekend as he participated in an email chain on how to deal with emergencies that great camaraderie and great competency existed among City staff.

Mayor Axelrod welcomed City Manager Gabrielatos and thanked Deputy City Manager Williams for handling the difficulties over the last year with grace and dignity.

#### **[City Attorney Report \[4:00 pm/10 min\]](#)**

**[Legal Tracking Log](#)**

[Legal Tracking Log](#)

City Attorney Monahan reported that he had drafted model language requested by Councilor Relyea for dealing with information received by Council. He would work with administrative staff to fine tune the document, and then bring it to Council for review. Also, Council President Sakelik had requested a review of the letter of commitment between the City and the Willamette Falls Landings and Heritage Area Coalition (WFLHAC) to determine if it was a binding agreement and specifically how it related to some information recently made publicly available. The WFLHAC website stated that the City had failed to renew its obligation. He noted the letter of commitment was a binding agreement between the City and the Coalition to work towards the renovation and use of the Historic City Hall. The letter also stated that WFLHAC was responsible for everything but \$400,000 of the total amount which was a little in excess of a million dollars. It was a binding obligation on the part of the Coalition to come up with an excess of \$600,000 if the project moved forward. The Coalition had committed to obtaining grants for their share and a cap existed on the amount the City had committed to. The problem was that the Coalition was not able to come up with the entire amount of its obligation. The City and the Coalition had the ability to modify the agreement if both parties agreed in writing. The City did not have a practical way to enforce the letter of commitment against the Coalition if it could not come up with its share of the funding, so the City needed to decide if it was willing to modify the terms. He cautioned that if Council considered increasing the City's contribution, it needed to pay careful attention to the Council's commitment to the community on the General Obligation (GO) Bond and recommended getting the Bond Council involved to make sure the project remained a public project as defined by Internal Revenue Service (IRS) regulations. In summary, the agreement was binding until it could no longer be performed so if either party or both parties could not come up with the sufficient funding to carry out a construction agreement, the term of the commitment expired in 2021 which was when construction was hoped to be completed. Council also had the ability to terminate the agreement by mutual consent. The commitment was in place into 2021 so not renewing the agreement was not the issue. The question for Council was whether it was able to carry out the full commitment with the Coalition or whether it wanted to renegotiate and to modify the commitment.

Mayor Axelrod believed the Coalition had already indicated it could not provide the grant monies they had expected. The City had planned to restore the building using the GO Bond funds and then entered the partnership with the WFLHAC. He believed that scenario would be acceptable to the Bond Council, but City Attorney Monahan appeared to be suggesting it was still in question.

City Attorney Monahan replied the issue was then a matter of degree concerning how much money the City was interested in providing to the Coalition. That number would be important to the Bond Council as it considered how much of the total amount of the investment would be public and how much would be private.

Mayor Axelrod clarified that the City had neglected its most historic building for the last 50 years, and the commitment was to use the GO Bond money to restore the building and the integrity of its historic features to an acceptable usable condition. Some of the Councilors

believed that would change the assumptions about how the building would be managed and operated in the future which caused a dispute. He wanted to be clear that the City would be investing in its own public building and would not be giving money to the Coalition under the proposed partnership, so the operational elements needed to be addressed. The Coalition had already invested nearly \$400,000 through work it had completed and through grants it had received and would in the future pay for insurance and maintenance of the building as covered in the agreement. The public building would be occupied by nonprofit organizations, so he did not understand how it could be construed differently by the Bond Council, but if that was in question, an answer was needed soon.

City Attorney Monahan noted the City's obligation was capped at \$400,000 which the Bond Council had considered acceptable. If that amount would be increased, he believed the Bond Council would need to consider the terms and give an opinion on whether it was possible for the City to take more of the GO Bond funds, if that was its intent, and how much of those were acceptable to use and not run afoul of the IRS.

Mayor Axelrod clarified the monies were not for the Coalition per se, but were to restore the building for public use.

City Attorney Monahan responded that would be relayed to the Bond Council for their opinion. He asked if he was to inquire if a limit existed on the amount of the potential contributions or if it would be unlimited to the full amount.

Councilor Relyea believed City Attorney Monahan's relevant points were that the agreement was either fulfilled or not fulfilled. The possibility of the City wanting to put in more money to restore the building was separate and distinct from the agreement. The existing agreement obligated the Coalition to provide \$600,000 and it appeared that if it did not provide that money by a set date in 2021, the agreement would fail. Council should be discussing a new agreement and whether it would use GO Bond monies to restore the building and then seek the Bond Council's approval to use those funds. The City would fund the repair and the maintenance and give free use of the building to another entity, and he was concerned that other entities would want the same treatment. Care was needed to not violate IRS rules. On another matter, he noted an article in *The West Linn Tidings* from additional Native American tribes who were concerned that the Coalition was representing only one tribe's interests. He would like to invite all of the other tribal representatives to Council to discuss their interest in the building and ensure their histories regarding the Falls was also included. He would ask the City Manager to write a letter through Council to invite the other tribes to the table.

City Attorney Monahan clarified the following in response to multiple questions by Council President Sakelik:

- The terms of the agreement stated that the City and the Coalition would collaborate to complete Phase 1 of the project no later than 2021. He interpreted that to mean that if the construction project was ongoing at any time during 2021, that would be acceptable.

- The agreement was based on the City contributing a maximum of \$400,000 and the WFLHAC contributing the balance, so the statements made by the Coalition that the City was not upholding the agreement were incorrect.
- The agreement's terms defined that the Coalition would be responsible for obtaining grant funding, not the tribes, and that WFLHAC was signing on behalf of any party that would be a member of their Coalition.
- The agreement would be in place as long as both parties worked towards meeting the terms that applied. No practical way existed to require a party to perform, so the alternatives were to modify the agreement or to let it run its course and die.
- The early termination section of the agreement stated that if it was impracticable within a reasonable time to proceed with a substantial portion of the letter of commitment, then the parties could agree by mutual written consent to terminate it early. The Coalition still had time within the agreement for further fundraising.
- A comment in the article posted on the WFLHAC website said Council had failed to renew the agreement, but the agreement was not up for renewal.

Council President Sakelik stated he wished to make it clear that when the Coalition was unable to come up with sufficient grant funding, Council decided that the City would fund the entire project in exchange for changing the agreement with the Coalition.

Councilor Cummings believed it would be helpful to all interested parties to produce a letter letting them know that the statements the Coalition was publishing were patently false, so the Coalition could correct the information. She inquired if Council could ask the Coalition to cease and desist with the false information

Mayor Axelrod clarified that Councilor Relyea's points about other tribes getting involved and not feeling represented had nothing to do with the City Hall project but concerned the Legacy Project on the other side of the river. Secondly, he noted the Coalition had spent \$120,000 on due diligence and design work, documented 1,265 professional hours of staff time which, using an average of \$100 an hour, totaled \$126,500, and raised \$145,000 in grants toward the City Hall project. Those amounts totaled \$391,000, \$9,000 less than the \$400,000 they committed to. When the Coalition notified Council that they would not be able to meet the amount obligated, Council determined it would like to do the upgrade using GO Bond funds, and to then modify the agreement to change the terms regarding future management of the building. He had recused himself from the Coalition's decision-making but was aware of their interest in pursuing the opportunity as long as they would have a say in the conditions and operations of the building. Obviously, the financial terms had to change, but it was the operational and use options presented to the WFLHAC that were problematic and had led to a misunderstanding.

Councilor Relyea thanked Mayor Axelrod for the clarification, but noted his comments took into consideration the tribal presence at the Falls and waterfront. He did not know if other tribes had been considered under the Coalition's plans to use Historic City Hall and believed it would be respectful for Council to write a letter and invite other tribes to Council meetings to inquire if they had been included. He wanted to ensure everyone's voice was included in the

process.

Council President Sakelik said that while he understood the numbers Mayor Axelrod presented, no validation had been made by the Coalition on the amount of funds they had used so far. It did not seem logical that WFLHAC could have put in more than 1,200 hours into getting a bid on the building improvements. He supported Councilor Cummings suggestion to write a letter refuting the false statements made by the Coalition so the public correctly understood the situation, and he asked for Council's consensus on that suggestion. He remained more than happy to work with the Coalition which was why they were asked for an alternative proposal when they were unable to raise the amount of funds they had proposed. The City was trying to work with the Coalition on a win-win result, but they were not cooperating. A lot of people thought the matter was a diversity issue, but it had nothing to do with diversity and everything to do with the terms of the agreement.

Mayor Axelrod recommended discussing tribal engagement with the Coalition and strongly recommended against writing a letter because it would cause the situation to blow up further. The Coalition was already considering other buildings and options.

Councilor Relyea suggested asking the Bond Council if it would be willing to consider the City using GO Bond funds to complete all of the work on the Historic City Hall and to give the Coalition the opportunity to pay back the dollar value of the grants they proposed. The existing agreement would stay in place, but the timeline would be extended. He valued the opportunity to talk with WFLAC and to hear how they had engaged the interest of all of the tribes. The story of how people used the waterfront as a gathering place for generations was a valuable part of the community's historical perspective and needed to be preserved.

Councilor Cummings believed the truth needed to be cleared up in good faith between both parties so they could discuss together what could be done.

Mayor Axelrod stated he was deeply offended by the thought of asking a nonprofit that wanted to create a regional cultural center to pay for the restoration of a City building that the City had ignored for 50 years.

Councilor Relyea referred to the original agreement where the City would contribute \$400,000 and the Coalition would contribute \$600,000 for construction, noting it was very specific about the timelines and each party's responsibility. The agreement could not just be set aside for the City to throw money at the project and not require the WFLHAC to fulfill their portion because the City had not done that for any other facility such as Robinwood Station or Bolton Station.

Mayor Axelrod replied that he was suggesting to change the financial terms of the agreement. Council's approval of the \$1.28 million for the project went along with the assumption that the City was stepping up to take the responsibility to restore its own building and partner with the Coalition who would manage the cultural center they wished to establish. The financial terms needed to be adjusted, but he did not believe the operational terms needed changing because

that situation was similar to the City's putting money into Robinwood Station, which it also had neglected, and then having a nonprofit operate it.

Councilor Relyea responded that the premise when Council decided to contribute \$1.28 million was based upon renegotiating the terms of the agreement, but the portions of the agreement to be renegotiated were not specified. Council believed the best thing to do would be to establish a committee to continue the conversation with the Coalition so Council members were not attempting the negotiations, and to obtain a third-party neutral perspective on what was in the best interests of the community. It now appeared the Coalition did not want to meet with Council and if it continued to refuse, Council would have to say that the contract had been breached.

Mayor Axelrod pointed out that Council had asked the Coalition to negotiate a parking agreement with the mill owner, which they had accomplished. Council had not approached them with the financial term changes, but the disconnect occurred over the Coalition's no longer being able to control and use the building as originally envisioned.

Council President Sakelik recommended watching the related Council meeting videos because the videos made clear the changes Council wished to make to the program use of the building.

Council President Richard Sakelik moved to have the City Attorney clarify the issues in a letter to the Coalition also to be placed on the City's website for the public's benefit. The letter should state that the Council was happy to continue working with the Coalition and that a committee was being formed to discuss the issues with the Coalition Councilor Teri Cummings seconded the motion.

Councilor Relyea expressed concern that a letter would further inflame the misunderstandings. It would be better for the letter to extend an invitation to discuss modifying the agreement by a certain date. If the WFLHAC did not show up, Council could state that the Coalition had breached the agreement.

Council President Sakelik stated he generally agreed, but the narrative had been damaging to the City and had been directed at him. He did not appreciate being called out as someone who went back on a deal because he had never done that. He believed it was important to clarify the matter for the public's benefit, and for the Coalition to remove the inaccurate article from their website and clarify the record.

Councilor Relyea pointed out that getting someone to change the information on their website would probably take legal action and would not be beneficial toward bringing them to the table to reach an agreement. Those issues could be discussed during negotiations, but the

focus now was to get the Coalition to come to the table.

Councilor Cummings believed the letter on the Coalition's website contained a number of patently false statements and, in order to enter into a good-faith discussion, it would be necessary to at least give the Coalition the benefit of knowing that some of those statements were false.

City Attorney Monahan believed that an offer to discuss the agreement and the possibility that it might not be reasonable to carry on if one party could not deliver financially was a good idea. No provision in the agreement called for mediation, but one could be added if the parties wanted to reach a point where the original intent of the agreement to renovate City Hall could be carried out. Writing a letter in an attempt to clarify the terms could be misinterpreted as the City trying to position itself to put the Coalition in a negative situation and would not be the best route to take if the City's intention was to work together on a project both parties had agreed to.

Council President Sakelik withdrew his motion and stated he would work with the Coalition as suggested. He requested the Mayor recuse himself from the meeting due to his being a member of the WFLHAC's Board.

Mayor Axelrod replied that he also represented the City on City matters. The implications for using the GO Bond funds needed to be confirmed right away with the Bond Council, and he suggested the City Attorney's office work on making sure the GO Bond funds could be used in a way that was consistent with Council's assumptions.

Council President Sakelik responded that the issue was not critical, but a meeting would be important, especially because the requirements of the Bond Council added another factor to the situation. He was aware the City Attorney was already working on the details of another agreement with the Bond Council.

City Manager Gabrielatos stated he and Deputy City Manager Williams would work together on the matter and contact the Coalition regarding a meeting.

City Attorney Monahan confirmed that Council's question to the Bond Council concerned the possibility of the City contributing up to the full amount of the cost of the renovation to City Hall using GO Bonds with the assumption that the building would be principally for public use. An inquiry should also be made whether it would be legal for a non-profit to manage the building after renovation.

[Adjourn \[4:10 p.m.\]](#)

Notes approved 10-19-20.



22500 Salamo Road  
West Linn, Oregon 97068  
<http://westlinnoregon.gov>

## CITY COUNCIL AGENDA

Monday, September 14, 2020

---

1:00 p.m. – Pre-Meeting Work Session – Webex\*

2:00 p.m. – Business Meeting – Webex\*

---

1. Call to Order [2:00 pm/5 min]
2. Approval of Agenda [2:05 pm/5 min]
3. Public Comments [2:10 pm/10 min]
4. Announcements, Proclamations, and Recognitions [2:20 pm/10 min]
  - a. Constitution Week Proclamation
  - b. National Preparedness Month Proclamation
5. Consent Agenda [2:30 pm/5 min]
  - a. Agenda Bill 2020-09-14-01: Approve Draft Notes for July 6, 13,20 and August 10, 2020
6. Business Meeting [2:35 pm/35 min]
  - a. Agenda Bill 2020-09-14-02: *Public Hearing*: ORDINANCE 1710, AMENDING WEST LINN MUNICIPAL CODE CHAPTER 8.050 RELATING TO THE CONSTRUCTION OF PUBLIC IMPROVEMENTS
  - b. Agenda Bill 2020-09-14-03: *Public Hearing*: Amendments to Implement Minimum Paved Width for Public Streets in New Subdivision Proposals (CDC-20-01)
    - i. ORDINANCE 1713, RELATING TO THE AMENDMENT OF WEST LINN COMMUNITY DEVELOPMENT CODE CHAPTER 85 TO IMPLEMENT A MINIMUM PAVED WIDTH FOR PUBLIC STREETS IN NEW SUBDIVISION PROPOSALS
    - ii. ORDINANCE 1714, RELATING TO THE AMENDMENT OF WEST LINN 2016 TRANSPORTATION SYSTEM PLAN TO IMPLEMENT A MINIMUM PAVED WIDTH FOR PUBLIC STREETS IN NEW SUBDIVISION PROPOSALS
7. City of West Linn Response to COVID-19 Public Health Emergency [3:10 pm/5 min]
  - a. Extend State of Emergency Declaration

- |  |                  |
|--|------------------|
| 8. Diversity, Equity, and Inclusion Update | [3:15 pm/15 min] |
| 9. Mayor and Council Reports               | [3:30 pm/15 min] |
| 10. City Manager Report                    | [3:55 pm/5 min]  |
| 11. City Attorney Report                   | [4:00 pm/10 min] |
| a. Legal Tracking Log                      |                  |
| 12. Adjourn                                | [4:10 p.m.]      |

*\*Due to federal and state restrictions on public gatherings, City hall is temporarily closed to the public until further notice. All City Council and Citizen Advisory Board meetings will be conducted virtually via WebEx. The public can watch all meetings online via [www.westlinnoregon.gov/meetings](http://www.westlinnoregon.gov/meetings). City Council and Planning Commission meetings are also shown on Cable Channel 30.*

*Submit written comments by email to [citycouncil@westlinnoregon.gov](mailto:citycouncil@westlinnoregon.gov), Planning Commission [askthepec@westlinnoregon.gov](mailto:askthepec@westlinnoregon.gov), or the staff liaison for other citizen advisory groups. All comments must be received prior to 12:00 pm on the meeting day.*

*To speak during the meeting, please complete the form located at: <https://westlinnoregon.gov/citycouncil/meeting-request-speak-signup> by noon the day of the meeting to be input into our system. Instructions on how to access the virtual meeting will then be provided to you by email prior to the meeting.*

*If you require special assistance under the Americans with Disabilities Act, please call City Hall 48 hours before the meeting date, 503-657-0331.*

**PROCLAMATION**  
**West Linn, Oregon**

**WHEREAS**, September 17, 2020 marks the two hundred and thirty-third anniversary of the drafting of the Constitution of the United States of America by the Constitutional Convention; and

**WHEREAS**, it is fitting and proper to accord official recognize to this magnificent document and its memorable anniversary; and

**WHEREAS**, it is the privilege and duty of the American people to commemorate the two hundred thirty-third anniversary of the drafting of the Constitution of the United States of America with appropriate ceremonies and activities; and

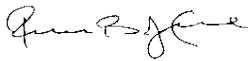
**WHEREAS**, Public Law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17 through 23 as Constitution Week.

**NOW, THEREFORE, BE IT PROCLAIMED BY THE CITY OF WEST LINN**, that the week of September 17 through September 23 is

**CONSTITUTION WEEK**

And ask our citizens to reaffirm the ideals of the Framers of the Constitution had in 1787 by vigilantly protecting the freedoms guaranteed to us through this guardian of our liberties.

DATED THIS 14TH DAY OF SEPTEMBER, 2020.



---

RUSSELL B. AXELROD, MAYOR

ATTEST:

---

KATHY MOLLUSKY, CITY RECORDER

# PROCLAMATION

West Linn, Oregon

**WHEREAS**, disasters occur every day in human life, some man-made and some as a result of our natural environment; and

**WHEREAS**, some natural disasters are unpredictable in nature, such as the much anticipated Cascadia subduction zone earthquake, whereas others are becoming more frequent and severe as our climate changes; and

**WHEREAS**, we face longer wildfire seasons, more severe droughts, heavier rainfall, and more frequent flooding; and

**WHEREAS**, one way we can respond to the unpredictable and severe nature of natural disasters and emergencies is to be prepared to respond; and

**WHEREAS**, there are simple but important steps we can all take to ensure we know what to do and have what we need in the event of an emergency; and

**WHEREAS**, one simple step is for households to assemble disaster supplies and make a plan to reconnect after a tragedy; and

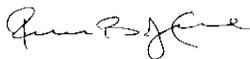
**WHEREAS**, each of us can do our part to prepare for emergencies and help our neighbors and others affected by disasters; and

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST LINN**, joins others in this nation to once again observe the month of September as:

## NATIONAL PREPAREDNESS MONTH

We encourage West Linn residents to promote family and community disaster and emergency preparedness now and throughout the year. We also pay tribute to the courageous individuals who rush to the scene of disaster and respond to catastrophic emergencies for their dedication to our safety and security. We honor them with our renewed commitment to ourselves be prepared and self-reliant as we possibly can be.

DATED THIS 14TH DAY OF SEPTEMBER 2020



---

RUSSELL B. AXELROD, MAYOR

ATTEST:

---

KATHY MOLLUSKY, CITY RECORDER

**Agenda Bill 2020-09-14-01**

Date: August 25, 2020

To: Russ Axelrod, Mayor  
Members, West Linn City Council

From: Kathy Mollusky, City Recorder *KM*

Through: John Williams, Interim City Manager *JRW*

Subject: Draft Meeting Notes

---

**Purpose:** Approval of City Council Meeting Notes.

**Question(s) for Council:**

Does Council wish to approve the attached City Council Meeting Notes?

**Public Hearing Required:** None required.

**Background & Discussion:**

The attached City Council Meeting Notes are ready for Council approval. The transcription service and staff have been working to complete the meeting notes by September 1; however, the lengths of the meetings are making this quite challenging. The August 3 minutes will hopefully be completed by the week of September 7 - the audio total for this meeting is 6 hours, 19 minutes.

**Budget Impact:** N/A

**Sustainability Impact:**

Council continues to present its meeting notes online, reducing paper waste.

**Council Goal/Priority:**

Guiding Principle #0: Core Services of West Linn City Government. Continue to record and document the proceedings of the West Linn City Council. Guiding Principle #3: Sustainability. Incorporate environmentally sustainable practices in City activities and decision making, including reducing waste generation and energy consumption.

**Council Options:**

1. Approve the Council Meeting Notes.
2. Revise and approve the Council Meeting Notes.

**Staff Recommendation:**

Approve Council Meeting Notes.

**Potential Motions:**

I move to approve the July 6, July 13, July 20, and August 10, 2020 Council Meeting Notes.

**Attachment:**

1. July 6, 2020 Council Meeting Notes

2. July 13, 2020 Council Meeting Notes
3. July 20, 2020 Council Meeting Notes
4. August 10, 2020 Council Meeting Notes



CITY OF  
**West Linn**

22500 Salamo Road  
West Linn, Oregon 97068  
<http://westlinnoregon.gov>

# **WEST LINN CITY COUNCIL MEETING NOTES July 6, 2020**

## **Call to Order**

### **Council Present:**

Mayor Russ Axelrod, Council President Richard Sakelik, Councilor Teri Cummings, Councilor Bill Relyea, and Councilor Jules Walters.

### **Staff Present:**

Interim City Manager John Williams, Parks & Recreation Director Ken Warner, Public Works Director Lance Calvert, City Recorder Kathy Mollusky, Information Technology Director Shane Boyle, and City Attorney Tim Ramis.

## **Approval of Agenda**

Council President Richard Sakelik moved to approve the agenda as written. Councilor Teri Cummings seconded the motion.

**Ayes: Mayor Russ Axelrod, Council President Richard Sakelik, Councilor Teri Cummings, Councilor Bill Relyea, and Councilor Jules Walters.**

**Nays: None.**

**The motion carried 5 - 0**

[Public Comment \[10 min\]](#)

[Public Comment - CM Recruitment - Abby Farber](#)

[Public Comment - Tom Meier](#)

[Public Comment - Tom Meier2](#)

[Public Comment - WLWV Statement](#)

Tom Meier stated he had distributed copies to the Councilors of a letter he would read into the record. The document also contained charts based on a survey he conducted of the pickleball players in the area. In summary, he had obtained a bid under \$90,000 for a covered tensile structure for the four pickleball courts in Tanner Creek Park. The bid was also in the document, as was a survey requested by the Parks Department showing a summary of 89 responses, with 60 percent wanting such a structure. He was extremely frustrated by the lack of initiative and development of the project that was almost two years in the making. He asked Council to reiterate to the Parks Department its original intent to complete the project and to make haste to give the citizens of West Linn a much-anticipated, year-round project promised by the Parks Department and approved by Council in the fall of 2018.

Councilor Walters read into the record a letter from the West Linn-Wilsonville School District Superintendent Kathy Ludwig dated July 6, 2020. In summary, the letter provided an overview of how the School District taught students about racism and how it supported students of color through a curriculum of anti-racism, student groups, student engagement, inclusivity, and other actions. District staff kept up to date on racism and how to disrupt racism in the schools, and curricula and policies were updated regularly. Workshops and conferences were attended by educators and students on micro-aggressions, implicit bias, and other related issues. A more diverse staff had been hired in the District than at any other time in its history. The school resource officer (SRO) program was being reevaluated and included student involvement and conversations with the West Linn Police Department (WLPD) and the Clackamas County Sheriff's Office. The letter concluded with thanks to Council and others in City leadership for their assistance, specifically Councilor Walters for helping with the West Linn-Wilsonville Equity Summit last year and for serving as a liaison between Council and the School District.

In response to a question from Councilor Sakelik regarding emails shown as public comment on the agenda, Interim City Manager Williams clarified that communication from the public regarding the police situation was being added to Council agendas in recent weeks. He believed it was done in response to a Council request earlier in the year, but he needed to verify that.

Councilor Walters clarified that both she and Councilor Cummings had served on the Multi-City Equity Summit, but she believed Superintendent Ludwig had been referring just to activities between the cities of West Linn and Wilsonville and the School District when expressing thanks in her letter.

## [Metro "Get Moving" Bond Presentation \[25 min\]](#)

### [Metro Presentation](#)

Christine Lewis, Metro Councilor, updated on the Get Moving 2020 measure for which final decisions were expected in the next two weeks. The measure was to ensure the region's arterials were taken care of and that programs were available for people's mobility, safety, and for reducing climate pollution.

Tyler Frisbee gave a presentation on the Get Moving 2020 measure. Highlights included roadway improvements, new bus lanes, new traffic signals, a new MAX line, new sidewalks, streetlights, marked crossings, and new bikeways. She focused briefly on Hwy 43 improvements and on connecting West Linn to other parts of the transportation system, as well as longer-term planning for connecting West Linn to the Sellwood Bridge. The investments made by the measure would create more than 37,000 family-wage jobs. In addition to the key corridor investments, ongoing programs invested in safety, climate action, and community stability.

Councilor Lewis confirmed that Metro Council still planned on moving forward. The target date for referral of the measure was July 16<sup>th</sup> and might change a bit, but would not go into August. Items still to be worked out were all on the revenue side. ECONorthwest did the modeling, and Metro Council had to go back to them several times given the changing economic conditions due to COVID-19, and it was still deciding whether to ramp up the tax rate over time or to start at the maximum rate and receive a maximum return on its investment early on.

Mayor Axelrod said Council was pleased to have Hwy 43 in the measure because the City was faced with lack of funding for completing the other segments and other work to be done. He thanked Metro for the support. He cautioned that pressure was increasing on homeowners in property taxes and ways needed to be found to fund the big transportation projects that did not overwhelm them with taxes. It would be necessary to look for state and federal dollars for support, especially for the larger transportation projects.

Councilor Lewis responded that Metro Council had clearly heard that concern and understood that property taxes created an inequitable burden. It was limited in the taxing mechanisms at its disposal but would try every mechanism other than a property tax. The two mechanisms being considered were a business tax that would be structured very similarly to the TriMet tax; the other was a vehicle registration fee. She favored using the business tax only because Clackamas County had just raised its vehicle registration fee for the first time and she did not want to add to that burden on individuals.

Mayor Axelrod noted the vehicle registration fee had a lot of room to grow; even Clackamas County's fee was way less than most counties' fees. It was similar to a user fee and people needed to pay it if they wanted to drive or use other transportation networks.

Councilor Walters asked if the \$2.5 billion from the federal government would be provided in

addition to the potential infrastructure funding coming from the government due to COVID-19.

Councilor Lewis replied the \$2.5 billion was based on mostly the southwest corridor, but a few other projects in the Get Moving measure would go through the Federal Transit Administration (FTA) process and receive about a 50 percent federal match. The infrastructure bill put a lot of money into those programs and increased the federal match to more like 80/20. The \$2.5 billion was a very conservative estimate and did not include the increase based on the potential infrastructure bills. If those measures moved forward, it would free up a lot of funding at Metro and enable it to do more than had been already identified or to potentially go with a lower tax rate.

Councilor Walters expressed her appreciation of the possibility of a lower tax rate and of the thought of scaling back the burden on the local taxpayers.

Councilor Cummings asked if any plans had been made to expand the prioritized bus signal system and if Hwy 43 would be in that matrix.

Councilor Lewis replied that most of the signal upgrades would include the ability to do transit signal priority. She would consult her notes regarding Hwy 43 and report back to Council. She anticipated many places along Hwy 43, particularly five years from now, would be very good candidates based on the growth that was expected along that corridor.

Councilor Cummings noted the improvements planned to Hwy 43 would expand the lanes; the struggle currently was that the bus slowed traffic when it pulled over. The "last mile" would also have an impact on congestion on Hwy 43. The need was for inter-city transit to get people to the bus transit corridors. She asked if a component existed in the measure to coordinate with TriMet and the counties for inter-city transit.

Councilor Lewis replied the measure did not add new service routes through TriMet anywhere in the region. The investment through Metro was more for the infrastructure for the system. She knew Clackamas County was undertaking its regional transit study with Metro's involvement and she hoped that would include added capacity. Needs for infrastructure would be an eligible item for an application to the Better Bus Program that would be funded through the measure.

Tyler Frisbee explained the Better Bus Program addressed transit delay by helping the routes move faster and often created more service because, if buses move through the system quicker, it provided a more reliable way for people to travel. The first mile/last mile issue was often to ensure safety for people who were able to walk to a bus stop within a ¼ mile or ½ mile. The safety programs in the measure would help invest in many of the projects that were necessary to add sidewalks or to make sure crossings existed to help people get to the bus stop. The measure would meet about \$8 billion worth of the region's transportation need, but more than \$80 billion in needs had been identified. She corrected a statement she made earlier, noting the transit signal priority was not included in West Linn in its first iteration, but

multiple opportunities would be available for transit signal priority work on Hwy 43 through the Better Bus Program and other transit programs.

Mayor Axelrod said Director Peterson and all the Metro Council would be working on a strategy for marketing and publicizing the measure because the pandemic environment made such things difficult.

Interim City Manager Williams noted Council would consider later tonight a letter of commitment for the project and for action next Monday.

#### [Department Update - Parks & Recreation \[15 min\]](#)

Interim City Manager Williams reminded that in the first work session of each month an update would be scheduled that would cover items not on the agenda. Parks & Recreation Director Warner would provide the update this month.

Director Warner presented his report, updating the Council on the activities, projects, and programs of the Parks & Recreation Department, which also included a review of the impacts of COVID-19 on parks facilities and the safety measures taken for employees. He clarified that summer camps were being run in a couple of the facilities and in the parks. Summer camps had their own guidelines issued by OHA, and the Governor's office that had become effective on May 15<sup>th</sup>. Parks did not operate its own summer camp this year; Staff was instead monitoring the contractors running the camps to make sure they followed the guidelines.

Council President Sakelik said the Parks GO Bond project dashboard showed Sunset Nature Play was over budget by \$247,000 of the earmarked \$500,000. He requested an update on where the money had gone.

Director Warner replied that he needed to consult with Finance Director Breithaupt, but he believed the project transcended a couple of fiscal years, and the Capital Improvement Plan (CIP) at some point listed it at \$300,000. He believed the money had not been carried forward and there had not been a lot of overruns on that project. The initial contract for just the restroom and the walkways was about \$500,000 and was contracted about two years ago. The playground equipment was \$85,000. He would find out why the dashboard amount was off and report back to Council.

Council President Sakelik said that when Council reviewed the allocations in 2018, all the Parks projects were shown to Council for approval. During that meeting, an agreement was made that projects considered medium to small in the \$25,000 to \$50,000 range could go forward and the bigger projects would be considered individually. The Parks projects summary had been the guideline and evidently had been used for the dashboard numbers. The extra \$247,000 should not be coming from GO Bond funds because it would throw off all the numbers. Now, two years past the approval of the GO Bond, he asked if a summary could be put together of all the Parks projects and whether they came in under budget. Theoretically,

extra dollars were available from the \$3.5 million allocated for all the Parks projects. He asked for an update on the Tanner Creek pickleball court tensile cover which had been part of the projects as well.

Director Warner replied that the tensile cover was a GO Bond project and had been complicated. At the last Parks Advisory Board meeting, Tom Meier and Tom Widden presented to the Board a completely different structure designed by a company called Clear Span. He stated he spent about 30 hours working with that company to receive the bids that came in at about \$208,000. The structure would be similar to the buildings at George Fox and Lake Oswego Middle School as temporary gyms. A decision needed to be made on what the structure would be. The facility that was proposed in 2017 did not meet the needs of the community as admitted by Mr. Meier and Mr. Widden. It was similar to the tent erected this summer which did not protect against the cold, wet weather. The people who had been contacting him did not necessarily want shade in the summer in favor of playing in the sun. He was looking for direction from Council on how to proceed.

Council President Sakelik responded that the original plan for a tensile structure approved by Parks should be followed. He understood the request to possibly do something better and had attended the majority of the meetings. He recommended returning to the tensile structure idea, noting most of the people he had spoken to were comfortable with it. It was not ideal, but was better than nothing. The more expensive structure would be ideal, but Council did not know if monies would be available for that at this point. The data on whether people liked the sun was conflicting.

Director Warner said he expected pickleball players would want a cover. The Parker Crest Neighborhood Association wanted him to come to their July meeting to discuss it. If Council gave direction, the original structure would be built.

Council President Sakelik reiterated his recommendation to return to the original design as agreed to because he did not believe additional monies would be available to build a structure that would cost over \$200,000. He noted the Parks budget had \$1.3 million left over from the last fiscal year and several other budgets were also underspent leaving about \$15 million theoretically that had not been utilized. He did not recommend spending all of the \$15 million, but suggested that \$10 million be used for other projects like Safe Routes to Schools and a better pickleball cover. Interim City Manager Williams or Finance Director Breithaupt could shed light on the available funds. It was disconcerting to see projects not taking place with the extra funds. On another matter, he asked for further clarification on the fund for the Pioneer Community Center.

Director Warner responded that line item had been in the budget for about 18 years. Parks had a contract with Pioneer Community Center which had been originally set up as a regional Senior Center. He confirmed the services at the Center were provided to citizens of West Linn. He also confirmed the Parks and Rec fund did not spend its entire budget, adding that the department was in a conservation mode due to the understanding that revenue would be

lower. Some areas were underspent due to cancellation of summer events, and some invoices from May and June might still be left to pay. Most years, Parks and Rec brought in over \$600,000 through special events, programs, and fees and if nothing could be held through winter depending upon COVID-19, revenue could be shorter next year.

Mayor Axelrod noted Director Breithaupt would be offering Council a budget update soon and at that point clarifications could be obtained about underutilized budgets.

Council President Sakelik asked about the Nature Play area for White Oak Savanna stating he remembered from last September that Council had given direction for the Parks Board to meet with the Savanna Oaks Neighborhood Association (SONA) to negotiate a compromise to resolve the situation, but not much interest was expressed in meeting with them directly. He suggested meeting and negotiating the difference because the original plan for \$600,000 would not happen now because the funds were not available, and a reduced amount would be beneficial.

Director Warner believed the project had not progressed because meetings were not possible. He had received direction from the former City Manager before the pandemic to work with the consultant, reduce the plan, though the Parks Board was not happy to have to do that, and a decision was made through a process in December and January that progress would continue and the consultant would return to talk about Nature Play and what it meant to remove items from the plan. In August, Director Warner's intent was to create the reduced plan and then receive input from the community.

Council President Sakelik stated his preference was to do what Council originally requested, to negotiate an agreement with SONA and to not spend any more money on the consultant.

Interim City Manager Williams said he planned to return to Council with a budget update for a year-end round up and to start the preparations for Council's budget discussion in the fall and next winter. He addressed Council President Sakelik's comments about the unexpended revenue and stated it was worthy of a much bigger conversation because of the number of reasons for the unexpended money, such as project funds being built up for future large capital projects and contingency funds. He suggested a meeting with Council, Director Breithaupt and the department heads to discuss the issue possibly at an early August work session or in September.

In response to a question from Councilor Cummings, Director Warner clarified that the citizen advisory groups and the Parks Board had reached consensus to not meet due to COVID-19. The consultant was ready to come to a meeting, and the first one would be held this Thursday. He confirmed the White Oak Savanna Nature Play area would not be discussed because it was the first meeting of the Board and the agenda was kept light due to the difficulties anticipated for the first virtual meeting.

Councilor Cummings expressed frustration, noting that when Council gave direction back in

September, it never would have anticipated the response would take almost a year just to have a meeting.

Director Warner said that he understood her concern and explained that he had been appointed in November and the City Manager at the time had given him direction. Plans had been made to meet, but COVID-19 was unexpected. The process could move forward in August.

Councilor Cummings stated she wanted Director Warner to prioritize the issue and did not want to see it take another year. It appeared sometimes that when some resistance was present, progress would not be made. It was not a good feeling, and when Council gave direction it wanted to believe it would be carried out. On another topic, she referred to the lack of regulations on the use of steep park trails in West Linn for mountain biking, noting people were worried about the hazard and the impact on the environment. She pointed out she had been waiting a year on that topic as well.

Director Warner replied that park rules would be discussed this Thursday and confirmed that currently no limitations were placed on the trails in any of the parks. The mountain biking event had happened last year and was a one-time per year event. This year, the organizers forgot to notify Parks. The event did not happen, due to rain but the organizers told Parks that it would happen again. Such one-time events could not be controlled because Parks did not know it would happen.

Councilor Cummings stated the mountain biking web sites were spreading the word that bikers could come to West Linn and use the trails and it was not just a yearly event. She would forward him the link of the website about which she had raised concerns.

Director Warner recalled that Parks had been informed of a possible event and had asked to be kept informed. He understood the mountain bikers just showed up on a weekend.

Councilor Cummings pointed out that Wilderness Park was not the only park to have such events, but it was very disconcerting for people who went there for a quiet hike to encounter mountain bikers on the hills. Most cities had regulations against it due to the danger and impact on the environment. If areas were available for such activities, specific rules pertained.

Councilor Relyea asked for an overview of the process mentioned by Councilor Sakelik to ensure the community knew what to expect when the City was getting ready to either expend funds on a design or assets for a park. He asked if the action Council had taken on the pickleball structure was still on the table and what needed to happen now.

Director Warner replied that Council President Sakelik had possibly been referring to a document that addressed small, medium, and large projects and laid out the processes for the Planning Department. The Code dealt with replacement in-kind and not a lot about notification. If the projects were larger like Robinwood Station, the treatment would be similar

to that for a developer where the land use process would be required. Projects in between were identified in the CIP which was initially vetted with the Parks Board and input from the community and then updated projects moved forward. The bond measure was a unique situation as so many approved projects were on Parks' plate and they were working to get through them. He would like Council to give direction on the pickleball structure. He heard Council President Sakelik's comments but he would appreciate a motion or he would provide more information if Council wished.

Councilor Walters thanked Director Warner for his work. Parks put on great programming for the public but was also under intense scrutiny by people who were disappointed that they could not participate in some activities this year. Regarding pickleball, she had attended a couple of the Parks Board meetings where the issue was discussed and Mr. Meier and Mr. Widden had come to speak before Council, but she was not clear on how the general public felt about it. Mr. Meier was a good advocate for the PickleBall Club, but she did not know who was in the Club and what their input had been for the project, what the Parker Crest neighborhood thought about it, or what the larger portion of the city thought about it. She would like to see some more quantitative and qualitative surveying to find out what was really wanted, so when the cover was installed, time would not be spent trying to satisfy those who would be dissatisfied with the structure. If the data already existed, she would like to have it shared with Council again before any motion or approval was made.

Council President Sakelik referred to the different projects on the financial dashboard noting a lot of them had consultations with neighborhood associations for input and agreement. Parks had done that in depth with the White Oak Savanna and with other projects for the GO Bond. He clarified for Councilor Relyea that he had been referring earlier to those GO Bond projects in general along with what Director Warner discussed regarding the one form created for all the Parks programs for the GO Bond project. In response to Councilor Walters, he said the pickleball court cover process had taken place before it came to Council as a GO Bond project. All the vetting was done and approved by the Parks and Rec Board and that was why the dashboard displayed the plan for the cover. It had been that way for two years and to redo it did not make sense to him. He believed Parks should move forward on what was agreed to and would favor a motion in that regard.

Mayor Axelrod did not recall the specific plan for the pickleball court, but he had heard pushback on a temporary covered structure by the surrounding community. He would prefer to have the information made available to Council before Council voted, even if the vote occurred next week. He preferred not to do it tonight.

Director Warner replied that to the best of his knowledge, the project did not go in front of the Parker Crest Neighborhood Association. Mr. Meier had extended an invitation during an event he was holding, but it fell on a holiday and conflicted with other plans.

Council President Sakelik stated the project was in the original GO Bond and went back two years. This was the first pass and all GO Bond Parks projects were vetted by the Council and

approved and Parks and been given approval to go ahead. Providing a cover for the pickleball court had been on the dashboard since then. To go through it again did not make sense; Council had much to consider and a decision should be made to move forward as is or change it and use the funds for something else. If the negative \$247,000 he mentioned earlier was due to overspending, Council needed an explanation as it would have to approve the expense.

Councilor Cummings noted when Council had projects on the GO bond list, it created a sense of expectation. Also, a strong and growing population played pickleball and the tennis courts repainted for pickleball were being heavily used. The covering would extend the season. It could be voted on tonight or placed on next week's agenda. She reiterated her frustration with the two-year delay and with other projects being brought forward like Sahallie Illahee.

Director Warner answered that he had responsibility for 23 different locations between Parks and Facilities with every project having someone who wanted the project done today. Parks was doing what it could during COVID-19 and projects were happening, just not all of them. He apologized that he did not have the capability to move things faster, but they were going as fast as they could. Projects took a lot of time regardless of cost.

Council President Richard Sakelik moved to Move forward with the original Tanner Creek Park pickleball court covering as identified in the financial dashboard as a GO Bond project. Councilor Teri Cummings seconded the motion.

Director Warner clarified the cost was \$90,000 excluding soft costs and the original plan did not include side covers. If Mr. Meier and Councilor Sakelik were discussing what would serve the community better, it was necessary to ensure water and wind did not get in. Otherwise he did not believe people would play at all in the winter.

Mayor Axelrod noted his disappointment that Council did not choose to gather more information. He understood that elements of the structure might not be completely functional and noted Staff's comments about scheduling.

Councilor Relyea inquired why Council needed to spend time reviewing an individual item that was part of the GO Bond overall package of measures and that had been previously approved. He suggested it was because the pickleball ambassador kept pushing the measures and some animosity existed between the Parks Department Director. The animosity had created angst between the parties so everyone was working against it instead of working to complete it. It had not been necessary to consider every single project on the list of those already approved on the GO Bond. He assumed the items on the list had already been vetted and approved for funding. It appeared more to be about personalities than the project itself.

Mayor Axelrod understood the problem to be a reflection of an issue raised by a resident who

was an active pickleball player and did not like what had happened so far, and by some Councilors pushing to have the project done.

Interim City Manager Williams believed the issue was about the size and scope of the project. Many suggestions were for added features to enhance the usability of the pickleball courts. As Director Warner described, the number in the budget did not provide for a project that drained the water or for lighting. The structure might not be as functional as something with a higher cost. Staff was simply looking for direction from Council; if it voted to choose the original cost that provided the basic functionality, Staff had no problem doing that. In response to an inquiry by Councilor Relyea, he confirmed that the concerns had been expressed at length to those who were inquiring about the pickleball structure via many email chains over the months.

Councilor Relyea asked if the concerns had been expressed to the Parker Crest Neighborhood Association, noting he had not received any meeting notices or invitations to attend a meeting about a pickleball court cover.

Interim City Manager Williams replied he had no information about neighborhood notices.

Council President Sakelik agreed with Councilor Cummings that the public had expectations for the GO Bond and because the project was vetted over two years ago, all those questions either came up or should have come up before it was approved to move forward. He had had conversations with Mr. Meier about the project having the wrong approach. The main complaint was that they wanted the cover done as originally agreed, and if it could have been better they would have liked that. Giving the public what they originally expected was the best solution, and if extra funds were available after an analysis and it cost \$10,000 for sides for the structure, that should be discussed later, or the Parks Department if they had extra funds could make the decision to do it. The key that would stop Mr. Meier from his continual complaints and rude comments would be to provide a plan for when the project would be accomplished.

Councilor Cummings said that covering at least one pickleball court would extend the season significantly. It would also be useful for shelter for other types of events if it was raining.

Director Warner clarified the facility would be for pickleball only. The courts were permanent. The other concern he had tried to discuss with Mr. Meier was that it would be a regional facility and would draw people from all over the Portland area due to the lack of indoor pickleball courts. If Council wanted the pickleball cover built, it was no problem, but he was not convinced it was the right place or the right type of facility with the infrastructure for parking. He confirmed that only street parking was available at Tanner Creek Park. The neighborhood could be inundated all winter long with parking. When questioned further about parking, he noted he belonged to the Gladstone Pickleball Club which had a four-court setup and 45 people playing for about five hours a day, and he anticipated the Tanner Creek facility during the winter would have 45 to 50 people in the morning playing pickleball. He further clarified that four people would be on a court at one time for a total of 16, and 16 to 20 people would

be waiting for their turn to play. Usually set hours were beneficial so people knew when to show up. It was a sport and a social event and was very popular.

Mayor Axelrod stated the Tanner Creek neighborhood was very tight and had no room for parking.

**Ayes: Council President Richard Sakelik, and Councilor Teri Cummings.**

**Nays: Mayor Russ Axelrod, Councilor Bill Relyea, and Councilor Jules Walters.**

**The motion failed 2 - 3**

### [Records Fee Discussion \[20 min\]](#)

Interim City Manager Williams noted that Staff had not completed Council's request to have links to the agenda items, so many items in the work session had agenda items related to next week's business meeting. Today's agenda had a printed link to the July 13<sup>th</sup> agenda. Staff was working with Granicus to allow a live link. Secondly, the records fee discussion was a business meeting item for next week and should have been on that list. Materials were available in the July 13<sup>th</sup> posted packet relative to the records discussion. He apologized if that was not clear enough and did not allow enough time for Council to review the materials. An agenda report was available from Toni Swanberg and City Recorder Mollusky which addressed a number of the questions raised and provided information and details on questions related to the records process and fees.

Council President Sakelik suggested Council delay the issue to allow everyone to read the agenda report because the discussion would be complex.

Mayor Axelrod understood that Council had approved the fee structure and believed the topic would be revisited if a need arose for an addition or a change. Perhaps it was that the analysis had been done on the questions and now the fee structure was ready for approval.

Interim City Manager Williams confirmed that was correct. Council discussion raised a number of questions on the items, so Staff provided some data, background information, and more rationale for the way the fee structures worked. Council direction was to return and revisit a couple of the fee topics at a later meeting. He confirmed the item was on next week's agenda.

Mayor Axelrod proposed that the Councilors familiarize themselves with the materials and then decide in the pre-meeting if more time was needed.

Councilor Cummings requested that the information from the June 8<sup>th</sup> meeting be added to the packet. A lot of the rationale for the changes she proposed was in the letter she submitted.

### Committee for Citizen Involvement (CCI) Discussion [20 min]

Mayor Axelrod said he had exchanged emails before the meeting with Councilor Cummings about their understanding of the CCI. Currently, two Councilors were members of the CCI and a couple Councilors had expressed interest in having just a Council liaison role. He believed it was valuable to have Council input into the CCI in a way that was not just responsive and not a liaison role which would not have that much participation in the process. Having one experienced member from Council working with the CCI would be very helpful based on his experience.

Councilor Relyea agreed being a liaison was great, but it was not the same as being a member with voting rights. Liaisons were not typically involved in the decision-making processes nor in any ongoing discussions. He believed it was better to have a Councilor at large be involved in the CCI as a voting member.

Council President Sakelik stated he had been pushing for three years that two voting Councilors on the CCI was unfair to the citizens because those Councilors would vote on issues going through the CCI and then again when the issue came before Council, which seemed antithetical to a group entitled Committee for Citizen Involvement. Like other advisory groups, he believed one City liaison should be provided to the CCI. He preferred to have one City Council liaison and a Staff liaison and seven citizen members.

Councilor Cummings noted the purpose for forming the CCI in 2017 was to address the problems with the red-tape Code changes. A major body of work was produced but a lot of the work still needed to be finished because the document suggested that a working group be formed to consider some of the Code changes. She understood the idea of a CCI, as formed in Goal 1 for citizen involvement, was to have an independent group that would inform the municipal body about how it was functioning. If people did not believe they were receiving proper notice, sufficient information, or having an adequate chance of knowing what was going on and participating in it, the CCI was where they would go to raise those concerns. The CCI would then consider better ways and make recommendations almost like an independent watchdog. The rules stated City Councilors were not to be voting members or chairs of advisory groups, which had caused trouble in the past with the original Arch Bridge planning process where a City Councilor chaired the Arch Bridge Citizen Committee. Having a Councilor as a chair or voting member of a committee lead to the group mostly deferring to the Councilor and his or her opinions having more weight than those of the other members. She preferred a liaison non-voting role.

Mayor Axelrod agreed that a fundamental role of the CCI included that of an independent watchdog and it should be dominated by citizen input. A non-voting Councilor could still be involved and would be a benefit of working with the group. He was not suggesting a Councilor have a vote on the CCI, but should be an active participant to benefit the interaction and function of the group. The CCI floundered for a while, and not many people had signed up for it. Many citizen positions were open currently, and COVID-19 had complicated things. It would

be good to get the CCI moving forward this year.

Councilor Relyea believed the CCI was different from other citizen advisory groups. It was not named in the Charter as an advisory group so no conflict of interest would arise from a Councilor's participation because all of the Councilors were citizens of West Linn. He described his concerns with how the Planning Commission Chair presided over their meetings, noting that just because a group had a Chair did not mean they had all of the information or were making the best decisions to make the best recommendations to Council. For those reasons, he continued to support the fact that Council should have a voting member on the CCI. Additionally, consideration should be given to changing how the Council liaison interacted with the Planning Commission to provide more opportunity for discussion at that level. He did not believe his time was very effectively spent as a liaison to the Planning Commission. He did not receive the packets and could not properly prepare for the meetings. His opinion was not asked for and in the past had not been appreciated when he expressed it to the City Attorney sitting at the table.

Mayor Axelrod noted when he had heard of some dysfunction with the Planning Commission, he met with Interim City Manager Williams and the Planning Commission Chair and they agreed on a plan to improve collaboration and for the Planning Commission to use its own authority in moving agenda items forward and in addressing the typical land use decisions that came before them.

Councilor Cummings believed it was important for Staff to remain as neutral as possible and not try to unduly influence the Council or liaison committees. Councilor liaisons needed to be as prepared for the meetings as the other members; otherwise it seemed disrespectful and a waste of time. The Council's rules stated that Councilors should respect the separation between policy-making and advisory boards, commissions, and committees by not attempting to lobby or exert undue influence the boards in any item under their consideration. It was important for an advisory board to make objective recommendations to Council. Attending liaisons should not avoid becoming involved in the body's discussion without first explaining that they were just a liaison and what they sometimes expressed was their own opinion and not necessarily something for which they had consulted the rest of the Council so the body did not perceive it to be a directive from Council. Finally, liaisons were not to vote at the body's meetings on any item. Nothing in the Charter addressed any of those issues.

Mayor Axelrod agreed the CCI was not the same as the advisory boards established in the Charter, nor was it under the rules of how Council conducted itself or interacted with the advisory boards. It was a separate body established under Goal 1 with specific direction in its oversight capacity as citizen representation and a watchdog on the planning process.

Councilor Cummings said the issue was whether Council believed it made sense to have two voting members of the Council on the CCI and whether Council wished to revise that after having seen how it worked. Also, Council needed to consider whether it wanted to bring the CCI back in keeping with the advisory boards and have it function as a body that oversaw how

Council's community engagement was working.

Mayor Axelrod stated Council had four options: keep the structure as is with two voting Councilors on the CCI; have one Councilor voting; have a non-voting Councilor who participated; or just one Councilor liaison. He believed the CCI was a body that could benefit from direct engagement with a member of Council who had planning experience in the City.

Councilor Walters asked who would appoint the one voting member to the CCI from Council and raised a concern about the possibility of a contentious Council.

Mayor Axelrod clarified the voting Council member would be appointed to the CCI by the Mayor followed by Council confirmation according to the Code. Perhaps interest in serving on the CCI would be renewed if two Council members did not serve on the CCI.

Councilor Cummings noted the CCI held a vote on the issue and did not want to have two voting Councilors on the committee.

Mayor Axelrod believed the CCI still wanted an active role by a Council member, but not a liaison, so he would check with CCI Chair Walvatne. He requested a short Staff report outlining the four options for Council including the Code that needed to be changed.

Interim City Manager Williams agreed, adding Staff wanted to ensure the decision was seen as being driven by Council and not Staff.

Council President Sakelik asked that the recommendations from the current CCI referred to by Councilor Cummings be added to the packet.

Mayor Axelrod noted Council still needed to address the call out for the advisory boards and commissions announcing vacancies and recommended Council consider that later in the meeting.

#### [Preview of July 13 Business Items \[45 min\]](#)

#### [July 13 Council Agenda](#)

Interim City Manager Williams and Public Works Director Lance Calvert highlighted the July 13 agenda items. Regarding the letter of support for the Highway 43 Transportation Growth Management Grant Application, he explained the grant would be used to hire a firm to do community involvement, work with Council and Planning Commission, neighborhoods, citizens, businesses, and Staff to ensure Hwy 43 became what the community wanted in the future. Jennifer Arnold from the Planning Department would be leading the discussion. In the packet was a list of the topics to be discussed. Staff had not drawn any conclusions on what should be done on Hwy 43 and was hoping to receive the grant funding.

Mayor Axelrod said the Economic Development Committee (EDC) was very excited to work on

the Hwy 43 neighborhood connectivity involving zoning, planning changes, Main St concepts, etc.

- a. **ORD 1715 – MISC 20-03 Alley ROW Vacation**
- b. **ORD 1707 – Sanitary Sewer Policies Update**
- c. **ORD 1711 – Solid Waste Franchise Update**
- d. **ORD 1712 – Republic Services Franchise**

### **[Highway 43 Metro Get Moving Letter of Commitment](#)**

### **Highway 43 Transportation Growth Management Grant Application**

### **[City of West Linn Response to COVID-19 Public Health Emergency \[5 min\]](#)**

#### **Extend State of Emergency Declaration**

#### **[State of Emergency Declaration](#)**

City Attorney Ramis stated that in the packet originally were two declarations, one through July and one extending further. At the Mayor's suggestion, both had been retooled into a single document which extended the declaration to September 14<sup>th</sup> which he believed was intended to correspond with a Council meeting in preparation for having to extend it further, if necessary. The Governor's extension was through September 4<sup>th</sup> and he did not see a problem with West Linn's extension being 10 days longer.

Council President Richard Sakelik moved to Extend the State of Emergency enacted at the March 19, 2020 City Council meeting and extended at the April 20<sup>th</sup> and May 18<sup>th</sup> meetings from June 30<sup>th</sup> to September 14, 2020. Councilor Teri Cummings seconded the motion.

**Ayes: Mayor Russ Axelrod, Council President Richard Sakelik, Councilor Teri Cummings, Councilor Bill Relyea, and Councilor Jules Walters.**

**Nays: None.**

**The motion carried 5 - 0**

Mayor Axelrod asked the public to please wear masks inside businesses and anytime physical distancing of 6 ft could not be maintained.

### **[Diversity, Equity, and Inclusion Discussion \[45 min\]](#)**

**[Public Comment - DEI - Creative Resistance](#)**

**[Public Comment - DEI - Debbie Wong](#)**

**[Public Comment - DEI - Erich Brill](#)**

**[Public Comment - DEI - Kathie Halicki](#)**

**[Public Comment - DEI - Kathy Selvaggio](#)**

[Public Comment - DEI - Lynette Pierson](#)  
[Public Comment - DEI - Rachael Tillman](#)  
[Public Comment - DEI - Rachael Tillman2](#)  
[Public Comment - DEI - Rachael Tillman3](#)  
[Public Comment - DEI - Rachael Tillman4](#)  
[Public Comment - DEI - Ron Stone](#)  
[Public Comment - DEI - Ron Stone2](#)  
[Public Comment - DEI - Stacy Epstein](#)  
[Public Comment - DEI - Steve Battaglia](#)  
[Public Comment - DEI - Ollie Oakley](#)

### **West Linn Police Department Oversight Task Force**

Mayor Axelrod said he had quickly reviewed the approximately 65 applications that had been received. He was pleased by the variety because professionals with relevant background and experience were needed to help guide the Task Force, or perhaps chair it with a particular expertise. He recommended Council decide how to vet the applications. Council also needed to determine how many people would be on the Task Force.

Councilor Walters stated she was very pleased with how many people stepped forward and applied for the Task Force. It showed how important the issue was to the citizens of West Linn and beyond. She understood Council President Sakelik wanted nine people maximum on the Task Force. She had about 12 for her tier 1 choices, and seven more on her second tier. She wanted to consider a way to integrate every applicant's knowledge and interests and asking them to provide input would be a great way to do that. Those not chosen for the Task Force would have a lot to contribute through public comment or by serving as an alternate. She believed it was essential to have a professional facilitator running the meetings because the conversations were very important, and Council needed to ensure everyone was being heard equally at the table. Perhaps some would be willing to bring their law enforcement, criminal justice, or social justice experience to the table or speak to what it was like to be a person of color in West Linn in interactions with the WLPD.

Mayor Axelrod agreed that finding a way for participation by all members in some form would be desirable; perhaps a core group could receive feedback from a broader group. He suggested the possibility of someone from the firm hired for the bias equity audit, and eventually for future training, could facilitate the Task Force work, or perhaps someone within the group had some professional experience and could serve as a facilitator. He agreed that an independent person would be best.

Councilor Relyea noted others had expressed interest in submitting their applications for the Task Force, but the application process had already closed. He had reviewed certain positions open in Multnomah County and other locations that, in light of the Black Lives Matter

movement and the need for police reform, had used very specific terms such as "lead by race," "have a Black agenda," and to do things they had not done before. He proposed keeping the application process open, and if Black members of the community expressed an interest in becoming involved in the Task Force, they should be given that opportunity because not many Black people lived in West Linn and they should be a priority. Because so many people had expressed an interest in participating, multiple groups might be necessary to allow involvement by everyone. It might be necessary to have discussions facilitated by a professional. He believed for town hall meetings provided a great opportunity to listen to what the public had to say. He did not believe that opportunity should be limited by numbers. Council should listen to what its constituents were telling it and open the door to allow them to become involved.

Mayor Axelrod noted a lot of communities of color were represented in the applications including the Black community.

Council President Sakelik recommended determining a number of people for the Task Force and agreed a facilitator would be a great idea for a group of nine or 12. He supported any applicant who had those skills who might wish to be a facilitator but not a participant. It would be nice to not have to pay for those services, especially if two meetings were held per month. He suggested each Councilor pick their top 12 applicants, check for commonalities among them, then narrow the list to the number preferred. Those not chosen could be asked how they would like to continue to be involved, possibly through events like town halls or as facilitators of city-wide involvement so Council could take advantage of everyone's interests and desires.

Councilor Walters agreed, noting many of the cities surrounding West Linn had a diversity, equity, inclusion (DEI) citizen advisory group, and she believed West Linn needed one as well to help guide it through its work. The process would be long and she hoped some substantive change could be made quickly. She would be pleased to have several applicants on the list serve on a DEI group if they were interested.

Councilor Cummings said it would be good to give the people an opportunity to share their ideas and thoughts in a town hall or group discussion rather than just narrowing the list down to nine. Eventually, it would be necessary to form a committee to review the policies and reforms, and that group would be smaller and would need to be facilitated. From the bit of research she had done so far, she learned that other cities that had public safety or police oversight committees ensured the committee members received training about policing and aspects of the law. It was not just about diversity, but was also about what policies were available for oversight and accountability and for a better system of justice.

Councilor Walters believed Council had clearly laid out the Task Force's role in the document supplied to the public. The document also described the urgency for getting the process started and she wholeheartedly agreed. If the application process would be opened up again or the applications mulled over for a very long time, the July window for the first meeting

would be missed. Council would not meet in August and would be catching up on a lot of work in September. She did not want the work to fall by the wayside especially when other cities were working hard on their issues. It was already overdue.

Council President Sakelik's suggested scheduling a town hall very quickly for all 63 applicants to give Council more insight into their skills and abilities, and it might help Council formulate the number of people wanted on the committee and how they would be chosen.

Mayor Axelrod said that 12 seemed like a good number for such a committee. The city had 11 neighborhoods, so having 12 people on the committee would ensure one person was serving from every neighborhood. He believed a lot of applicants in the pool would serve the initial function well. The long term would provide opportunities for people to join and leave the Task Force and to give feedback and for other involvement. Everyone should be strongly encouraged to stay engaged, even though 12 people would lead the advancement of the Task Force work. He believed a reasonable timeframe had been given for people to apply and moving the process forward quicker would be smart.

Council President Sakelik noted there should be an odd number of members to avoid tied votes. His original suggestion of nine people was to limit the number for a more easily-handled meeting. Gathering thoughts and impressions from 12 people was more difficult. He recommended Council compile a short list and then schedule an executive session to review it to find commonalities. Perhaps the number should not be defined yet to see the results of the short lists.

Mayor Axelrod recommended each Councilor suggest 12 applicants with nine being the final number to serve on the Task Force.

Councilor Cummings agreed, but said she would not suggest the roles be contingent on where people lived which was related more to land use. Policing issues were not related to where one lived in West Linn. She recommended 11 as the top number and agreed with having an odd number. Any larger would make it difficult for the group to function and would likely end up with just a few people doing all the talking. She believed the number of those to serve on the Task Force should be selected in advance, and Council should each select a number of applicants to see if overlaps existed as had been done in the City Manager search.

Councilor Walters stated her research showed a number between eight and 14 was ideal.

Councilor Cummings commented that other advisory committee appointments were not normally done in an executive session and asked for advice on whether Council could send its selections to Staff and have them return to Council with the results. The process needed to be open.

City Attorney Ramis responded that the idea of having Staff compile data submitted by Council was not a problem. However, he did not see a basis for the actual decision-making to be made

in an executive session because it seemed to be a decision that Council would make in an open session. He confirmed the same applied to discussion and vetting.

Mayor Axelrod considered the limited time available before the Task Force planned to convene in July and suggested starting with a facilitator recommended by Council from the group of applicants.

Councilor Walters stated she would defer to Interim City Manager Williams to consider a professional independent facilitator. She believed selecting a facilitator from the group defeated the purpose of having a leader from outside the group. She agreed with possibly selecting someone from one of the equity audit firms. She would send suggestions to Interim City Manager Williams of people referred to her through Respond to Racism and some other groups she had been involved in.

Interim City Manager Williams asked Council for a timeline for their requests and when it would like to close up the discussion. He asked each Councilor to send their Task Force recommendations to him by Thursday.

After a brief discussion, Council decided that each Councilor would select 15 applicants for the Task Force pool to be narrowed down after discussion.

Council discussed possible meeting dates to consider the selected applicants, but did not choose a date. City Recorder Mollusky said she would send Council a Doodle poll with the dates that Council Chambers was also available.

Mayor Axelrod confirmed Council was scheduled to consider City Manager recruitment on Friday from 12 pm to 2 pm.

### **[DEI Audit Consultant Selection](#)**

[Public Comment - DEI Audit - Constance Sylvester](#)

[Public Comment - DEI Audit - Kathy Selvaggio](#)

[Public Comment - DEI Audit - Keisha Brewster](#)

Mayor Axelrod said very helpful feedback was received from residents in the community regarding the DEI consultant selection, some of which was summarized in the agenda packet. He noted the Kenley Group and PSU seemed to be the top recommendations from the Councilors.

Councilor Walters said she was hoping the Center for Equity and Inclusion (CEI) would do the work, but acknowledged their quote had come in way over the budget range. She would like to know if the Center focused on just the audit piece whether the cost would be less. The audit piece as described to her would provide a basic sense of the framework and would be followed by the DEI work. She assumed that what the Center called a cultural assessment was a bias

audit and their quote was \$60,088.

Mayor Axelrod agreed the audit was the principle focus. Training would involve coaching and would be a long-term commitment with the selected firm as well as part of the cultural change West Linn needed. The CEI was certainly highly rated.

Council President Sakelik noted that at least five of the public responses mentioned the Kenley Group, which was his first choice. He recommended Council select two firms to discuss further and allow those firms to fine tune their proposal and then select one of the two. Otherwise, he was concerned the selection process would take a long time. The public had done its duty, and he believed those preferences should be considered in Council's choice.

Councilor Relyea said the Kenley Group did not make his list because their website focused on top-down leadership and assessment of an administrative group and did not address DEI. He also had the CEI as his top choice. He had been involved in major construction projects that were centered on disadvantaged minority women and emerging small businesses for many years. He had known Andre Baugh, owner of AGB Limited, throughout the years. Mr. Baugh had done a lot of work for the City of Portland and he advocated for the CEI. Councilor Relyea stated he trusted Mr. Baugh's opinion and he could see the Center had the depth and staff to provide an outstanding assessment for the City.

Mayor Axelrod said that outside of the cost, the CEI would be his choice. He suggested possibly asking them to refine their cost estimate a bit if Council was interested in pursuing them.

Councilor Cummings agreed that the Center rose to the top.

Interim City Manager Williams confirmed Council could ask contractors to adjust a quote. The Center might seek some guidance as to whether a different scope existed. In his conversation with them, he noted they wanted to do the job right, but that took time and effort as would creating a cultural change.

City Attorney Ramis agreed the City had the ability to request a revised quote and scope to make the cost come down.

Mayor Axelrod proposed approaching the CEI about the possibility of fine-tuning the equity bias audit element and about phasing-in the other work as Council had discussed previously. The outcome of the bias audit could help Council frame the subsequent phases of work better. He suggested Interim City Manager Williams approach them and report back to Council later in the week or next week. He could also ask them about facilitating the Task Force.

Council President Sakelik recommended to not confuse the issue with discussion about a facilitator right now, and to allow Interim City Manager Williams to determine if the CEI would lower their quote.

Mayor Axelrod reiterated that someone who submitted an application to serve on the Task Force could be qualified to facilitate.

Interim City Manager Williams concurred with Council President Sakelik about keeping the processes separate with the possibility of folding them together at the end. The CEI proposal was for an online cultural assessment supported by staffing and conversations and was not a deep dive into data. Council had created the request for qualifications (RFQ) based on Council's past discussion. A cultural assessment would be important work and if Council wanted to focus on organizational culture it would be an important tool. He wanted to ensure Staff and Council were on the same page about the proposal.

Mayor Axelrod thanked those in the community who took the time to give Council feedback. It was clearly very helpful and very much appreciated. He also expressed appreciation for those who applied to serve on the Task Force.

### [Mayor and Council Reports \[5 min\]](#)

#### [Council Goals Update](#)

#### [Council Goals Information](#)

Councilor Relyea stated he wanted to make sure the covered pickleball court was on the agenda for next week. It was a GO Bond project and had certain expectations, but he believed Director Warner made good points about parking in the area. The citizens that lived in the Wild Rose neighborhood had concerns about people parking in the area during Music in the Park. If a covered pickleball court would bring in a lot of people from outside the city on a regular basis, discussions with the neighborhood would be necessary and consideration given to providing parking. Most homes in the Wild Rose neighborhood have short driveways, and residents mostly had to park on the street. Inviting extra traffic into that neighborhood would create a hardship. Consideration needed to be given to the overall impact upon that community before a decision was made on a pickleball court cover. Mayor Axelrod agreed with his concerns.

Council President Sakelik noted that on the west side of the pickleball courts was a grassy area that could be converted into extra parking easily with some gravel. Councilor Relyea's points were well taken and it would be good to have additional information. The roads in the neighborhood were very narrow and difficult to drive.

Mayor Axelrod wanted to ensure Item 5 Citizen Vision Goals was completed this year. The document was less than two pages long and had been vetted in the community.

Councilor Cummings confirmed the Citizen Vision Goals would restore part of the prelude to the Comprehensive Plan. She noted the Council Goals document stated Council was awaiting the CCI's recommendation but understood the Citizen Vision Goals to be part of the document Council approved in 2018. She clarified the CCI had met in April and again last week and had produced a letter that she just forwarded to Mayor Axelrod.

Councilor Relyea clarified Mayor Axelrod had appointed him as the one Council liaison to the CCI. Chair Walvatne had provided the letter Councilor Cummings mentioned and had forwarded it to the Mayor. He believed the letter was outdated because the CCI had not had much involvement and it had been difficult getting people to participate on it. He believed it would be good for Council to revisit the subject and schedule a time for a decision.

Councilor Cummings clarified that Council was no longer waiting for a CCI recommendation and the last two cells in the Goals spreadsheet needed updating to reflect that. She further clarified that the letter the CCI prepared in April had to do with the structure of the CCI and was not about the Citizen Vision goals.

Interim City Manager Williams explained changes had been proposed to the Vision Goals but some of the neighborhood associations had preferred the older version, and it was agreed to restore it. However, no agreement was made on the language and he believed Council had asked the CCI to resolve the issue and make a recommendation to Council.

For Item 7, the Waterfront Planning Project, Mayor Axelrod suggested Staff update the information in the third quarter to reflect that the City needed to hear from PGE on their latest due diligence and the State Historic Preservation Office (SHPO) review work they had completed and any implications of it to future planning. A meeting with PGE in March for a preliminary review was canceled due to COVID-19.

In response to a question from Councilor Walters, Interim City Manager Williams confirmed he would include the funds moved from the EDC to the business grants related to COVID-19 in the potential next round of CARES reimbursement.

For Item 10, the high priority Transportation Systems Plan (TSP) items, Mayor Axelrod asked when Council would be able to review the concept plan for 10<sup>th</sup> St and Salamo Rd. He would like to give feedback from the current Council before a new Council was elected.

Interim City Manager Williams replied that most of the focus had been on engineering for the Main St project, but he would check with Director Calvert and include the answer in a follow-up email to Council.

Councilor Walters noted a project was underway for Safe Routes to School, adding she would like to look at the designs and receive an update on the progress with other schools from Director Calvert. Interim City Manager Williams agreed to follow-up on her request.

For Item 13, defining the City's legal services structure, Mayor Axelrod said he had requested an update on the legal costs in regard to the contract with City Attorney Ramis' firm. The costs were increasing greatly and would need a closer look. He proposed discussing the assumptions about the legal structure and costs later this year.

For Item 14, Environmental Sustainability, Mayor Axelrod suggested adding that the July e-bike

Main St Celebration was canceled due to COVID-19. The hope had been to discuss with PGE e-bikes, e-commerce, e-travel and e-transportation along with shutting down Main St when the streetscape was finished and to tie it in with the now-canceled street dance. Staff was considering holding the dance in October, if possible.

For Item 15, the Clackamas County Water & Environmental Services (WES) Agreement, Mayor Axelrod said the final signed agreement had been received and would be distributed to Council. He stated no changes had been made since Interim City Manager Williams had distributed the final version earlier. He asked that the spreadsheet be updated to reflect receipt of the signed agreement and its date.

For Item 16, Support of Relationships with Groups and Organizations, Mayor Axelrod said Council's collaboration with state and federal legislative representatives should be noted as it was something Council did often.

For Item 17, the Arts and Culture Commission, Councilor Cummings said more work was needed on defining the guidelines and process for the Percent for the Arts Program. She noted percent for the arts funds would not be used just for aesthetic upgrades, but would rather involve artists in the process. The Arts and Culture Commission would be a great resource to consult on aesthetics. Council would need to give direction for the guidelines because at the next Arts and Culture Commission meeting, they would try to answer some of Director Calvert's questions.

For Item 18, Promote Equity and Inclusion in City policies and procedures, Councilor Walters said she would like to have a packet assembled for the Task Force meeting, though she acknowledged it would take a lot of Staff time. She would like to give consideration to what would be in the packet, who would be in charge of it, and what role Council would play in the process.

Mayor Axelrod suggested Staff prepare an electronic package for posting on perhaps the DEI web page for review by Council.

Councilor Walters added that adding a breakdown of what legislation passed in the special session would be extremely helpful, as well as links to the current policies, some modeling of what Portland was going through currently, and a copy of the Police Union contract. The Task Force would need the information for a substantive discussion.

Interim City Manager Williams stated he also noted items that would be part of the Task Force packet. Consideration should be given to working with the facilitator, once selected, on items to go into the packet. He agreed the information should be web-based.

Council President Sakelik shared with Council a draft and a price estimate for a bronze plaque honoring the Schwarzes to be installed beneath the main White Oak Savanna sign. He had received a rough bid from a company in Florida with 50 years of experience for \$5,500 shipped.

He asked Council to consider approving the sign and approving up to \$6,000 to be spent to complete the project. He would send an email to Council with the picture of the sign and more details. He reminded that the Schwarzes had put in 17,000 volunteer hours and had donated \$278,000 to purchase the White Oak Savanna for the city. He believed \$6,000 to honor them was a small price to pay for their dedication and what they provided to the city. He recommended it be added to the agenda and voted on next week.

Councilor Cummings agreed the sign would be appropriate and in keeping with the tradition of honoring people who helped establish a park. She would also like to include some information about the collaboration with Metro and the Oregon State Parks, other agencies, and citizens who contributed to make it possible. She recommended getting at least three bids and to perhaps ask the Arts Commission about aesthetics, but she wanted to process to be completed without delay.

Mayor Axelrod agreed with the acknowledgement, but he did not like the proposed sign being as big as the park sign. He suggested the possibility that the people who made the City's signs could do it less expensively and agreed with the proposal to ask for the Arts and Culture Commission's feedback.

Council President Sakelik clarified that the proposed sign was slightly smaller than the main park sign. He suggested bronze as a material because it would weather well and be long lasting. The sign would need to be large enough to allow for a narrative. He preferred that Council authorize the \$6,000 as the maximum amount, but would allow room for something less expensive if it met the needs and desires. He would like to complete the project before the end of summer.

Mayor Axelrod expressed reservations about authorizing funds for a hypothetical project without knowing the details. If Council President Sakelik was compelled to have a vote on it next Monday, he might not be able to agree, but was more than willing to wait for a design to consider.

Council President Sakelik stated he would put together a motion to vote on next week. On another matter, he asked Interim City Manager Williams if a reconciliation had been received from whomever was in charge of the money for the Equity Summit last October. West Linn had donated \$5,000 for the summit and the other cities collected about \$25,000. He would like to know how much was spent and what the plans were for any funds that were left over. He noted he was not asking for any remaining funds to be returned.

Interim City Manager Williams replied that he did not recall seeing a reconciliation but would find the information Council President Sakelik requested.

Councilor Walters recalled a conversation about the next summit being held in West Linn and Wilsonville and possibly being run by Clackamas ESD or that they would allow the use of their facilities to save costs. The discussion stopped when COVID-19 started. She would look into

whether more plans were being made.

Council President Sakelik asked if Matt Grady was confirmed for the July 20<sup>th</sup> Council meeting and asked City Attorney Ramis to confirm if Mr. Grady's presentation was considered ex parte communication. If so, the Councilors would need to declare the communication if a related matter came before them. Mr. Grady's presentation to the Bolton Neighborhood Association was informative and he did not believe it had any application within the city. He believed it would be important for the public to see it also.

City Attorney Ramis stated he had sent out some communications expressing concern that the presentation would have the appearance of someone lobbying the Council directly. Council President Sakelik was correct on the technical rule that ex parte communication would not be prohibited, but it was not favored. The presentation should be put into the record exactly as given and people should be given the opportunity to rebut. A video of the presentation and ensuring people could respond to it would be the technical way to do it. The rules allowed Council to cure an ex parte communication by disclosure, but it would have an effect in terms of its appearance. He confirmed that if Mr. Grady sent the information to Council instead of giving a presentation would raise the same issues. If the purpose of the presentation was to provide an update to Council by someone involved in the process and progress with the Post Office and to maybe make an effort to coordinate further with Council, no discussion was needed of the actual development proposal. If, on the other hand, the idea was to present a development proposal to Council, it might appear to be an effort to persuade. He knew that the application was far enough along at the City level that Staff had been asking his office legal questions about the application and its aspects. He understood the application to be pending, but it was certainly being discussed. He was uncertain if a formal pre-application had been done for the project.

Mayor Axelrod suggested not having a presentation in order to not cloud Council with any legal issues. The developer could distribute the information to the community and other neighborhood associations.

Council President Sakelik agreed and noted the presentation was posted on the Bolton Neighborhood Association page on the City's website. He was unaware if that would create a conflict. He suggested that perhaps Mr. Grady could just explain to Council the current status with the Post Office.

Councilor Cummings referred to her time on Council in 2009 when Lake Oswego and Tigard came before Council to discuss a treatment plant they wanted to build. The conversation was upsetting to some people because it gave the impression it was a done deal. The Post Office project was potential future land-use decision that would come before Council. The decision would not be made by the neighborhood association and she saw no issue with Mr. Grady presenting to other groups. She understood the interest in the project and the anxiety over whether the city would be able to keep the Post Office. On another topic, she wanted to know if Council could authorize a press release reflecting the City's response to Mr. Kruger's

attorney.

City Attorney Ramis replied that request had been made to him and he was working on a draft that he would forward to the Interim City Manager without further authorization from the Council, unless Council wanted to do so.

Council President Sakelik explained the reason he had believed it would be acceptable for Mr. Grady to give a presentation to Council was because similar presentations had been given in the past, and one of them was for the Historic City Hall by the Heritage Foundation. The Bolton Station project renderings were also presented to Council before it made a decision on the GO Bond funds. He was trying to understand the difference.

City Attorney Ramis acknowledged it was hard to distinguish them. He believed Council would probably be in the situation where it played a role as a land use decision maker as well as be the owner of a property or be involved in the future of a property. It posed a tough question in those cases where Council needed to have information and maybe take positions as a property owner because it would also have information that would potentially affect how it would approach the issue as a land-use matter. Council President Sakelik made a fair point, but it was a difficult one to steer around. Council would probably be forced by the fact it was the property owner to take a course that he would be less comfortable with.

Councilor Walters reported that the School District had been working very hard on their plans for the 2021 school year. A lot of listening sessions were taking place right now as shown on the District's website, and other important information such as when their facilities would be open was also included. A hybrid plan of on-site and distance learning, and another option for fully- distanced learning was available. She believed Council should monitor the situation because it would impact traffic and kids moving around the city. The OHA and American Academy of Pediatrics statement this week stated that they believed it was best for all kids except impacted populations to be back in school full-time which she found interesting.

Mayor Axelrod reminded of the first community meeting on Wednesday at 4 pm with Michael Fesser. The event would be unstructured for the most part and he and Mr. Fesser would facilitate. It would be the beginning of the brainstorming on how to build a bridge between communities and to foster connectedness. The meeting would be virtual because meeting in person was not allowed. Perhaps an in-person meeting could be held soon if everyone wore a mask. He did not know how many people had signed up for the meeting, but would ask Staff to let Council know.

#### **[City Manager Report \[5 min\]](#)**

Mayor Axelrod clarified for Interim City Manager Williams that he preferred not to have the presentation by Mr. Grady. If individual Councilors wanted to know more, they could contact Mr. Grady directly and declare any conversation if the matter comes to Council as a land-use decision. He was more than welcome to share the information with the public or other

neighborhood associations who could share amongst themselves. The information was also public on the Bolton Neighborhood Association page.

City Attorney Ramis confirmed that Mr. Grady could give just a status update on his work with the Post Office without a presentation. On another matter, he noted a request had been made this week for a Council executive session. He would not specify the topic right now, but noted he had asked Interim City Manager Williams to schedule the meeting.

[Adjourn](#)

Draft Notes

DRAFT



22500 Salamo Road  
West Linn, Oregon 97068  
<http://westlinnoregon.gov>

# WEST LINN CITY COUNCIL MEETING NOTES July 13, 2020

## [Pre-Meeting Work Session](#)

## [Call to Order](#)

### **Council Present:**

Mayor Russ Axelrod, Council President Richard Sakelik, Councilor Teri Cummings, Councilor Bill Relyea, and Councilor Jules Walters.

### **Staff Present:**

Interim City Manager John Williams, City Recorder Kathy Mollusky, IT Director Shane Boyle, Public Works Director Lance Calvert, City Attorney Tim Ramis, Associate Planner Chris Myers, Acting Police Chief Peter Mahuna, and Administrative Assistant Elizabeth Carson-Hall.

This meeting was conducted via Webex due to COVID-19 and federal and state restrictions on public gatherings.

### Approval of Agenda

Council President Richard Sakelik moved to approve the agenda for the July 13, 2020 West Linn City Council Meeting adding approval of the April 20 minutes to 4a. Consent Agenda, removing 6a. Extend State of Emergency Declaration, and 5h. Agenda Bill 2020-07-13-09; add Oversight Task Force to 7a. add Willamette Falls Paper Company Potential Welcome Signage to 8c and White Oak Savanna Recognition Sight to 8b. under Mayor and Council Reports. Councilor Bill Relyea seconded the motion.

**Ayes: Mayor Russ Axelrod, Council President Richard Sakelik, Councilor Teri Cummings, Councilor Bill Relyea, and Councilor Jules Walters.**

**Nays: None.**

**The motion carried 5 - 0**

### Public Comments [20 min]

There were none.

### Consent Agenda [5 min]

#### **Agenda Bill 2020-07-13-01: Approve Draft Notes for \*\*\*April 20\*\*\*, May 11 and 18, 2020**

#### **[Draft Notes Information - Revised](#)**

Council President Richard Sakelik moved to approve the Consent Agenda for the July 13, 2020 West Linn City Council Meeting, which includes the meeting notes for the April 20, May 11 and 18, 2020 meetings. Councilor Bill Relyea seconded the motion.

Councilor Cummings stated when there are more than one set of minutes on the agenda and they are not produced in a timely manner she will vote no until the minutes are produced in a timely manner and would like to have a Council discussion of what it would take like replacing the records person who retired. Whatever it needs to be, she would like to hear what the Interim City Manager intends to do to remedy this problem.

**Ayes: Mayor Russ Axelrod, Council President Richard Sakelik, Councilor Bill Relyea, and Councilor Jules Walters.**

**Nays: Councilor Teri Cummings.**

**The motion carried 4 - 1**

[Business Meeting \[60 min\]](#)

[Agenda Bill 2020-07-13-02: ORDINANCE 1715, VACATING A PORTION OF RIGHT-OF WAY BETWEEN WILLAMETTE DRIVE AND BROADWAY STREET](#)

[ORD 1715 Information](#)

Mayor Axelrod stated this is a decision that was made at the previous meeting addressing the hearing. What is back before Council now is an updated ordinance set to approve and move forward the decision that Council has already made regarding this right-of-way.

City Attorney Ramis explained Council has already completed the substation side of the decision making on this and have decided to grant the street vacation. This is the procedural follow-up where Council adopts an official ordinance that can be recorded and the vacation can take place.

Council President Richard Sakelik moved to approve first reading of Ordinance 1715, vacating a portion of right-of-way between Willamette Drive and Broadway Street, and set the matter for second reading. Councilor Teri Cummings seconded the motion.

**Ayes: Mayor Russ Axelrod, Council President Richard Sakelik, Councilor Teri Cummings, Councilor Bill Relyea, and Councilor Jules Walters.**

**Nays: None.**

**The motion carried 5 - 0**

Council President Richard Sakelik moved to approve second reading of Ordinance 1715, vacating a portion of right-of-way between Willamette Drive and Broadway Street, and adopt the ordinance. Councilor Teri Cummings seconded the motion.

**Ayes: Mayor Russ Axelrod, Council President Richard Sakelik, Councilor Teri Cummings, Councilor Bill Relyea, and Councilor Jules Walters.**

**Nays: None.**

**The motion carried 5 - 0**

[Agenda Bill 2020-07-13-03: ORDINANCE 1707, AMENDING WEST LINN MUNICIPAL CODE CHAPTER 4.000 RELATING TO THE SEWER POLICIES](#)

[ORD 1707 Information](#)

Interim City Manager Williams stated this is a policy proposal relating to sanitary sewer connections. This dates back to a Work Session held in December 2019. It has been on hold due to COVID and other priorities. Staff attempted to take Council's policy direction and turn it into an ordinance.

Public Works Director Calvert stated the ordinance is an update on sewer connections and providing some continuity and clarity to private sewer connections to the City sewer system. There are a couple of significant changes proposed in the ordinance. 1) clarification on lateral ownership, that it is owned and maintained by the property owner; and 2) extending the distance of the septic from 200 feet to 300 feet where the person would be required to connect. The only other thing that is a clarification item is there is one separate section about independent sewers. That is specifically targeted to multi-family and commercial developments consistent with surrounding jurisdictions. The table in the agenda bill goes over the details.

Mayor Axelrod asked about Section 3, Item (5)(a)(iii). *The building sewer does not pass through more than two other properties.* Why does it matter how many properties it goes through and should it have that language?

Public Works Calvert explained the language is consistently being used throughout the area. Typically, it gets to length. With private systems you can have laterals to manholes, it is different than a public system. The City does not want to have a situation where there could be a division of property that could compound the issue of the sewer line. The best practice is no more than two properties. The other three bullet points there make it work. If there is a special circumstance where the City would want that, a variance could be done or it could be part of the land use process to switch that out. There was a problem with prior language which said *except where otherwise approved* because it would be interpreted very loosely. There is a variance process already outlined in the Code that it could apply to and would accomplish that.

City Attorney Ramis agrees, to the extent the City can keep processes uniform, the City should use them rather than inventing the ability to flag variances each time something is developed.

Council President Richard Sakelik moved to approve first reading of Ordinance 1707, amending West Linn Municipal Code Chapter 4.000 relating to the sewer policies, and set the matter for second reading. Councilor Teri Cummings seconded the motion.

**Ayes: Mayor Russ Axelrod, Council President Richard Sakelik, Councilor Teri Cummings, Councilor Bill Relyea, and Councilor Jules Walters.**

**Nays: None.**

**The motion carried 5 - 0**

Council President Richard Sakelik moved to approve second reading of Ordinance 1707, amending West Linn Municipal Code Chapter 4.000 relating to the sewer policies, and adopt the ordinance. Councilor Teri Cummings seconded the motion.

**Ayes: Mayor Russ Axelrod, Council President Richard Sakelik, Councilor Teri Cummings, Councilor Bill Relyea, and Councilor Jules Walters.**

**Nays: None.**

**The motion carried 5 - 0**

**[Agenda Bill 2020-07-13-04: ORDINANCE 1711, AMENDING THE 2008 FRANCHISE GRANTED TO WEST LINN REFUSE & RECYCLING, INC., FOR SOLID WASTE, RECYCLING, AND YARD DEBRIS COLLECTION SERVICES](#)**

**[ORD 1711 Information](#)**

Interim City Manager Williams said the next two items are franchise agreements. There were a couple of questions in the pre-meeting that City Attorney Ramis and Director Calvert are here to answer.

Public Works Director Calvert stated there is a drive to put the franchise agreements annual rate calculations into the City's master fee schedule so the City can continue to consolidate all fees into the fee schedule even those related to prior franchise agreements, like the solid waste agreement. This clarifies and consolidates everything and puts everything on a regular tract for review rather than having them handled individually or separate from one another.

City Attorney Ramis stated there was a question raised about the fourth paragraph, *Whereas, the franchise granted consists of a continuing eight (8) year terms*. There is an unnecessary change from term to plural. It should read, *...a continuing 8-year term*. This is for an eight-year term and making the word *term* plural is confusing. He recommends striking the "s" from the end of the word "terms" in the fourth paragraph.

Public Works Director Calvert clarified this does not change the terms or the length of the franchise, it is just putting the fee schedule in the standard place.

City Attorney Ramis stated that is correct. The whereas statement just describes the franchise agreement that is already in place. It is just a matter of describing that as one term that extends on a rolling basis.

Council President Richard Sakelik moved to approve first reading of Ordinance 1711, amending the 2008 franchise granted to West Linn Refuse & Recycling, Inc., for solid waste, recycling, and yard debris collection services, with the minor correction of removing the "s" as described, and set the matter for second reading. Councilor Teri Cummings seconded the motion.

**Ayes: Mayor Russ Axelrod, Council President Richard Sakelik, Councilor Teri Cummings, Councilor Bill Relyea, and Councilor Jules Walters.**

**Nays: None.**

**The motion carried 5 - 0**

Council President Richard Sakelik moved to approve second reading of Ordinance 1711, amending the 2008 franchise granted to West Linn Refuse & Recycling, Inc., for solid waste, recycling, and yard debris collection services, with the minor correction of the "s" as described, and adopt the ordinance. Councilor Teri Cummings seconded the motion.

**Ayes: Mayor Russ Axelrod, Council President Richard Sakelik, Councilor Teri Cummings, Councilor Bill Relyea, and Councilor Jules Walters.**

**Nays: None.**

**The motion carried 5 - 0**

**[Agenda Bill 2020-07-13-05: ORDINANCE 1712, AMENDING THE 2012 FRANCHISE GRANTED TO KELLER DROP BOX, INC. dba ALLIED WASTE OF CLACKAMAS AND WASHINGTON COUNTIES/REPUBLIC SERVICES OF CLACKAMAS AND WASHINGTON COUNTIES, FOR DROP BOX AND SOLID WASTE MANAGEMENT SERVICES](#)**

[ORD 1712 Information](#)

Interim City Manager Williams stated this is a similar change to the ordinance just addressed. In the pre-meeting, a question arose about the deletion proposed to the language in 7.3.2 about rate adjustment criteria.

Public Works Director Calvert stated this is similar to the prior ordinance on solid waste. The last update with West Linn Refuse & Recycling was for residential standard pick up and collection. This is our franchise agreement that has been ongoing for a long time for individual drop box services where somebody calls and schedules a time typically when they are constructing or remodeling something at their house. This would be a one-off drop box need for service. The ordinance is a little more complicated as we tried to bring it more in line with what we did with West Linn Refuse & Recycling. We are deleting a lot of the language about rate and that language shifts to the fee schedule and we base that on a standard rate schedule. The City is deleting this language because it is duplicative. The rate schedule sets the rates. All other items the franchisee and City want to bring about in that conversation about rates and drop box services could be part of that discussion. In the fee schedule, the City is defaulting to the standard terms and fee schedule adjustments process as is standard in this region.

Mayor Axelrod understands why it is deleted. He liked the rate adjustment criteria and language in 7.3.2. He wants to make sure the criteria and language are not lost as it is shifted over to the standard master fee schedule.

City Attorney Ramis explained instead of the list, it is a definition of the law that is there with

the phrase *reasonable and necessary cost* in providing the service. It is the same essential definition, the same process.

Council President Richard Sakelik moved to approve first reading of Ordinance 1712, amending the 2012 franchise granted to Keller Drop Box, Inc. dba Allied Waste of Clackamas and Washington Counties/Republic Services of Clackamas and Washington Counties, for drop box and solid waste management services, and set the matter for second reading. Councilor Teri Cummings seconded the motion.

**Ayes: Mayor Russ Axelrod, Council President Richard Sakelik, Councilor Teri Cummings, Councilor Bill Relyea, and Councilor Jules Walters.**

**Nays: None.**

**The motion carried 5 - 0**

Council President Richard Sakelik moved to approve second reading of Ordinance 1712, amending the 2012 franchise granted to Keller Drop Box, Inc. dba Allied Waste of Clackamas and Washington Counties/Republic Services of Clackamas and Washington Counties, for drop box and solid waste management services, and adopt the ordinance. Councilor Teri Cummings seconded the motion.

**Ayes: Mayor Russ Axelrod, Council President Richard Sakelik, Councilor Teri Cummings, Councilor Bill Relyea, and Councilor Jules Walters.**

**Nays: None.**

**The motion carried 5 - 0**

**[Agenda Bill 2020-07-13-06: Highway 43 Metro Get Moving Letter of Commitment Hwy 43 Letter of Commitment](#)**

Mayor Axelrod stated Metro is in the process of determining a final decision on putting forth to voters in November the T2020 Regional Transportation Measure. There has been push back from some business organizations concerned about the timing, the pandemic, and economic impacts that are real and significant. There are many who feel the need is critical to move forward to continue to work on transportation infrastructure of which this is a key element of corridor work designed to improve corridor function, safety, livability, and reduce climate impacts and address equity issues associated with those transportation improvements. Tonight, this agenda item is to approve or not approve a letter in support of the measure moving forward. Many cities are approving such letters.

Interim City Manager Williams stated following up on Council's discussion with Councilor Lewis

and Tyler Frisbee regarding the status of Highway 43, this is obviously a very important project to the community. The funding allocation by years scenario is worth looking at to see where all the regional projects are scheduled to be and what the budgets are. The proposed letter commits the City to operate in accordance with Councils' expenditure plan. This letter is a pre-condition for the City and staff recommends approval. Staff wants to make sure Council knows what it means.

Public Works Director Calvert stated this is not an Intergovernmental Agreement (IGA). By approving the letter of commitment, Council is sending a strong signal to Metro that they are in favor of the 2020 Transportation measure and having Highway 43 included in that list of capital projects. Highway 43 is at the bottom of the list. The City is very fortunate in working with Councilor Lewis and the prior work the City committed to Highway 43 with the bond fund package to be able to move forward design to be included in this process. The City can be part of this collaboration to move forward. The letter of commitment speaks to being a lead agency and partner on the Highway 43 project. West Linn is identified as being a leading partner agency and deliverer of the projects. This nonbinding letter of support shows Metro we support this moving forward. If the measure passes voter approval, staff would be following up with IGAs with the Oregon Department of Transportation (ODOT) and Metro on delivery of the project. Participation, meeting Metro standards, fostering public engagement, following the design development process, and adhering to their conditions. This is mostly a reimbursement opportunity. The City spends the funds and gets reimbursed by Metro. As this moves forward financially, the City needs to deliver. This would be the largest capital project the City has ever delivered. Improvements on Highway 43 have been talked about, documented, and planned since the early 80s. To see this on the list and moving forward is a great thing for the City of West Linn.

Mayor Axelrod stated State Transportation Improvement Program (STIP) funding has been received to help the City fund and implement the first phase of Highway 43 improvements north of Hidden Springs. With the STIP funds and other funds allocated this year, and working with our regional group, we punted to some other municipalities; particularly Milwaukie that helped us get the STIP funding and pushed the funding to their projects with the understanding that this measure by Metro would be moving forward and was a way for us to fund our important Highway 43 project. It is particularly critical now because of the cost of the Highway 43 plan and having to meet ODOT and federal standards is around three times what it would otherwise cost us to build, somewhere in the \$60 million range. This is an opportunity to get the rest of Highway 43 to the Arch Bridge area funded and moving forward.

Councilor Relyea asked Director Calvert to talk about the language where it describes West Linn as the lead agency and ODOT as the owner. This letter indicates West Linn would become the lead agency. Is there a Memorandum of Understanding (MOU) or IGA with ODOT that designates West Linn to be the lead agency or how does the City become a lead agency in this matter.

Public Works Director Calvert stated the City has a current capital project with ODOT for

Highway 43 at Hidden Springs and north. In that capital project, the City started the process with an existing IGA with ODOT that identified the entire length of Highway 43, it helps identify which parts would be City owned and operated and which would be state owned and operated. If this passes, he sees expanding on that existing agreement to identify how the City becomes the lead agency in this case. On the existing project, ODOT had to be the lead agent due to the federal funds involved in that project. When there are federal funds in a project, you have to be a certified agency, you have to have a laundry list of credentials in your agency to be able to carry a federally funded project forward. All federal projects are more expensive than locally or regionally funded projects. This project would be 100 percent funded by regional funds which at the federal level are considered local funds; West Linn can move into the position of being the lead agent and delivering the project. That has a lot of benefits because the City is no longer following an ODOT process where all the decisions are made in Salem at the state level. If the City is the lead agency, it is kept local and focused on the City's standard process. This helps drive the project forward much more cost effectively and quicker. If the measure passes, Council will see a lot of IGA work with ODOT because ODOT owns the arterial corridors and each local agency will be doing the same thing in identifying how they become the lead on that project. Over time, transferring some of the maintenance to the local agency will occur.

Councilor Relyea asked if Director Calvert anticipates a change in staffing, a need for additional staff to accommodate that additional work load.

Public Works Director Calvert stated that is one possibility. The City has engaged consultants already in the design of this corridor and this process. It depends on how much time and effort and how much the City wants to delegate to a consulting firm. This is an operational question he hopes will get discussed in the future.

Interim City Manager Williams stated the City learned a lot in how complicated these projects are by the Main Street project. COVID has changed how the City had to deal with the Main Street project. A project with this scope and scale of the Highway 43 improvements is a major project that will require communication work and community involvement at a scale the City has not done before. The City is going to have to ramp up in order to meet the demands of that project. Fortunately, the City does not have to figure that out yet and cannot because the funds have not been approved by the voters yet and will not be until November.

Public Works Director Calvert stated staff can work with the consultant on the technical items. When the City gets into fostering engagement and communication, whether on design or construction, having someone available full time would be required for something of this scale.

Councilor Walters has heard the term *orphan highway* for Highway 43 and others that are local arterials managed by ODOT that have not received the attention they deserved. When staff talks about the lead agency and West Linn taking over the project, is the City taking over ownership of Highway 43? It would be a big problem for the City if there is a major failure.

Public Works Director Calvert stated the current IGA with ODOT outlines that as improvements are made to the corridor, and in this case the federally funded work from Hidden Springs north, everything beyond the face of the curb, meaning the curb, sidewalks, bike facilities, and traffic signals, those kinds of items would be owned and operated by the City. The through movement would be maintained by ODOT. The state has been looking at orphan highways for a long time. Typically, with orphan highways, there is real complexity trying to move a piece to a local agency for maintenance, particularly a city. Often the better approach is for the state to delegate that to the county, and the county can work on an agreement with the individual cities for their pieces. That gets really complicated with Highway 43 because of things like the arch bridge which is a difficult, expensive thing to own, operate, and maintain - particularly for a local agency. Something like a sidewalk is not as big of a challenge or issue as a bridge or culvert or something like that. Under the current agreement, the goal is to slowly move ODOT out of the everyday maintenance of Highway 43 and move the City in. That will be a big point of the discussion moving forward, not only for this corridor, but for all of the corridors. The list of proposed routes is targeting these arterial networks and critical infrastructure. ODOT and Oregon Transportation Commission do a great job of prioritizing freeway work and maintenance to the detriment of the arterials. That is a conversation that will have to move forward as we see funding for these improvements. In the past it was if you give us funding, we will take over maintenance; however, no one ever had the funding. If this regional measure passes and the City does receive funding, that will allow for an honest conversation with ODOT about what they see as their role, what the City sees as their role, and what the County sees as their role. That gets even more complicated with enforcement, hazmat response, other items that go beyond the snow plow and the pot hole patching.

Councilor Walters wants to make sure when the City does have these communications, that the Council is included. She is concerned if we are going to talk about taking local ownership over, she wants to make sure there are plans in place to do that and that is a conversation we all need to be at the table for.

Mayor Axelrod stated that has not been in the plans, those discussions are in the future.

Council President Richard Sakelik moved to approve the non-binding letter of support for the Metro Get Moving 2020 Transportation Measure and authorize the Mayor to sign the letter on behalf of the City Council. Councilor Teri Cummings seconded the motion.

Councilor Cummings appreciates this region-wide effort to see local highways improved to get people moving in a more efficient manner from one end of metro to the other. She appreciates that Highway 43 is a higher priority than it was four to five years ago when the City started advocating for this. She is glad it is coming forward and it will be a difficult time to attempt this right now; but it is really important. Council should do what they can to advocate for this.

Council President Sakelik gave a shout out to staff. The priority put on Highway 43 and the previous Council testifying in front of Metro for funds, and the current Council all deserve pats on back for continuing to move this forward because it is such an important part of our life here in West Linn and others who rely on Highway 43. Citizens can take umbrage that Council is putting a priority on this as is necessary for our City.

Mayor Axelrod agreed it has been a significant effort for this Council and previous Councils. He requested staff make the signature block his standard full name signature block, Russell B. Axelrod.

**Ayes: Mayor Russ Axelrod, Council President Richard Sakelik, Councilor Teri Cummings, Councilor Bill Relyea, and Councilor Jules Walters.**

**Nays: None.**

**The motion carried 5 - 0**

**[Agenda Bill 2020-07-13-07: Highway 43 Transportation Growth Management Grant Application](#)**

**[Hwy 43 TGM Information](#)**

Mayor Axelrod stated this is to help with planning and zoning along the Highway 43 corridor with respects to improvements and upgrades for integrating Highway 43 into the community.

Interim City Manager Williams stated this item is related to the last item. If the City is fortunate enough to have funds to completely revitalize the transportation elements of Highway 43 through West Linn, it would make sense to also look at how the highway connects to the neighborhoods on each side of it, what the zoning is on the highway, and how this can be made into a corridor the community can be proud of. This is an item that has been on Council's docket for some time. Staff has identified the State's Transportation Growth Management (TGM) Grant Fund as a source of money to help get this plan going. On the agenda is a letter of support required by the state for submittals to the TGM fund. Essentially it says this is a priority of the community that Council supports. The City is looking to use these funds to create a plan for Highway 43. If the grants were awarded, the state would tell us how many funds the City has to work with. The City would use a consultant and then the planning process would begin: neighborhood involvement, Planning Commission, Economic Development Committee, and others. Associate Planner Jennifer Arnold is already beginning to have conversations with the neighborhood associations beginning with Robinwood who is working on a neighborhood plan. This is an opportunity for the City to get their foot in the door for some grant funds.

Councilor Relyea stated that Council has talked extensively about having inner-city transportation available. He wants to incorporate that into this transportation planning process.

Interim City Manager Williams stated the project is to enhance service on Highway 43. It makes sense to design the rest of the transportation system plan, for instance, bike and pedestrian and what the uses are along Highway 43 to encourage the use of transit. The City would not use this grant to look at city-wide transit service, that would be outside the scope, but certainly the neighbors alongside would be something the City would want to do.

Councilor Walters does not know how the Robinwood Neighborhood Association is outreaching to the majority of Robinwood residents regarding the plan, to make sure everyone's voice is heard for design standards for streets. Some people would like sidewalks, an alternative sidewalk, or no sidewalks. Parents of younger kids prefer sidewalks and connectivity to the schools and are not always available to make a neighborhood association meeting.

Mayor Axelrod stated the sidewalk issue that relates to older neighborhoods is being looked at. In terms of this Highway 43 corridor, it is specific to this immediate corridor, function, and zoning through this area. He has it on his schedule to make a Robinwood meeting so he will make it is sure brought up and looked at.

Council President Richard Sakelik moved to approve the Transportation and Growth Management Program Grant Request Letter and authorize the Mayor to sign the letter on behalf of the City Council. Councilor Teri Cummings seconded the motion.

**Ayes: Mayor Russ Axelrod, Council President Richard Sakelik, Councilor Teri Cummings, Councilor Bill Relyea, and Councilor Jules Walters.**

**Nays: None.**

**The motion carried 5 - 0**

#### **[Agenda Bill 2020-07-08: Public Records Request Fees](#)**

**[Public Records Fee Information](#)**

**[Councilor Cummings' submittal](#)**

Mayor Axelrod stated Council went through the public records fee structure and approved the structure; however, wanted to come back to it after Staff collected additional information and background about the fee structure.

Interim City Manager Williams stated this is an item that has been talked about a couple of times on recent agendas. Staff believes they have all the information Council was looking for previously to form the discussion. The staff report includes a summary of the types and volume of records requests, the length of time each of those takes to fulfill, the process for redactions which touches upon the fee structure for these requests that include the City Attorney's involvement. There are a couple of examples of larger public records requests and the time

and cost it takes to fulfill those, and the types of requests the police department gets. The discussion is to complete Council's consideration of the Master Fees & Charges or to amend a decision made in the past. Also in the packet is information Councilor Cummings' had previously submitted regarding public records and the value of the access to public records which is something everyone on this call values. Staff recommends changing the \$35 charge back to the \$25 charge and reinstating the police records fees after review of the requests the City receives. Part of the discussion is to differentiate between routine information that is used in traffic accidents versus more transparency information and if Council would want to make a distinction between those two items.

Acting Police Chief Mahuna stated the redactions for police reports are more lengthy because of information that cannot be released, like juvenile information, so that takes more work than just releasing some form that was submitted to City Hall.

Administrative Assistant Carson-Hall stated police public records are a unique body. Many records are layered and they require staff to go through them literally word by word. There may be a case where someone may be requesting a copy of a record that is very intertwined with protected information about mental health, a juvenile record, records that have been expunged, or there were sex abuse allegations so there was a Department of Health and Humans Services (DHS) referral involved. They are very layered and there is quite a bit of information staff must go through and on top of that, staff must do basic redactions like email addresses and social security numbers.

Councilor Cummings stated it looks like the standard record requests pertain to building permits, contracts, vendor history, water shutoff, vacant property, copies of checks, backflow inspections, a lot of records that people need to conduct business. She asked how often redactions are necessary on these types of records.

City Recorder Mollusky explained on all the building permits, all the personal emails and phone numbers need to be redacted because the person requesting the records may not be the homeowner or it may be a previous homeowner. Those are the quick ones that take around 15 minutes and the City does not charge for them.

Councilor Cummings stated that was one of her main questions, if redactions are being done for free or not. She recommended the City eliminates as many of these fees as possible because she sees records as being a service the City provides and mandated, that the City is required to do this due to open record laws. She sees these records as being similar to volumes of information as collected in the library. These records belong to the public, should be available to the public, and the City tries to make it as easy as possible to use the library and the library does not charge people unless they have a fine. They are not charged if they ask the library to help find something or to help with research. The public pays to collect and archive these records. The records are not doing much good unless people can have free and unfettered access to them. Her goal is to make this more possible. She has had her own

problems getting ahold of records. Once as a City Councilor she was told she would have to pay over \$1,000 for a records request. That kind of thing gives people the feeling that these records are being kept secret. That is why the City should reduce the fees as much as possible. If the City is going to have a fee at all, the quote should be raised so \$25 versus \$35, the \$25 is 10 years old or so. This figure needs to be updated because that is a threshold. Once the records reach that amount, then the person has to give part of a deposit of that amount if that amount exceeds \$25. The costs have gone up. To leave it at \$25 means that more and more records requests are going to have to go through this hassle. Staff has to tell the person they need to come up with money, they have to get that money from them, and it causes delays. If the amount happens to be substantial like that time for her it was over \$1,000, that is adding another burden that gives the impression that there is not a lot of interest on the part of the City to share these records. It is good to look at each one of these and get rid of it as much as possible. She wants to increase that amount so more people and staff do not have to go through that trouble. Regarding the Police records, just like people wanting to have information about their property, their business transactions, their backflows, etc. people who have had involvement with law enforcement also would like to have the records of the case they are concerned about especially if it involves them. People have a right to see what was written about it. It is one of the functions of the City to be doing this, just like one of the functions of the library is to be cataloging the library materials, putting them on the shelves and taking them off of the shelves when people want to check them out. The library service is not required by law, but this one is.

Councilor Walters agree in all the principles of sharing open public records. She read out of the Oregon handbook about public records under Section 11, Fees. Under the law, a public body may require a person to pay for the expense required to release public records. Fees are calculated to reimburse the agency for its actual cost in summarizing, compiling, or tailoring a record to meet the person's request and no more. Charges may include time spent locating the records, reviewing in order to redact exempt materials, supervision, attorney time, and copying and sending records. She understands that is part of the law. Especially when our resources are lower, it is important to have some mechanisms to recoup some of those costs. The City does waive fees sometimes. She wondered if the City could have people sign a form saying that it is financially burdensome to them to pay the fees and the City could work with them. She appreciates the example of library; however, the library is things that people check out and not private information of citizens. The difference is the library does not have to edit books before they check them out to protect the privacy of the author. The City has the obligation to protect citizens. The City should make it as low of a barrier as possible to have these open records. Also knowing that our resources are scarce and it can quickly add up and we could be in a deficit.

Councilor Relyea noted he has had to pay fees to access the court system for his legal research. It was standard that a certain amount would be charged to access the public record electronic filing system for the state and federal archives, and he did not believe the City archive should be different. The City needed to have some means to recoup the costs, and the fee needed to be based on the actual costs, the extent of the request, and the amount of work required of

staff in preparing and redacting the records according to privacy rules. He did not believe Council was working against people's access to public records just because it charged a fee, as long as the fee was not exorbitant. He suggested a 10 or 15 cent charge per page. He was pleased with staff's assessment of what other municipalities were charging to ensure the City's fees were consistent.

Administrative Assistant Carson-Hall noted Item 10 of the Public Records Law on the City's website allows costs to be waived by the City Manager or by a department head based on findings that it was in the best interest of the public. Staff absolutely believes every individual should have access to a record about them or someone else, but it is also necessary to protect the City against liability if information is inadvertently released. Staff also utilizes sound judgements and works with individuals to locate the information they need and could be given in the most cost effective way. Often, staff learns in conversation with a requestor that they do not need all of the information they were requesting and are able to recommend more appropriate information at less cost. She believes no requests over \$100 had been made this year, and most requests cost below \$20. No charge is applied for victims of crimes or for Department of Motor Vehicles (DMV) crash reports, but even those need redactions. She has been in her career for about 15 years and could not recall a situation where a citizen's concerns could not be worked out by bringing a request to a supervisor, or doing everything possible to make records available while protecting the public's private information.

Councilor Cummings referred to a general public records request and noted the previous Finance Director and current Finance Director Breithaupt had both stated the amount the City collects was not significant and is under \$2,000 per year. Recouping costs is not a great concern for her because along with the requests came delays. For the police records, requestors have to pay \$15 up front. That amount would provide the equivalent of about 70 pages of regular public records, but with no associated charge. She does not believe it is equitable that crime victims are able to obtain their records for free, but the accused could not.

Administrative Assistant Carson-Hall clarified that when someone is a victim of a crime that did not have a suspect, such as a credit card fraud in another state, no charge is made for records. In the case of an arrest or when charges are brought, victims do not receive a copy of the records. When a case is sent for prosecution or consideration of prosecution, records are essentially locked down and will be released only to the prosecutor until adjudication. She confirmed that during adjudication, someone who cannot afford a lawyer will be able to see of what they are being accused. Staff prides themselves on being expeditious with routine requests whereas in some agencies, answers cannot be obtained for days. The \$15 fee will be paid when the report is retrieved, but only if it is due. Staff tries to eliminate delays, even though staff time is limited, along with protecting the City's interests through appropriate redactions.

Councilor Cummings pointed out that charging \$15 for police records was adopted in the summer of 2018 and was not in the Master Fee Schedule before that.

Administrative Assistant Carson-Hall could not recall when charging fees began, but fees for copies and police reports has been required by all the agencies she has worked for. She has been with the City nine years, and the fee has been charged for as long as she could remember. The fees the City charges are some of the lowest available.

Councilor Cummings requested to see the policies Administrative Assistant Carson-Hall was operating under until 2018 and how much money fees have garnered for the City.

Mayor Axelrod noted that as indicated in the materials and in the analysis provided by staff, the City's rates were well within or on the lower end of that charged by all the other cities. He would like to see a concerted effort to minimize the expense, but recognized it is also appropriate to recoup certain costs at times. He understood Council's decision today is whether to reduce the fee from the \$35 threshold to \$25. He believed Councilor Cummings had stated the \$35 fee was implemented to address inflation, and the higher costs that had not been addressed in years.

Council President Richard Sakelik moved to Change the \$35 charge for estimates to \$25 to match Public Records Law and reinstate the Police Records Requests fees. Councilor Bill Relyea seconded the motion.

Mayor Axelrod said he did not recall in staff's analysis a significant distinction between changing the charge from \$35 to \$25 and asked if the idea is to be consistent with public records law.

City Recorder Mollusky stated she has put the change in the analysis because it is easier for staff to be consistent with state law. She clarified she is required by the state to inform a requestor if the fee will be over \$25 an hour. If the charge is set at \$35, she would also need to explain the discrepancy in the fee set by the state and the one set by Council in the letter she is required to send to a requestor.

Councilor Cummings said the state set a low bar for minimum requirements and she is asking the City to do better. She has recommended the public pay half of any charge over \$35 up front and the remainder when they receive the records to enable them to obtain their records in a timely manner. Fewer transactions will also take less staff time.

Mayor Axelrod pointed out that is a different matter and the motion is to approve reducing the fee from \$35 to \$25. A 'no' vote would keep the system as is with a higher threshold, and a 'yes' vote would keep the system as is with a lower threshold.

**Ayes: Council President Richard Sakelik, Councilor Bill Relyea, and Councilor Jules Walters.**

**Nays: Mayor Russ Axelrod and Councilor Teri Cummings.**

**The motion carried 3 - 2**

*Council returned to this agenda item following Agenda Item 6. City of West Linn Response to COVID-19 Public Health Emergency.*

In response to an inquiry by Council President Sakelik about voting on the public records fee schedule, City Attorney Ramis explained the two methods that can be used to allow a Council member to change a previous vote.

Council President Richard Sakelik moved to Reconsider the vote on Item 5g. Public Records Fees. Councilor Bill Relyea seconded the motion.

Mayor Axelrod reiterated that a 'no' vote would support keeping the fee at \$35, and a 'yes' vote would reduce the fee to \$25.

Councilor Cummings reminded that a 'yes' vote would also mean having a different fee structure for both public and police records, and would undo Council's decision at the June 8<sup>th</sup> meeting.

**Ayes: Mayor Russ Axelrod, Council President Richard Sakelik, Councilor Teri Cummings, Councilor Bill Relyea, and Councilor Jules Walters.**

**Nays: None.**

**The motion carried 5 - 0**

Council President Richard Sakelik moved to change the \$35 charge for estimates to \$25 to match public records law and to reinstate the police records request fees Councilor Teri Cummings seconded the motion.

Council President Sakelik clarified Council is attempting to make the fees consistent between the City's public records and the Police Department records.

Councilor Relyea suggested more homework is needed on this matter before Council voted.

Councilor Teri Cummings moved to Amend the motion to change the \$35 charge for estimates to \$25 to match public records law and to reinstate the public records request fee to the rate in the Master Fee Schedule prior to Council's June 8, 2020 decision to change it. Council President Richard Sakelik seconded the motion.

**Ayes: Mayor Russ Axelrod, Council President Richard Sakelik, Councilor Teri Cummings, and Councilor Bill Relyea.**

**Nays: Councilor Jules Walters.**

**The motion carried 4 - 1**

Council President Richard Sakelik moved to Change the \$35 charge for estimates to \$25 to match public records law and to reinstate the police records request fees to what they were in the Master Fee Schedule prior to Council's June 8, 2020 decision. Councilor Teri Cummings seconded the motion.

Councilor Walters stated that at the June 8<sup>th</sup> meeting, she had specifically asked about the Master Fee Schedule changes and had asked to do a work session on the Police Department budget. She appreciated the conversation with Administrative Assistant Carson-Hall earlier in the meeting as it provided good information on what is charged and on the complexity of public records requests. She is uncomfortable with voting on the matter now without a substantive discussion.

Councilor Cummings stated she would be voting 'no' because she wants access to public records to have as few barriers as possible. The \$35 fee helps accomplish that. As Council discussed at its last meeting, some Councilors would like the police record process to be in line with the regular record process so it does not appear to have barriers. Even the \$15 fee takes extra time and trouble to obtain records. She has been informed more than once that revenue earned through records fees is less than \$2,000 per year, and she doubts that it is even double that amount for the Police Department, which is why she is comfortable going forward. Council has requested the information, but none of it is provided in the very long staff report, and Council cannot review the minutes of that meeting because they had not been produced. Council rules would have required adoption of the June minutes tonight; the alternative is to listen through hours of video.

Councilor Walters clarified that her position is not about creating revenue but rather about compliance with the law and the ability to recover actual costs if the situation warrants it.

Councilor Bill Relyea moved to amend the previous motion to table the matter until the June Council meeting minutes were available and to allow time for further discussion. Councilor Jules Walters seconded the motion.

Councilor Relyea noted the staff report and the wording of the motion had created confusion. Clarification is needed for Council and for the public. Council has had robust discussion, but cannot refer to it because the minutes are not available. For all of those reasons, he believes it is prudent to table the discussion.

Council President Sakelik stated he too will be voting 'no' until he has a thorough understanding. He supported tabling the item until more information is presented.

Councilor Cummings demanded a date certain if the Council decided to table the matter because way too many issues before Council got delayed to the point where when they were revisited again, discussions had to start over. It was frustrating and a huge waste of time. The record fee matter was simple: Decide whether to roll back the decision Council made at the June 8<sup>th</sup> meeting, or whether to stay with that decision. A long discussion was held at the last Council meeting and Council voted to put the changes into effect.

Interim City Manager Williams believed the June minutes will be available at the August meeting. He noted on Page 3 of the memo from the Police Department, the estimate of the police records fees charged for fiscal year 2019-2020 was \$4,100.

Council agreed to discuss the matter further at the next regular or special Council meeting in August or September.

**Ayes: Mayor Russ Axelrod, Council President Richard Sakelik, Councilor Teri Cummings, Councilor Bill Relyea, and Councilor Jules Walters.**

**Nays: None.**

**The motion carried 5 - 0**

*Council proceeded to Agenda Item 7. Diversity, Equity, and Inclusion Discussion.*

**~~h. \*\*Agenda Bill 2020-07-13-09: RESOLUTION 2020-04, ESTABLISHING REVISED BYLAWS FOR THE WEST LINN COMMITTEE FOR CITIZEN INVOLVEMENT\*\*~~**

[Planning Commission Recommendation](#)

[Council Email](#)

[May 13, 2019 CCI Bylaws Information](#)

This item was removed from the agenda.

## [City of West Linn Response to COVID-19 Public Health Emergency \[10 min\]](#)

### ~~a. Extend State of Emergency Declaration~~

This item was removed from the agenda.

Interim City Manager Williams reported West Linn is in a status quo for COVID-19. Diagnoses are rising throughout the country and in Oregon, and the City is waiting on further reopening plans from the county, state, and federal government. Precautions are continuing to flatten the curve. He requested that community members stay safe and follow precautions. In his City Manager Report last Friday, he noted the state issued a third round of business assistance matching grant funding, and staff will put in another application for \$10,000 for other businesses that might need funding. Another round of CARES funding is also coming up and it is hoped the City will get back its original investment in the business assistance grant program.

Mayor Axelrod noted the Governor had decided today to require masks outdoors in settings where distancing could not be maintained. He encouraged people to wear masks in public because it is the one defense available against COVID-19.

Councilor Relyea added that today the Governor has also banned indoor social gatherings of more than 10 people.

Councilor Cummings noted she has been receiving emails from local citizens through an organization called myvoice@oneclickpolitics.com urging mask-wearing to be a choice. The email questions the evidence that masks reduce the transmission of viral respiratory infections, alleges harm from wearing them, and states it might be unconstitutional to require wearing masks. She has spent most of her life in health care and wore masks to protect her patients; not wearing one for protection is beyond her understanding. Masks are not perfect, but are the best thing available right now to prevent transmission. She believes it is extremely important to wear a mask around people who are not in one's immediate family. She understands people are losing patience and that the pandemic is causing an economic impact, but she supports the mask requirement unless it is a health hazard to wear one. She asked that people who are emailing her to think about that and consider protecting themselves and others as a matter of courtesy also.

Councilor Relyea believed it is important for people to understand that hospitals have very limited infection control units and even fewer acute infection control units. Hospital resources in areas where people do not wear masks are quickly overloaded and unable to control the disease.

Mayor Axelrod spoke to an incorrect and unscientific opinion being circulated that said while more cases are being seen, deaths are not increasing, so being careful is unnecessary. The fact is that deaths from COVID-19 followed weeks after contracting the disease, so the effects of hospitalizations and deaths from large surges just starting will not be seen now. Also, many other complications are associated with COVID-19 besides death, and those complications are

not yet thoroughly understood. He agreed wearing a mask is also a courtesy issue and not a political matter. Some health complications prevent wearing a mask, and Council understood that, but other people should be wearing them.

*City Council revisited the discussion and decision regarding Agenda Item 5.g. Public Records Request Fees at this time.*

### Diversity, Equity, and Inclusion Discussion [20 min]

#### **\*\*Oversight Task Force\*\***

Mayor Axelrod stated over 60 applications have been received to serve on the DEI Task Force representing a diverse spectrum of the community. At the last Council meeting, the Councilors agreed to supply their recommendations for Task Force members to the Interim City Manager. He added that he can use more professional advice regarding the make-up of the Task Force and for ensuring it had the right expertise.

Councilor Relyea noted a lot of frustration and anger was expressed by the public about the shortcomings in police accountability. Portland is taking steps to assemble a new committee with greater police oversight. West Linn City Council has learned a lot in its last few meetings, especially during the meeting with Michael Fesser and the public. Councilors at large have heard that the citizens, students, and children would like to be part of the process because their livelihood and their futures would be affected. Testimony has also suggested a personal services agreement to bring Michael Fesser and Rob Ward on as consultants. He agreed with those suggestions because he believes it is necessary to include people with capability and who have lived a life and understand the hardships society has caused and the hurt caused to communities of color. Closing the application period and not doing a more robust outreach is not sufficient to let the people of color in the community know that Council is moving forward with the Task Force and that they can apply. He did not see where the application asks about race and gender. While those questions may offend certain people, they are typically asked. The questions do not necessarily need to be answered, but the knowledge of whether the applicants are people of color would be helpful so they can be given preference and be contacted and included as much as possible.

Councilor Walters stated Council has had conversations about the Task Force since February and it has been very important to her that the committee is made up of people most affected by the lack of accountability in the Police Department. She is conflicted about asking for demographic information in the application, but perhaps a broader conversation would have been helpful. Sometimes it is necessary to just step aside and allow people of color from the community to do the work, and she believes that is the point Council had reached in making decisions in this matter. She has done a lot of personal outreach to get people from West Linn and some from other areas to apply. The original intent is to have the Task Force operational by June; with August's break, they would not connect again until September. October will be pushing into holiday time and policy changes are planned to be considered at the beginning of

next year. She is hesitant to have Council appear like it is kicking the can down the road when a great pool of applicants is already available.

Councilor Cummings stated she is impressed by the pool of applicants. She has started by putting a high priority on people of color or on people who have been historically marginalized. The only gap in the group of applicants is apparently students. She has been unsure whether people from other cities will be considered; one applicant in that criterion would have made her list. If not, that person will be a good speaker to work with the Task Force. A wide spectrum of life and work experiences is necessary for a successful Task Force, but she believes a good mix of people had applied. Establishment of funding to make the Task Force permanent must also be discussed. The Task Force will make a recommendation to Council about the kind of police oversight committee to form and be adopted into the municipal Code. How to staff and budget for the committee also needed to be identified.

Councilor Walters believed opportunities are available to have a DEI Citizen Advisory Group and perhaps a student group as well. It is important to hear everyone's voice. All Task Force meetings will be public and people can attend and speak if they wished.

Mayor Axelrod disagreed with the comparison to the Portland situation. The policing there had an entirely different structure and needs than what was seen in West Linn. He believes the Task Force should assist Council in evaluating policies and help address the question about the level, approach, focus, and depth of oversight needed in the City. The level of effort and the funding for a Police Department the size of West Linn's is twice as much as Wilsonville's and Council needs to understand why and what is not working.

- In the review of the City's policies and procedures and make up it would also be appropriate to consider a traditional policing model versus one that will be more important for a suburb. The focus may be more on community policing and mental health counseling and other needs of the community as opposed to a police force that is dealing with the high crime and riots that are issues in other cities.
- He supports getting the Task Force up and running but is not ready to commit funding. Some of the work can be voluntary, and some commitments in the future will need structure and financial commitment. The City is waiting for the independent investigation results, which will also give the Task Force important feedback and is another reason to get the Task Force established and working.

Council President Sakelik noted Council has set the expectations that meetings will happen this month. After reviewing all of the applications, he noted a large number of diverse backgrounds. He preferred to select nine or 11 members for the Task Force. Council should move forward because this was Phase 1 of a potentially four phase project, if consideration of the budget and police force are set as tasks.

Councilor Relyea noted the way the Charter is currently written, the City Manager provides oversight of the Police Department and, because they operate within a union, as policies and

procedures change, negotiations are often in order to implement those changes.

City Attorney Ramis explained that the negotiations will cover parameters to be imposed on police procedures, how those parameters affect the union, and to what extent bargaining is necessary. Advice is needed on how to deal with the union because it will presumably be a central part of the conversation. The other issue is authority and oversight. It is possible a plan can be created that will require amending the Charter. He advised determining the desired policy and its structure and then considering what needs amending or changed in order to implement it. Council should start working within the limitations imposed and perhaps not get creative about thinking outside the box.

Councilor Walters stated she is grateful to the People of Color Caucus and the work they have done for years. She believes their framework will be very helpful in the process. She suggested giving consideration in another Council meeting on how to get people on board other DEI groups and to ensure that interested people knew they can apply to serve.

Councilor Cummings proposed setting the number of Task Force members, determining if the Councilors' individual Task Force picks meshed, and then to choose, by the next meeting, the group that fit the recommended number. Another outreach effort can follow to determine four alternates. That way, students of color and of the marginalized community can be invited to serve. She noted the National Association for Civil Oversight of Law Enforcement (NACOLE) has a lot of information on their website about the different models of oversight committees. She spoke to Michael Gennaco from OIR Group this morning and he advised that it is important to have a community component with police oversight. A community the size of West Linn will probably not need a full time staff person. These are the kinds of issues the Task Force will be considering in deciding how to form an official citizen oversight committee.

Mayor Axelrod noted one applicant has great expertise in negotiating union contracts and is also a neighbor he has spoken with. He believes the applicants represent a good spectrum of the community, and several overlap on the lists submitted by the Councilors.

Councilor Relyea said he would feel much better about putting forth a list, if Council had an opportunity to enter into a personal services contract with Rob Ward and Michael Fesser and to put them in charge of the Task Force. They appear to have expertise, not only in police business but were impacted directly by the police department. He will assemble a list, but will also ask Council to move forward on his recommendation.

Councilor Cummings believed it would be an honor to have Rob Ward or Michael Fesser as a facilitator. If not, it will still be an honor to have them involved in some kind of contractual arrangement. A professional facilitator will be necessary at a minimum.

Mayor Axelrod stated it would behoove Council to assemble a list of Task Force members to start the process. Consulting with the Task Force on the process is fine with him as well.

Councilor Relyea stated that some people of color in the community are reaching out to him to state they had not heard about the Michael Fesser matter, knew nothing about the Task Force, and had not had an opportunity to apply. That is why he asked to keep the application process open. Flexibility is necessary when considering other potential members of the Task Force to include members of the community who have been impacted and who have compassion and a desire to serve. He believed Council will be contributing to that desire by giving them an opportunity. He would like the ability to provide the application to those who approach him with an interest in serving on the Task Force. He agreed to assemble a list of his preferences from the applications and send it to Interim City Manager Williams by Friday.

Mayor Axelrod believed the City has done a good job on reaching out and expressed surprise that someone had not heard of the Fesser case. The list of applications received is impressive.

Councilor Cummings suggested at the next meeting, a group of nine or 11 Task Force members be identified with some flexibility for an extra three or four members. Meanwhile, Council can keep the announcement on the website, and anyone who wanted to be included in the communication list for the Task Force meetings could sign up, attend the meetings, and have the opportunity to give public comment.

Interim City Manager Williams noted identifying Task Force members is on next Monday's agenda. He reminded that the Councilors were to send him their suggestions for possible facilitators. Councilor Relyea had recommended Michael Fesser and Rob Ward, and they could be approached, but he would investigate others as well. He is also putting out some other inquiries.

Mayor Axelrod recommended reviewing the list after Councilor Relyea submitted his recommendations and then deciding on the next step at Monday's meeting.

#### [Mayor and Council Reports \[20 min\]](#)

#### [Clackamas County Climate Action Plan City Survey](#)

##### [Action Plan Survey Information](#)

Mayor Axelrod reminded Clackamas County is putting together its own Climate Action Plan that cities within the County could adopt or change to suit them. West Linn's Sustainability Advisory Board has given consideration to a plan, but backed off due to limited resources and other regional developments. Because the information request is general, Council agreed that Mayor Axelrod could coordinate a response to the survey on Council's behalf

#### [\\*\\*White Oak Savanna Recognition Sign\\*\\*](#)

##### [White Oak Savanna Sign Draft](#)

Council President Richard Sakelik moved to approve up to \$5,000 to create a sign to show appreciation for Roberta and Ed Schwarz's commitment to saving and establishing the White Oak Savanna as a city park. Councilor Teri Cummings seconded the motion.

Councilor Walters agreed that the Schwarz's had spent a lot of money and time with the park and it is very much appreciated by Council. However, many other community members have also spent a lot of time and money investing in parks. She wanted to be mindful of the precedent that will be set, to ensure the cost of the signs is considered, and to ensure equity in the decision. She recommended guidelines be set up to guide how the choices are made to avoid hard feelings by those not getting a recognition sign. She is uncomfortable with rewards being granted by a municipality to those able to invest large sums of money into City parks and facilities. A lot of people in town could never afford to do so, but were still working tirelessly on park and trail maintenance.

Council President Sakelik stated he understood and agreed with Councilor Walters' comments. He could not think of anyone who could come close to the actual commitment the Schwarz's have made. He acknowledged other volunteers had helped, but not to the Schwarz's level of investment of time and effort. It is important for this Council and future Councils to offer such recognition in various ways.

Councilor Cummings supported the sign because of the herculean efforts she had seen from the Schwarz's in the last 15 years. They had personally organized and coordinated with groups, put on huge events and fundraisers, worked tirelessly to get Metro and Oregon State Parks and Trust for Public Lands to match and contribute, and had a significant role in negotiating with the property owner. The sign should recognize all of the agencies and people that contributed or gave their time and effort. The Schwarz's still brought in volunteers every year for park maintenance. White Oak Savanna would not have been possible without them.

Councilor Relyea liked the idea of a sign, but the language needs work. The Schwarz's have gone out of their way to create partnerships with other agencies and people, and the sign needed to honor the joint effort and have the Schwarz's name at the top to indicate that they led the effort.

Mayor Axelrod agreed that the Schwarz's deserved to be honored, but he does not like the process requiring a commitment to \$5,000 for a sign. He believes the Parks Advisory Board should come up with the sign design and a message that is fitting. Many people and businesses are hurting right now in the city, and he did not support spending funds for a sign; however, he will vote 'no' due to not agreeing with the process.

Councilor Cummings said she would vote 'yes' and noted the amount for the sign could be less than \$5,000. Only a fraction of the original \$600,000 earmarked for parks play equipment will be spent now that consideration will be given to scaling back that plan, so \$5,000 can be used from that amount to avoid taking away from another project. She expressed frustration that

too much time is being spent on this item and for the delays in decision making by Council.

Council President Sakelik noted the proposed draft sign is just to give an idea of his thoughts. He would like to vet it with the Arts and Culture Council, not to give them a mandate but to coordinate with them. The other parks organizations and volunteers will be acknowledged in the narrative, which is why he proposed the sign's dimensions in order to capture all the information in one spot at the main entrance to the park.

**Ayes: Council President Richard Sakelik, Councilor Teri Cummings, and Councilor Bill Relyea.**

**Nays: Mayor Russ Axelrod and Councilor Jules Walters.**

**The motion carried 3 - 2**

**\*\*\*Willamette Falls Paper Company Potential Welcome Signage\*\*\***

Mayor Axelrod stated he had received a call from Brian Conan, CEO and Plant Manager, regarding a proposal by the company's owner who wanted to do something positive for the community. He was considering sprucing up the large, abandoned tanks on the mill's property and to put signage on them with a positive message about the communities. Mayor Axelrod did not believe money was being requested.

Interim City Manager Williams said he had not heard about a request for money for signage on the tanks, but staff had received questions about the Sign Code. He noted a bit of a gray area regarding large murals without a commercial message, and staff was trying to find a way to allow them to do something good and enforce the Code at the same time.

Mayor Axelrod noted the proposed mural would be on private property. He suggested the involvement of the Arts and Culture Council and perhaps involvement by local artists or to have a community contest.

Councilor Cummings supported Mayor Axelrod's proposal and suggested it might also be a good time to have a conversation about what icons or imagery defined West Linn. At a minimum, a welcome sign would be eye-catching.

Council President Sakelik would like to know if the proposal meant the City would put up the mural and the mill would donate the tanks and money.

City Attorney Ramis stated a wide latitude existed for messaging because it could not be regulated by the City. The key was to make sure the area of the sign was permitted on a structure. The use of a City logo would need approval by Council.

Council agreed to pursue options for signage on the tanks.

Mayor Axelrod announced he would distribute to the Councilors for their feedback an amicus brief prepared for an anti-discrimination court case filed in Philadelphia. The case concerned the rights of the City of Philadelphia to not be required to use groups that discriminated against the LGBTQ community. He was one of a handful of Oregon mayors against LGBTQ discrimination in Oregon. He planned to sign the amicus brief, noting the case had potential impacts throughout the country.

Council decided to hold a special meeting August 3 to discuss City Manager recruitment. A community meeting with Michael Fesser was proposed for August 5. Mayor Axelrod said he would reach out to Michael Fesser immediately regarding the date.

#### [City Manager Report \[5 min\]](#)

Interim City Manager Williams stated the City had received a communication from Terry Kruger's attorney with questions and a request for more information. City Attorney Ramis responded to the letter with an explanation of what was known and what could be said. Council had asked to include information about his response as a press release or otherwise provide it to the public, so it had been added under the Statements and News Releases section of the DEI Information Hub.

Councilor Cummings said it would not have occurred to her to look under DEI for investigation information and for the police oversight task force which she believed belonged in the police category.

Councilor Walters noted each Council meeting agenda had a DEI item which was perhaps why it was under that umbrella. She believed it would be more appropriate to have it in a separate location on the website.

Interim City Manager Williams noted Council had been covering items related to the police and DEI for months under the DEI agenda item. He agreed to pursue moving police-related items to their own page on the website. In other matters, he said he hoped to have something to present to Council in response to its direction for him to talk with the Center for Equity and Inclusion about the DEI project at the next Council meeting.

#### [City Attorney Report \[5 min\]](#)

City Attorney Ramis noted the City received in the past week a letter directly from Chief Kruger addressed to the City Manager. Council had received a copy. The letter contains some factual material related to the Fesser matter. He has determined that it is a disclosable public record and asked if Council would like it to be added to the City's website. Council gave direction to do so.

Council President Sakelik believed it was a personal letter to Interim City Manager Williams which stated he can share it with Council. The City received many such communications to

individual Council members and City Staff, and he asked how to determine which ones would be posted, adding that consistency in the treatment of such communications is important. Also, he is uncomfortable with not doing anything regarding Michael Fesser for all of August.

Mayor Axelrod believed the letter is of general interest to the public in reviewing the background and information around the Fesser case.

Interim City Manager Williams said staff has been considering the issue Councilor Sakelik raised. A lot of communication is received by the City. Almost all of the email he or Council receives on the policing topic has been selectively posted with each agenda. He asked for direction on posting to the DEI Information Hub page versus just the Council Agenda.

Councilor Cummings noted a keen interest is likely for a letter from the Police Chief's attorney to the City and the City's response. Posting every communication will result in a huge document and would be a lot of work for staff. She believes honoring requests to post information or testimony is sufficient. Chief Kruger is different as he is a key person in the case.

Council President Sakelik supported having the public see the letter and the responses to the questions raised, but wanted consideration given to what would be appropriate to post.

Mayor Axelrod suggested staff continue posting communications for people who might be interested in seeing it. He anticipated people would be interested in communications regarding the Fesser case. The letter will likely be included in the investigation's findings and the report from OIR Group.

Council President Sakelik suggested Council review communications on a case-by-case basis to assist staff in deciding what to post.

Mayor Axelrod agreed that Council should be making those decisions.

### Public Comment

Tom Meier noted he has never had a problem with a public records request. He has been treated very well by staff who had been very transparent, even though at times he has been refused information by the Parks Department. He asked that the pickleball project be placed on a timeline. He believed he has answered the perceived problems regarding the parking. It would be nice to present a request that the Parks Department go forward on the project. He requested a short time during a Council executive session to present a PowerPoint and discuss a matter that applied to many residents of West Linn including City Attorney Ramis due to the legal overtones.

City Attorney Ramis clarified that an executive session cannot be set without knowing the subject matter. Once the subject is known, it will then need to be determined if it qualified for an executive session under statute. Also, Council will need to determine if they wish to hold an

executive session on the subject.

Tom Meier confirmed he would provide the subject matter and basis of his request to Council for a determination or a decision.

**Adjourn**

**\*\*These items added at the July 6 Work Session\*\***

**\*\*\*These items to be added to the Agenda\*\***

DRAFT



22500 Salamo Road  
West Linn, Oregon 97068  
<http://westlinnoregon.gov>

# WEST LINN CITY COUNCIL MEETING NOTES July 20, 2020

## [Pre-Meeting Work Session](#)

## [Call to Order](#)

### **Council Present:**

Mayor Russ Axelrod, Council President Richard Sakelik, Councilor Teri Cummings, Councilor Bill Relyea, and Councilor Jules Walters.

Councilor Teri Cummings joined the meeting at 1:20:02

### **Staff Present:**

Interim City Manager John Williams, City Recorder Kathy Mollusky, IT Director Shane Boyle, and City Attorney Bill Monahan.

This meeting was conducted via Webex due to COVID-19 and federal and state restrictions on public gatherings.

### [Approval of Agenda](#)

Council President Richard Sakelik moved to approve the agenda for the July 20, 2020 West Linn City Council Meeting. Councilor Jules Walters seconded the motion.

**Ayes: Mayor Russ Axelrod, Council President Richard Sakelik, and Councilor Jules Walters.**

**Nays: Councilor Bill Relyea.**

**The motion carried 3 - 1**

### [Public Comment \[10 min\]](#)

There were none.

### [Announcements, Proclamations, and Recognitions](#)

#### [If I Were Mayor Student Contest West Linn Winner-Tealia Jud \[10 min\]](#)

##### [If I Were Mayor Essay](#)

Mayor Axelrod announced that notice was received just before today's meeting that Tealia Jud was unable to attend but would watch the recording of the meeting at a later date. Tealia Jud's essay also won second place in the state competition.

### [Scheduled Presentations to the Council](#)

#### [Post Office Update \[15 min\]](#)

Interim City Manager Williams stated that Matt Grady from Gramor Development, the company that owns the post office's current location, would give an update that would mostly avoid the specifics of design and other items that might come up in a land use application per the City Attorney's request, and focus more on the status of conversations about the site and possible ideas about what the City could do to help move along the process.

Matt Grady, Gramor Development, reviewed the activities to date in seeking a new site for the post office. The USPS's preference was for a two-acre site with a 10,000 sq ft building and 65 parking spaces. Gramor could not produce such a site and offered a retail space at the current location with the option of loading and parcel sorting done at an off-site location elsewhere in West Linn. The post office indicated in January that the option was acceptable and Gramor created an application to be submitted to the City soon that would have a retail building and the post office. The lease language was almost complete and had been provided to the USPS a month ago, but it had not been signed. The USPS was still looking for an off-site area that could be as big as two acres, but was also looking for a site that would hold just the operations section of the business. Gramor would like to start making changes in December to the site where the post office was currently located and to begin site work in late spring 2021. Gramor had been working with the USPS for two years and believed they had been accommodating as a landlord by extending the lease and by spending a lot of engineering and architectural money trying to get plans to meet their program. Gramor found the lack of communication frustrating.

A disconnect existed between the post office employees and the USPS real estate office, so the employees could not pass status updates to their customers. He was concerned that the communication problems implied that Gramor was a terrible landlord who would be kicking the post office out of its current location, which was not the case.

Mayor Axelrod stated the City had reached out to Congressional leaders on many occasions to put pressure on the USPS. He also had clarifications to offer after the Councilors had the opportunity to ask questions.

Mr. Grady clarified in response to multiple questions from Council President Sakelik that the post office's lease went through the end of October, but discussion had taken place about extending it to the end of the year. He had a high level of confidence that would happen. He further clarified that Gramor believed it had reached its limit as a private group and wanted to move forward, and he did not believe the lease would be extended into next year. The lease extension stated the lease would terminate with no notice required and no other provisions. The original lease had been expired for over 1 ½ years but had been extended. Over a year ago, Gramor had been working on a lease form provided to them by the USPS. In it was a provision that upon termination of the lease, the post office could continue on indefinitely as a hold over. Gramor informed them that such a provision was not acceptable and the matter was not under discussion currently. The USPS knew in 2018 that the lease was terminating in a year, but did nothing until Council brought it to a town hall meeting and held them accountable. Citizens had made clear the sense of urgency, need, and desire to have the post office remain in its current location, but it did not appear the USPS considered it a high priority.

Mayor Axelrod said that during the town hall meeting it was determined that the wrong people were being approached at the USPS, and when Greg Shelton from the USPS real estate office discovered the issue, he got things moving officially. A lot of time had been lost through dysfunctional organization and miscommunication.

Councilor Walters stated it was important to the citizens of West Linn to have a post office. She expressed appreciation that Gramor had been willing to work with the USPS and to extend the lease for the current site. Council had reached out to Congressman Schrader and Senators Merkley and Wyden, and she suggested reupping that effort by sending a letter from Council to the federal representatives requesting assistance in moving the process forward.

Mr. Grady responded that Gramor would appreciate that, and added that some might perceive them as the evil landlord or the evil developer and would not want to listen to their explanations.

Mayor Axelrod thanked Gramor for their efforts to keep the post office in Central Village, noting the City's first priority was to keep the post office in its current location. Also preferred was to keep the entire post office operations in one location because having operations in different locations would increase the dysfunctions. The City recognized a long-term lease for the post office would offer security for Central Village. Another location identified as suitable

was the old 1.4-acre McDonald's site on Hwy 43 which had good access. Council understood the USPS did not want to spend the amount of money required to purchase the property, among other complications. He and Interim City Manager Williams had been pushing the real estate group at the USPS who had been expected to return to the City with updates but had not been heard from in a while.

Councilor Relyea did not recall reaching a consensus that the post office should be kept in one facility. When he had spoken to the USPS about what was driving the need for a new facility, he was told the increase in business was due to package handling and was not due to the retail front-end. The public wanted to keep the post office in West Linn, but the package handling portion had nothing to do with that and further discussion was needed before a public statement was made on what Council was pushing for. In his discussions with the USPS, they were very receptive to the idea of splitting the business and moving the package handling to another facility and keeping the retail portion in its current location. He did not understand why the post office was being pushed into something for which they could not find space in West Linn.

Mayor Axelrod responded that customers did not want to drive to another city to pick up their packages which was what would be necessary if the post office was not located in one facility in West Linn. The topic had been discussed in great length, and the community wanted one facility.

Councilor Relyea replied that was not true. The major packages coming in from the distribution center required a larger truck. The packages coming from the distribution center and going to community members in West Linn would be uninterrupted. The post office's local business would not be impacted.

Mayor Axelrod responded that was also not true, because the post office said packages would not be available at the retail location and it would be necessary to go to the distribution center. One proposed location was in Stafford, but the additional traffic into that area was unwanted as it would force drivers onto I-205 or Willamette Falls Drive, or Rosemont Rd and Stafford Rd which were already dysfunctional.

Councilor Relyea stated consensus was necessary before a position was promoted and he did not believe consensus had been achieved.

Council President Sakelik assumed from conversations with the public that a retail outlet would more than satisfy the vast majority of people in West Linn, especially if smaller packages were available. Larger, more commercial packages might have to be picked up in another location. He suggested surveying the public and asking if they were comfortable with a retail-only location in West Linn with a description of its services. The results could be used by Council as a representation of the citizens to determine a position and could be used in discussions with the post office. One location for both purposes would be ideal, but it might be impossible unless a building was vacated soon.

Mayor Axelrod recalled distinct discussions at the town hall where the preference was expressed to not have to travel outside of the city for what was described as a significant portion of people's interaction with the post office. He agreed to revisit the question.

Councilor Cummings announced she had joined today's meeting during Mr. Grady's presentation. She supported making progress on the issue now rather than waiting until October. The citizens had stated loud and clear that they did not want to lose the post office. The difference of opinions on where packages would be processed needed to be cleared up and then, based on that information, a determination made whether or not people wanted a smaller storefront location in the city knowing some inconvenience with packages was possible.

Mayor Axelrod noted the post office's position from the beginning was that a storefront would exist in West Linn at a minimum.

Councilor Cummings replied it appeared the post office did not want to renew the lease and did not want to vacate. She supported writing a letter and any other efforts to invite representatives to visit and hear from the citizens themselves.

Council President Richard Sakelik moved to direct City Staff define the impact on West Linn's residents between a retail USPS location versus a separate packaging facility, and to then conduct a survey of the public outlining the specific details. Council would discuss how to use the data in conjunction with writing a letter to the appropriate authorities. Councilor Teri Cummings seconded the motion.

**Ayes: Mayor Russ Axelrod, Council President Richard Sakelik, Councilor Teri Cummings, Councilor Bill Relyea, and Councilor Jules Walters.**

**Nays: None.**

**The motion carried 5 - 0**

**[Business Meeting \[90 min\]](#)**

**[Agenda Bill 2020-07-20-01: House Bills 2001/2003 Rulemaking Update](#)**  
**[House Bill 2001/2003 Information](#)**

Interim City Manager Williams stated the report on this Agenda Bill in the meeting packet contained information and links to more information about the status of rulemaking in Salem to implement the two housing bills passed by the legislature. HB 2001 mostly addressed the new requirements for cities to site different types of middle housing within their jurisdictions

and HB 2003 required cities to assess their housing needs. Many of the rules were planned to be finalized and adopted this fall, then cities would be implementing the rules in 2021 and 2022. Council had expressed an interest in the rules and their potential implications to West Linn. The main set of rules that would impact the city would be considered and approved by the Land Conservation and Development Commission (LCDC) in November, but the advisory committees would finish some of their work in the next month. Council could choose to submit testimony to the advisory committee and to give staff direction on how it would like to be involved in the rules in the future. The focus today would be on the rules being developed for the large cities and metro area cities to implement HB 2001.

- The amount of on-street parking required for the denser housing was a topic of conversation, and the second page of the staff report provided an illustration of the current standards for Council's comment. Future discussions would concern lot size and design requirements.
- The rules required cities to allow duplexes, triplexes, and quadplexes in 'areas' that allowed for single-family homes, but not on every lot. It clearly allowed for cities to have some control over size requirements and other standards, but did not explain how the areas would be defined. Discussions had gone beyond land use and had become about social justice and racial equity given the current national conversation. Concerns were expressed that if too much flexibility was allowed, cities and counties would use the powers left to them to centralize certain kinds of housing in certain areas or to continue past policies of exclusion.
- If Council wanted to provide testimony to the rulemaking committee, staff requested direction to craft a comment letter for perhaps the August 3<sup>rd</sup> Council meeting, which would allow the letter to be submitted prior to the rulemaking committee finalizing their recommendations, and well before the LCDC started meeting in the fall.

Councilor Walters had heard a concern from the recent Planning Commission meeting and from others in the community on the impacts of building quadplexes next door to long-term residents in single-family homes.

Interim City Manager Williams replied that the rules did not allow squeezing in a triplex or quadplex on a typical single-family lot. Extra land area and off-street parking requirements would also most likely apply. Large vacant lots where only single-family zoning was allowed could be affected. Also likely was the ability to build duplexes on many single-family lots, which was where potential parking requirements would apply. The legislation was very clear about the requirement allowing duplexes on every lot currently allowed for single-family housing.

Councilor Walters noted many West Linn neighborhoods already had a mix of housing. It would be helpful to address concerns about large quadplexes next to single-family homes. She asked for specifics on the size of a lot for a quadplex.

Interim City Manager Williams did not believe the size had been defined yet, but would look into it and report back. He recommended Council's comments state that it wished to ensure

that lot-size standards would be developed for the new uses rather than specifying the number of square feet.

Councilor Relyea asked that Council consider a work session with the Committee for Citizen Involvement (CCI) and the Planning Commission to further discuss the issue. It might be a good to also engage the neighborhood association (NA) presidents and task them with providing recommendations with site-specific information and demographics from their areas for a greater understanding of the impact.

Councilor Cummings asked for a definition of an oversized lot, noting the city had 10,000 to 20,000 sq ft lots. In many cases, those lots were big because of geographical or natural resource constraints. West Linn had only small pockets of undeveloped property and had no desire to annex Stafford. Also, many of the streets in West Linn were not designed for street parking and were not wide enough for both parked cars and the passage of a fire truck. One solution would be intracity transit but even with that, adding more residential units without on-site parking would cause problems because almost everyone who lived in West Linn used a car. The city was hilly and had limited access to transit.

Interim City Manager Williams replied that he would look for the requested information, but he believed the exact numbers had not yet been defined.

Mayor Axelrod liked the idea of meeting with the CCI and the Planning Commission but noted time was limited. He was disturbed by the proposal and how it was moving forward. He fully supported the need for housing and incorporating equity in housing, but at the same time care was needed to not ignore planning or quality of life and the dysfunctional aspects of the cities. For example, he believed a legal issue existed with developers building complexes without having to provide parking and thereby essentially forcing the City to provide it for private development. He understood that structured parking raised costs and thereby affected affordability.

- He fundamentally disagreed with the premise that flexibility was associated with abuse of the system. Some flexibility was necessary to allow development in 'areas' where access to services was possible and to allow equitable planning, provide housing diversity, and reasonable community development.
- Multi-family housing would add many more cars to the streets where dysfunctional roadways and intersections were already problems in cities like West Linn that had physical constraints and no transit to the majority of the population. Convenient transit that could be reached within ½ mile was necessary for equitability.
- He encouraged Council to stay connected with the League of Oregon Cities (LOC) which was doing a good job in imparting the cities' interests in trying to meet the goals reasonably.

Councilor Walters stated she lived in a small subdivision built in the 1990s which was mostly large, single-family homes, but the neighborhood also had townhomes which sold for \$500,000

to \$600,000 with a shared park. She assumed the residents, who had off-street parking, drove to work like most people in West Linn. She supported transit, but it was not realistic for most families in the city. She did not want to hold up the process by linking it too strictly to transit.

Councilor Relyea proposed continuing the discussion with the CCI and the Planning Commission and to set a timeframe for receiving, reviewing, and editing their feedback to ensure it was submitted in time.

Mayor Axelrod reiterated his concerns about the insufficient time to take those steps.

Interim City Manager Williams stated he would check on the Planning Commission's availability and report back to Council. The main question was how soon Council would want the feedback. A key timeline was the first reading of the Code that would apply to the City which was scheduled for September 24<sup>th</sup> and 25<sup>th</sup> at LCDC, with finalization expected in November.

Mayor Axelrod did not expect a letter from West Linn to carry much weight and did not want to waste effort. LOC was perhaps the City's greatest opportunity for influence, and efforts should be channeled to them because they would be part of the negotiations. So far, LOC seemed to be representing interests shared by West Linn.

Councilor Walters supported working with LOC, but would like to give input to them and not hand over the responsibility.

Councilor Relyea stated that as the liaison to the Planning Commission and the CCI, he knew the Planning Commission discussed HB 2001 at almost every meeting and Commissioner Pellett had put an extensive amount of work into following the measure and understanding potential impacts to West Linn. He supported engaging the Commission and receiving its feedback and adding it to the letter. It would help Council better understand the bills' implications and how the citizens felt about it to ensure the community was engaged and informed of what was coming in the future if something changed in the City's land use planning process.

Mayor Axelrod suggested asking for the Planning Commission's and CCI's feedback by early September for Council's review. It would give time to prepare any further written materials for LOC or LCDC as appropriate.

Interim City Manager Williams replied that he would forward the staff report he had prepared for Council to the chairs immediately and try to schedule a date for discussion with each in an effort to get their feedback before the first hearing date.

Councilor Cummings supported a letter tailored to West Linn because of the city's unique situation of being over 80 percent built out and hilly. She would like to know the number of people who used transit to get to and from work. A main reason behind HB 2001 was for affordable housing and it did not seem feasible to put affordable units in areas where residents

would not have access to transit and would have to own a car. It was important to communicate that, as much as the City would like to have more housing, some pieces of the puzzle did not appear to fit. A land use principle recommended providing for the needs of a facility on site, such as having a certain number of parking spaces per unit. The bill apparently was trying to walk that back to an idealistic model that did not involve cars or very many cars and it was not realistic for West Linn. Forcing units into places where residents would have to park on and possibly block the roads was asking for trouble. After creating a letter from West Linn, joining other cities on a letter would be appropriate.

Mayor Axelrod noted Council had submitted a letter that outlined the city-specific issues when the measure was before the legislature, but he agreed it was worth reiterating.

### **Agenda Bill 2020-07-20-02: Historic City Hall Letter of Commitment and Lease Agreement** **Historic City Hall Information**

Interim City Manager Williams stated this agenda bill would address the future use of the Historic City Hall building near the Arch Bridge which had been vacant several years. Over the last couple of years, Council has been considering investing money to rehabilitate the building. Last year, the City planned to invest about \$400,000 of GO Bond funding, and the Willamette Falls and Landings Heritage Area Coalition (WFLHA), community members, and the City would partner to raise the additional capital funds needed for the project's estimated total cost of \$1.2 million. WFLHA was to be the linchpin of a group of nonprofits for both fundraising and for use of the building. Due to the fundraising being more challenging than anticipated, Council tentatively agreed to allocate about \$1.28 million to the capital construction to be complemented by a smaller amount of grant funding raised by the WFLHA and the City. Council requested that the agreement with the WFLHA be reconsidered and a revised letter of commitment written outlining the responsibilities between the City and the WFLHA. Also requested was a parking agreement to ensure the building had enough parking for the proposed uses. The meeting packet included a draft letter of commitment and a lease agreement updated to reflect new dates, financial terms, and some name changes. As pointed out in the pre-meeting, the letter of commitment in the packet did not fundamentally change the relationship between the City and the WFLHA, but did propose that the WFLHA continue to be the centerpiece of a group of nonprofits who would use the building and to manage and use the building for the community purposes defined in the agreement. The only parking for which the City had authority was on Mill St adjacent to the building. The proposal in the packet was for a paid lease of parking from the paper mill and its parent company and proposed 30 parking spaces surrounding the building with a term of \$60 per month per space, totaling about \$21,000 per year. The City would be able to create a parking program and charge people for parking to pay back the cost. Also important was Council's consideration of a change to the relationship between the City and the WFLHA in recognition that the City was now putting in the greater share of money. Staff would appreciate better understanding of what relationship Council was looking for and whether the terms were of interest to the WFLHA.

City Attorney Monahan stated he would like to address a process question that was asked in

the pre-meeting. The Oregon ethics rules stated that if an elected official participated in an action related to an economic issue, they needed to make a declaration before each discussion that could lead to an action. Normally this was not done in a work session, but typically took place in a formal action. However, because of the comments made in the pre-meeting and because some matters needed clarification, it would be appropriate for Mayor Axelrod to make a comment about what he said to Council earlier. He understood the Mayor's participation was as a liaison from the City Council to the nonprofit Board of Directors of WFLHA. The Guide for Public Officials stated that when a public official was a member of a nonprofit organization, an exemption was made if a conflict of interest arose from an unpaid position as an officer or member of a nonprofit corporation. He suggested seeking clarification from the Ethics Commission because the language in the Guide for Public Officials stated, "The following circumstances may exempt a public official from the requirements to make a public disclosure." The use of the word "may" meant sometimes it applied and sometimes it did not. He recommended a declaration be made and then, between today's meeting and the next time Council talked about the lease, to seek at least an informal opinion from the Ethics Commission.

Mayor Axelrod noted the bylaws and structure of the WFLHA stated the principle municipal contributors to the coalition have assigned positions on the Board or a representation on the Board by virtue of their annual contributions. West Linn, Lake Oswego, Oregon City, and the County all had representation on the Board. Council's representation was in a primary role to which he was currently assigned, and Councilor Walters was the alternate, according to the coalition's bylaws. He had mentioned his role on the Board in the past and had also mentioned that he had recused himself from any action by the Board that involved any City action, decision, financial, economic, and especially regarding Historic City Hall. At every MNO meeting and every Board meeting where it had every come up, he had recused himself from any discussion whatsoever. He suggested the Director attest to his statements.

Siobhan Taylor, Executive Director, WFLHA Coalition, confirmed representatives from Clackamas County and several regional cities, including West Linn, were on the Board of Directors or otherwise involved with WFLHA. All alternates were kept in the loop with the proceedings and meetings, financials, and reports of the Coalition. She wished to make abundantly clear that Mayor Axelrod had at every discussion where the City of West Linn was involved or mentioned immediately made a statement of his representation of the City and had consistently recused himself from any votes that would impact his relationship or his role with the City of West Linn. He had always put the City and his responsibilities of representation to his fellow Councilors and citizens of West Linn first.

Councilor Walters said she was made an alternate to the Coalition when she first joined Council in 2018, but had not been sent a meeting packet or any other information until June of this year. She had reached out to Mayor Axelrod and Ms. Taylor because she was unsure if something had changed and their response was that they wanted to keep her in the loop. She attended the June meeting where she announced that she was the alternate and was there in a listening capacity because Mayor Axelrod was present. She did not believe Historic City Hall

had been discussed.

Mayor Axelrod stated the problem with the alternates on the spreadsheet had not been noticed until this spring, and the problem prevented the information from going to Councilor Walters. He received a request to review the spreadsheet and realized then that her name was not listed.

Council President Sakelik stated no issue existed with being liaisons to any group. The question was specifically about the WFLHA website where Mayor Axelrod was listed as Management and Operations along with eight other people. It appeared that the Mayor was an integral part of the non-profit, and Council President Sakelik had not been aware of that during the vote for the \$1.3 million nor during Council's discussions last year. He did not recall Mayor Axelrod declaring any of it. If the Mayor wished to maintain the position, Council should be advised. According to what City Attorney Monahan stated, it did not appear to be a big issue, but further clarification would be good.

Ms. Taylor noted a question arose last year about parking at the site. The Friday before the City approved the agreement with WFLHA, she had an in-depth conversation where Councilor Cummings emphasized something was needed from the mill to obtain parking. A commitment was received via email from Brian Conen, the CEO of Willamette Falls Paper Co, that parking would be available. Since then, she had been communicating with Mr. Conen who was very amenable to making parking available and who had also provided overflow parking spaces in the gravel parking lot on Mill St for use during special events when extra parking was needed. The WFLHA used grant funding raised from tourism and some of its own resources, and Todd Iselin with Iselin Architects worked with the mill and with the WFLHA to create a parking plan that would provide accessibility and also safe entrance and exit from the building due to the movement of mill trucks. She had heard concerns through Interim City Manager Williams about the possibility that the mill would not renew its five-year lease with a 10-year option and the impacts of that decision on the City and the building. Further conversations with Belgravia Investments and Stern Partners, Rebecca Tom, their local counsel, and with Neil DeGraber showed that they were willing to hold the lease for 15 years with WFHLA and the City or whoever was the signer on the lease should the mill cease operations there. She had requested 30 parking spaces because she expected that when COVID-19 was under control, people would want to go out and explore, and WFHLA needed to be able to accommodate an influx of visitors to the new culture and heritage center.

Mayor Axelrod suggested limiting the street parking to those using the building. The 30 spaces would be on private property and he hoped to have the capacity for overflow on the gravel area.

Ms. Taylor replied that amount of parking would suffice. She had also discussed with Interim City Manager Williams opportunities to create a parking system to allow people to park and walk across the street to Oregon City for work, and the possibility of creating a permit parking system to recoup the cost of the rental parking spaces.

Mayor Axelrod noted that parking in Oregon City was a problem and he believed a \$5 per day fee for parking on the West Linn side of the bridge would get a lot of use.

Council President Sakelik received confirmation that the request for 30 spaces came from Ms. Taylor and not from the mill. He asked if the mill might consider offering use of the 50 parking spaces that were marked and outlined behind the building.

Ms. Taylor did not believe so because the mill needed the space to park their trucks. They had started at 20 spaces and she pushed to 30 spaces and believed she would be pushing her luck asking for 50 spaces.

Council President Sakelik believed it had been abundantly clear the night that Council allocated the almost \$1.3 million for the building's rehabilitation when the Coalition did not obtain sufficient grant funding, that the agreement would change from the WFLHA running the entire building to becoming its signature tenant. Discussion during the meeting said specifically that the City would be programming the building and the Coalition would be a signature tenant. He was hoping to discuss those specific details at the meeting today. Currently, there was no way he would agree to put almost \$1.3 million of taxpayer money into the building and then have no responsibility for the building and its programming. In addition, the City would have a commitment of about \$21,000 for parking space rental, and another \$24,000 for utilities as indicated in the potential lease agreement. It would also be valuable to have an organization or committee made up of residents of West Linn to give input on what they believed would be additionally valuable in the building considering its rehabilitation would be paid for by City money. The residents would have a hand in it with the guidance of WFLHA.

Ms. Taylor said that in no way had she left the February meeting with that understanding or direction, nor did any of her Board of Directors members who had attended. She clarified that the WFLHA raised \$100,000 from tourism for the project that was being spent now. She had raised an additional \$45,000 in other grant funds, and wrote with Interim City Manager Williams an application for a Community Development Block Grant (CDBG) for another \$45,000. A number of the foundations she had spoken to said the City of West Linn did not have enough involvement in the project for them to fund WFLHA. They told her to apply again when the City's commitment changed and they would be much more amenable to having that conversation. She was doing that now and discussing opportunities for receiving funding for the inside of the building or for programming for the building and for displays and exhibits. The WFLHA Coalition had done a heavy lift in staff time devoted to the project, but also in personal time and fundraising. What they did was a big deal and they did not plan to end it now. However, if the entire focus of how the building would be used was going to change drastically, the WFLHA Board of Directors would have to have a conversation about that as well. She reiterated that had not been their takeaway from the February meeting.

Council President Sakelik stated did not mean to belittle the work that the Coalition had put into the project. The Council was excited about the first idea brought to them by

WFLHA. Unfortunately, the grant funding did not happen and Council took the drastic step of moving monies around within the City so that the building could be rehabilitated. At 1:04:00 into the February meeting, he had clarified his position, but evidently it was not made very clear as a Council which was why he suggested going back to the drawing board.

Councilor Cummings said she remembered the February 10<sup>th</sup> conversation and that Council was told that almost none of the funds discussed previously would materialize. Because it was not possible for the Coalition to bring in the money for the improvements, the City would bear that burden. When she made decisions, it was not for just one group or another but for the principles Council was working from. Council still wanted to see the Coalition be the primary signatory and driver of what happened at the Historic City Hall building. She confirmed staff would gather information about the potential parking need for the proposed uses for the building and gather information on managing metered parking and report back to Council.

Councilor Relyea stated he had voted 'no' on the agenda today was because he did not believe this matter was ready for Council discussion. Way too much time was spent in meetings that incurred legal service costs. He suggested the details of the lease agreement be determined by a working group and then for the agreement to be brought back to Council for review and a final decision.

Mayor Axelrod understood from the previous agreement that Council had an obligation to restore the most historic building in the city and to not let it fall further into disrepair. At the same time, the City was to create a partnership with the Coalition who would manage, run, and direct the operations there in a significant role. The City would have input in all elements, but it did not have the staff or time to conduct the operations. He did not understand how someone would get a different viewpoint from what was discussed before, but he would listen to the recording of the February meeting. He was disappointed if another committee was needed to move forward on the matter. So much input had already been received from the community, Council needed to make the decisions necessary to move ahead. He acknowledged the agreement needed work and other issues needed to be addressed, but he did not want to lose the momentum. He was concerned that if Council tinkered with it too much, it would be left without a historic and cultural resource center. He recommended moving forward on the parking agreement and, if the City could be the manager of it and recoup the money from the rent, he believed its utilization would be quite high. The parking agreement stated it would begin when the building was approved for full occupancy, but he did not believe that would be sufficient given the COVID-19 situation. It would be necessary for the agreement to address that; parking should not have to be paid for if meetings could not be held there.

Council President Sakelik said what was proposed to Council was not a partnership, it was the City putting up nearly \$1.3 million with a commitment of about \$45,000 per year to keep the building going and not having any direct responsibility for how it was used. He believed initially from the February 10<sup>th</sup> meeting that a partnership role would be acceptable; the Coalition would come back with a plan indicating how they wanted to use the building and other necessary details and the City would share in any funds raised through tours of the site. Once

the building was improved and the tours were running, the building would get a lot of use. Those defined a partnership. What was proposed by the Coalition was one-sided and in that way was like the original proposal, but the City was not back then putting up anything near \$1.3 million because the Coalition would be obtaining grants. He ended by recognizing the Coalition's work and their expertise.

Mayor Axelrod clarified that he was not planning for the City to reap some profit from the tours. If the Coalition was running the facility as a nonprofit, that would be part of their nonprofit operations.

Council President Sakelik noted Council needed to be concerned about City income due to COVID-19 impacts and limited GO Bond funds. The income from tours could be significant and the City would not have a partnership role in determining how to spend the funds. The City would be providing the circumstances to enable the tours in a formal way and that was the investment he envisioned the City wanting to make. He had raised the point years ago that the City did not want to give up the building to County tourism or to let them have the whole building with a lease that did not pay much.

Mayor Axelrod stated that regardless of the future structure, as long as an understanding existed between the City and the Coalition about how the location and the operation would run, it would be to Council's and the City's benefit to advance a parking agreement with the mill company.

Interim City Manager Williams said he would not want to enter into an agreement with the mill for parking that had associated costs without knowing how the building would be used by the occupants or having an understanding of the roles and responsibilities. He suggested continuing the conversations, but to not finalize anything until Council reached consensus.

Councilor Walters wanted to move forward in the original direction. She was excited about the project because not only was the opportunity available to support this historic building, it was the only piece of property the City owned in the waterfront area. The City needed to invest in it and Council was hearing from a lot of community members who wanted a multicultural center. The building would fulfill that desire, especially by including conversations about indigenous ancestors and the history of the area. It would be a rich resource and would be an anchor of the town and would bring people to the city. Charging for parking could be a revenue positive thing. The Coalition had made a commitment to Council and she wanted to be sure Council was supporting them, so that they could come to the table with more funds now that they had the commitment.

Ms. Taylor noted the building was the oldest City-owned building in West Linn that currently was derelict and abandoned. The Coalition came to Council with a proposal to put full life into the building again in an absolutely wholesome, very diverse community project. In addition to being the gateway to heritage, it would honor the stories of all of the people of color, Black, indigenous, and immigrants who built the area and made it what it is through their losses and

victories. The upstairs meeting space would be created and managed for the use of community groups from West Linn, enhancing the multicultural approach that was hoped for in the building. The Coalition was a small nonprofit, but could make the building wonderful for the city and for the region.

Councilor Cummings said the question was not whether the project would be done, it was how. Initially, Council believed it would have to use only about \$400,000 from the GO Bond, but it had been necessary to readjust its thinking. The building was important, the location was prominent and its possibilities for the waterfront vision were enormous. Now that the City would be shouldering the bulk of the expense of renovating the building, the other issue discussed was whether the City wanted to also pay the utilities and other expenses. Prior to this, the Coalition was to be in charge of operations; Council still wanted them to be the primary tenant, but the shift put the responsibilities back onto the City. The City would not walk away, but the conversation needed to be different.

Mayor Axelrod suggested the matter be discussed further at another Council meeting soon. Some new concepts had been introduced tonight that warranted further vetting.

Councilor Bill Relyea moved to form a working group to establish the terms of an agreement regarding the use of the Historic City Hall to include the Parks and Recreation Department, a member of the WFLHA Coalition, the City Manager, and a member of the City Council who was not currently a member of the Coalition nor a liaison to the group. Council President Richard Sakelik seconded the motion.

Mayor Axelrod expressed concerns about further delays and complications and did not believe a separate committee was needed. Input from the various entities should be part of the agreement, however. He would vote 'no.'

Councilor Cummings stated she would vote in favor. Council discussed metered parking a year ago but the information was not available today, and the information that was available today was not consistent with the February 10<sup>th</sup> meeting. A committee would be a quick way to review the pros and cons. She did not want it to take months, but missing information was needed.

Councilor Walters asked for clarification about Council members serving on the committee.

City Attorney Monahan noted Council was not taking formal action at this time, just giving direction, so at the point that the matter returns to them, he hoped for some clarification from the Ethics Commission whether someone who was a member of a non-profit organization or serving as a liaison had a potential conflict of interest. He believed participation at this stage

was fine, even in a working group, as long as a declaration was made.

Councilor Walters was troubled by the possibility of a Councilor making a proposal that might exclude two other Councilors participating in the working group and then voting on an issue. It did not appear to be a fair process.

City Attorney Monahan said ultimately the entire Council would be making a decision on a final proposal. At that point, clarity could be made of any potential conflict of interest, but currently it appeared there was none.

Council President Richard Sakelik moved to amend to add at least two members of the public yet to be determined. Councilor Bill Relyea seconded the motion.

Councilor Cummings said it sounded like Councilor Walters was concerned that the two Council liaisons would be cut out of a vote, but that was not her understanding. She believed it was about the need for disclosure to the public so they knew how the decisions were made and about committee members' involvements when making the decisions. Neither the Council liaison nor the alternate should be prevented from participating in the discussions or the vote. She did not see a monetary conflict of interest.

**Ayes: Council President Richard Sakelik, Councilor Teri Cummings, Councilor Bill Relyea, and Councilor Jules Walters.**

**Nays: Mayor Russ Axelrod.**

**The motion carried 4 - 1**

Council President Sakelik would like the three public members to be chosen by Council's August 3<sup>rd</sup> meeting. Then the committee could move forward in August on an agreement for Council's vote in December.

Councilor Walters was uncomfortable with a Councilor having meetings while Council was in recess.

Council President Sakelik stated he volunteered to be the Council representative and was not leaving in the month of August. He was happy to work on this priority. It had been more than five months since Council's last discussion of the matter. He wanted to move it along quicker.

Councilor Walters agreed with efficiency and speed but not for what seemed like an unfair process. She understood Council President Sakelik was volunteering, but asked how the Council person and members of the public would be chosen. She wanted to make sure the process was fair and equitable and would be willing to put it off until it could be so.

Councilor Cummings suggested each Councilor submit five names to the Interim City Manager and see how they meshed. At the August 3<sup>rd</sup> meeting, a vote could be held to appoint the Council members and the three members of the public.

Councilor Walters would rather see an application process and then choose from those. She was uncomfortable with hand picking people for such positions because it did not appear fair and equitable.

Councilor Cummings was sure an application process would push the schedule into September. She clarified a community member could be someone from a neighborhood association, from the Chamber of Commerce, or any citizen. A number of citizens had been following the matter very closely and were very interested in the waterfront planning process.

**Ayes: Council President Richard Sakelik, Councilor Teri Cummings, and Councilor Bill Relyea.**

**Nays: Mayor Russ Axelrod and Councilor Jules Walters.**

**The motion carried 3 - 2**

The Councilors agreed to each submit the names of five people to Interim City Manager Williams by Friday who would determine if the same three people were chosen by all. Council would discuss the results at the August 3<sup>rd</sup> meeting.

#### **[Agenda Bill 2020-07-20-03: League of Oregon Cities Policy Priorities](#)**

##### **[LOC Policy Information](#)**

Mayor Axelrod stated that all Councils that were LOC members went through this step yearly prior to the legislative session. Feedback was given on Council's top four priorities but Council was not limited to the issues it advocated for in the legislature. The list might be a bit outdated without the policing reforms Council wanted to see worked on. Feedback on the list needed to be submitted by August 7<sup>th</sup>.

Interim City Manager Williams noted the staff report included a long list of possible policy priorities assembled by the LOC. A number of areas appeared to overlap with goals or interests of Council and the West Linn community and could possibly be priorities. The main purpose was for LOC to develop a statewide priority list. West Linn could continue to have its own legislative agenda. A lobbyist was working for the City to advance its concerns.

Council agreed to submit their choices to staff by Friday for discussion on August 3<sup>rd</sup>.

#### [City of West Linn Response to COVID-19 Public Health Emergency \[5 min\]](#)

Interim City Manager Williams stated the City was in stasis as the pandemic seemed to be increasing throughout Oregon. No discussion was taking place about loosening the restrictions.

Mayor Axelrod noted the numbers were surging and the virus was being transmitted freely in community groups. He encouraged everyone to wear a mask anytime around other people indoors or outdoors. Masks were required if a safe distance could not be maintained.

#### [Diversity, Equity, and Inclusion Discussion \[30 min\]](#)

##### [Update on DEI consultant selection](#)

Interim City Manager Williams reported that the DEI firm he had contacted had apparently been swamped with inquiries from around the country. They had asked for an additional week before getting back to the City and very much wanted to be considered.

#### [Police Oversight and Accountability Taskforce Membership](#)

Mayor Axelrod reported that at least five of the applicants had been chosen by the majority of the Councilors. The selections included five women of color, one of whom had a police officer background. He would also like to see youths represented on the Task Force.

Councilor Walters supported having a student representative to give public comment or listen in on the discussion. The youth voice needed to be heard on this issue at the Council level.

The Councilors agreed to each send the names of five applicants for alternates to Interim City Manager Williams by Friday, of which three would be selected to serve on the Task Force at the August 3<sup>rd</sup> meeting.

Mayor Russ Axelrod moved to Appoint the following 11 members to the Police Oversight Task Force: Kristina Garcia Siegel, Nicole Dawson, Sharron Furno, Sonia Borgelt, Autumn Mercado, Debbie Wong, Linda Hamel, Lonny Webb, Michael Harper, Nancy Noye, and Rishi Bansal. Council President Richard Sakelik seconded the motion.

**Ayes: Mayor Russ Axelrod, Council President Richard Sakelik, Councilor Teri Cummings, Councilor Bill Relyea, and Councilor Jules Walters.**

**Nays: None.**

**The motion carried 5 - 0**

Interim City Manager Williams stated he had reached out to a few people for their interest in serving as a facilitator for the Task Force. He suggested perhaps allowing the members of the Task Force to select the facilitator. He had been considering contract approaches for the facilitator and expected it to be a quick process and the cost well within his authority.

Councilor Walters would like to have a facilitator available for the first meeting and suggested asking for recommendations from the Task Force appointees. She requested that those not selected be informed that they were welcome to participate, provide ideas, and to remind them to be on the lookout for other opportunities to be considered.

Mayor Axelrod said he would ask for the applicants' continuing involvement in the appointment letter he would send to them.

Council President Sakelik recommended adding to the letter a link to the DEI Information Hub.

### [Mayor and Council Reports \[15 min\]](#)

#### [Council Request Tracking Log](#)

#### [Council Tracking Log](#)

Interim City Manager Williams noted some of the items in the Council Tracking Log had a next action date of July 16<sup>th</sup>, which had passed. July 16<sup>th</sup> was just a holding date and would be updated.

Mayor Axelrod had communicated with the Department of Environmental Quality (DEQ) today regarding the tanks located under the streetscape. They informed him that because of the Main Street construction that had already taken place, the liquid was removed and the tanks were abandoned in place which was a standard protocol. The tanks were usually filled with concrete or slurry. The probe work was upcoming and he would be updated by DEQ. DEQ had asked that the owner of the site not be interrupted at this point to allow her to finish her cleanup obligations.

Councilor Cummings asked if the Planning Commission had met regarding the high school parking issue and potential Code changes. It appeared the school district was having community meetings about the stadium project and the parking lot project. It was not clear to her whether they planned on a variance for parking because they were offering about half the required number of spaces. Also to be considered was the traffic impact especially on game nights.

Interim City Manager Williams stated he was not aware of any discussion on that topic. He recalled the last communication from the school board confirmed they knew the standards and would comply with them. He would find the communication to confirm if they planned to put

in 250 parking spaces.

Mayor Axelrod noted a letter was received from Tualatin indicating they were interested in initiating a discussion on areas of interest regarding Stafford. The City had no interest in engaging and had expressed that. He understood Tualatin was considering their options and he believed they did not fully understand that Area D by the freeway and close in to Tualatin was an option they could consider. He was aware that the Hamlet had been talking with Tualatin about property issues along SW Borland Rd, but most of the community there did not want to see the city pushing farther east along Borland Rd.

Interim City Manager Williams stated the proposal from Tualatin was to convene an initial meeting to discuss each Cities' current environment and readiness for the discussion. It seemed like they wanted to find out if a process was possible. Tualatin was aware that the West Linn City Council was not very interested in the conversation

Mayor Axelrod proposed attending a meeting with Tualatin in September or October. He noted West Linn was engaged in higher priority issues.

Councilor Cummings reminded that a great need for blood donations existed and those conducting the blood drives were being very safe. She noted the donors' blood was tested for COVID-19 antibodies and redcross.org listed criteria for who was eligible to donate.

### **Tentative Agenda**

[Tentative Agenda](#)

### **City Manager Report [5 min]**

Interim City Manager Williams stated an email was sent from City Recorder Mollusky to Council on June 18<sup>th</sup> about citizen advisory group vacancies on the Economic Development Commission, Parks and Recreation Advisory Board, and the Utility Advisory Board. Some applications were received and he asked Council to let him know how they wanted to proceed.

Mayor Axelrod asked to be sent the information again.

Councilor Walters noted the information from City Recorder Mollusky was also in DropBox.

Council President Sakelik would like to make appointments for the vacancies at the August 3<sup>rd</sup> Council meeting.

### **City Attorney Report [5 min]**

City Attorney Monahan updated that his office had communicated with the Robinwood Neighborhood Association's attorney regarding information about the limitations that came

from the use of bond money. The City Attorney's Office was providing them information received from the Bond Council.

Mayor Axelrod stated he had copied Council on that email. The process seemed to be stymied by an entirely different-looking contract that did not reflect other nonprofit information. He understood that staff, the Friends of Robinwood Station (FORS), and the City Attorney's Office would meet on the issue.

Council President Sakelik noted that City Attorney Ramis had sent an update to Council via email a couple of hours ago.

[Adjourn](#)

DRAFT



22500 Salamo Road  
West Linn, Oregon 97068  
<http://westlinnoregon.gov>

# **WEST LINN CITY COUNCIL MEETING NOTES August 10, 2020**

## **Call to Order**

### **Council Present:**

Mayor Russ Axelrod, Council President Richard Sakelik, Councilor Teri Cummings, Councilor Bill Relyea, and Councilor Jules Walters.

### **Staff Present:**

City Recorder Kathy Mollusky, IT Director Shane Boyle, Human Resources Director Elissa Preston, City Attorney Matthew Kahl, and City Attorney Tim Ramis.

## **Approval of Agenda**

Council President Richard Sakelik moved to amend to add Council Reports to the Agenda as the last order of business before adjourning. Councilor Teri Cummings seconded the motion.

**Ayes: Mayor Russ Axelrod, Council President Richard Sakelik, Councilor Teri Cummings, Councilor Bill Relyea, and Councilor Jules Walters.**

**Nays: None.**

**The motion carried 5 - 0**

Council President Richard Sakelik moved to approve the amended Agenda for the August 10, 2020 West Linn City Council Meeting. Councilor Teri Cummings seconded the motion.

**Ayes: Mayor Russ Axelrod, Council President Richard Sakelik, Councilor Teri Cummings, Councilor Bill Relyea, and Councilor Jules Walters.**

**Nays: None.**

**The motion carried 5 - 0**

### [Public Comment \[10 min\]](#)

#### [Public Comment - Keely Stapp](#)

Council President Sakelik read the Friends of Pickleball letter thanking Council for their support of pickleball in West Linn. They asked Council to not cover the pickleball courts and to use that money to build more pickleball courts, upgrade existing locations with amenities such as covered seating, waiting areas, paddle queues, and water bottle refill stations.

#### [Public Comment - Friends of Pickleball](#)

Council President Sakelik read Thomas Meier's letter regarding the work the Pickleball Club has put in at Tanner Creek and their support of covering the pickleball courts to allow play during inclement and hot weather.

#### [Public Comment - Pickleball Club](#)

### [Agenda Bill 2020-08-10-01: Proposed New City Manager Employment Contract \[15 min\]](#)

#### [City Manager Contract Information](#)

Mayor Axelrod explained the process of the City Manager search. Council conducted a nationwide search for the City Manager position. The process included an application from the current Interim City Manager Williams. The process was led by Human Resources Director Preston, with assistance from City Attorney Ramis, and facilitated by Information Technology Director Boyle. He thanked staff for all their work. The City received 63 applications. They were initially screened down to 13, then 6, then 3, then ultimately, 2 finalists. The two finalists were Interim City Manager Williams and Jerry Gabrielatos from Minnesota. The process included in person interviews with John Williams and Jerry Gabrielatos. Forty-five panelists appointed by Council consisting of West Linn citizens, outside professionals, and a few staff members reviewed the application materials and observed a panelist interview session where the applicants responded to questions submitted by the panelists. Thirty-four panelists turned in their comments and recommendations to Council and ranked the applicants. The results have been confidential; however, the survey results will be available today.

Human Resources Director Preston congratulated Council on getting through this process. On the agenda bill, under budget impacts, there are two numbers listed. The first one being relocation includes the City's total cost. The City has to pay taxes on the relocation expenses should Jerry Gabrielatos use the full \$20,000. Not all payroll taxes apply to this expense so the actual number is closer to \$22,000, not \$24,000. The total package outlined in the employment agreement includes all taxes and employer expenses.

City Attorney Ramis stated the contract form is the product of three things: (1) direct input from Council, (2) the contract the City has used in the past for City Managers, and (3) the International City/County Management Association's (ICMA) contract form. Jerry Gabrielatos has reviewed it, had a couple of comments, and staff made some changes based on his comments.

Council President Richard Sakelik moved to approve City Manager Employment Contract with Jerry Gabrielatos. Councilor Teri Cummings seconded the motion.

Councilor Walters thanked Interim City Manager Williams for his continued hard work and dedication to West Linn. He stepped up to the plate to lead the City in January. He is a true professional who tirelessly worked countless hours to manage the City and he has done an excellent job. Not only has he supported the community, he also has so many supporters in the community. He has committed to support Jerry Gabrielatos in his new role and she thanked him for that. She welcomed Jerry Gabrielatos to the City as the new City Manager and as a new member of the community.

Councilor Cummings thanked City Attorney Ramis and his staff for the time spent on this and their flexibility. She does not know of any other city who has done a do it yourself search for City Manager, usually it involves a search firm. It was an exciting process and she enjoyed reading all 63 applicants. She thanked IT Director Shane Boyle and other team members who helped manage the technology. She also thanked all the citizens who took an interest and gave their opinions and input. It is exciting to make a new start and the city has a lot of important work to do.

Council President Sakelik thanked Interim City Manager Williams for stepping up. Fortunately, he was more than capable of taking care of a very difficult situation - COVID and all that associated work which added a whole lot of time to all of our schedules and Council Meetings. Also, the Fesser case and City Manager search added hours to Council agendas. He thanked Council for their diligence. Interim City Manager Williams has shown a great determination to assist Council and did a very fine job as well as all the support staff mentioned. He welcomed Jerry Gabrielatos to our West Linn home and community, he thinks he is going to enjoy living here. He hopes Jerry Gabrielatos is going to produce as Council expects and he gets involved in the community, the community will enjoy that. He welcomes him and his enthusiasm. He will

be joining the City on September 14 so he will be available for Council's second meeting of the month. He thanked everyone for their perseverance and the citizens that were involved.

Councilor Relyea stated that the ICMA contract language is different than what the City has used in the past, Council added language about the probationary period.

City Attorney Ramis stated two items important to the public are: (1) There is specific reference to the provision in the Charter that entitles citizens to weigh in on performance reviews. (2) The first 6 months is a probationary period. At the end of that period, Council will conduct a performance review. At that point, Council has a choice to continue employment and can adjust compensation or terminate employment.

Councilor Relyea stated Council was concerned about the City Manager's performance issues in the past and roles and responsibility. Not only the public's ability to help the person in that position, but also Council's ability to interact with the City Manager where they could discuss various issues without directing how those personnel issues should be resolved and to be engaged enough to know when there were personnel issues. Council talked about this at length and entered provisions in the contract so citizens can be aware of the work Council is doing to guide the City Manager. In the past, issues have fallen through cracks and Council was not engaged and could not guide those discussions. Council hopes to avoid those problems in the future as they walk down the path to betterment.

Mayor Axelrod agreed that the details Council has asked for should help with the evaluation process. His vote might be a different vote than the rest of Council. He thanked all the candidates for their time and consideration of West Linn. This is a great community and the opportunity here is tremendous. Anyone who comes into this position comes in with the support of Council and the community. He relied on three principle criteria: (1) Work experience and credentials; (2) interview responses and insight gained in those discussions; and (3) input from the community panelists. On the first two criteria, he found Interim City Manager Williams was the clear front runner. In reviewing the feedback from the panelists on the third criteria, he found Jerry Gabrielatos received 7 of 34 points possible and the community chose Interim City Manager Williams over Jerry Gabrielatos by a factor of 2 to 1 in the rankings. He recommends Interim City Manager Williams be given the opportunity to show what he can do. He realizes he represents a minority position on this Council. He will not vote in favor of Jerry Gabrielatos today. He likes Jerry Gabrielatos and will respect Council's choice. He welcomes Jerry Gabrielatos here and will work with him for the next few months before he leaves. He has discussed this with Jerry Gabrielatos, they remain friends with mutual respect, and will work together.

Council President Sakelik stated Jim Middaugh received the highest number of support votes from the community of 14. Interim City Manager Williams received 13 and Jerry Gabrielatos received 7. Council disqualified Jim Middaugh even though he was the top vote getter from the public. Council received 34 out of 45 attendees input. One-third of the committee did not

provide Council any input. Council did not choose the person with the most votes from the public.

Mayor Axelrod stated it was inconclusive between Jim Middaugh and Interim City Manager Williams because some people said they could go with either one. Jim Middaugh and Interim City Manager Williams both ended up with 14 and Jerry Gabrielatos received 7.

Human Resources Director Preston stated there were two comments in the feedback that stated Jim Middaugh and Interim City Manager Williams tied. The panelists were given strict instructions to only apply one rank per candidate. When staff reviewed them, it was Jim Middaugh with 14, Interim City Manager Williams with 13, Jerry Gabrielatos with 7 and the one difference between Jim Middaugh and Interim City Manager Williams was the person who said his vote was actually tied.

**Ayes: Council President Richard Sakelik, Councilor Teri Cummings, Councilor Bill Relyea, and Councilor Jules Walters.**

**Nays: Mayor Russ Axelrod.**

**The motion carried 4 - 1**

Mayor Axelrod stated Jerry Gabrielatos will be the new City Manager beginning September 14. Normally there would be a community reception and all staff meeting; however, due to the pandemic and state restrictions, those activities will need to be postponed. Depending on the pandemic and what is happening in the community, Council will try to come up with the most welcoming celebration. Maybe there will be a redo next year once the pandemic eases and there is a treatment for the virus so we can meeting in a broader community.

Council President Sakelik stated if the City gets to Phase 2 while the weather is still decent, there can be a full City gathering or it can be delayed until spring. To be an inclusive community. To have these parties or get together to have it be available for everyone with the idea that we will all able to work together better. Jerry Gabrielatos is interested in developing community relations and that is what he has done in the past which was a large part of the decision process. It is important in the spirit of inclusivity that Council provides that for the community, staff, and Council.

### **Council Reports**

Council President Sakelik stated he wants to provide clarification to Interim City Manager Williams. He did not have clear direction on who from Council would be on the Historic City Hall working group. He wants to formalize that and has volunteered himself.

Council President Richard Sakelik moved to approve Council President Sakelik to be the Council liaison to the Historic City Hall working group. Councilor Teri Cummings seconded the motion.

**Ayes: Council President Richard Sakelik, Councilor Teri Cummings, and Councilor Bill Relyea.**

**Nays: Mayor Russ Axelrod and Councilor Jules Walters.**

**The motion carried 3 - 2**

Councilor Cummings thanked Council and staff for their understanding while she went through the end of life with her mom and thanked them for their support. She apologized for not answering emails the past couple of weeks. She thanked staff for the beautiful flowers from City Hall staff.

Mayor Axelrod offered his condolences to her family. He stated to not worry about email, and to take care of her family and loved ones. He is sorry for the loss of her mom. Council is on a break for the rest of August.

[Adjourn](#)

Draft Notes

ORDINANCE NO. 1710

AN ORDINANCE AMENDING WEST LINN MUNICIPAL CODE CHAPTER 8.050 RELATING TO THE CONSTRUCTION OF PUBLIC IMPROVEMENTS

Annotated to show deletions and additions to the code section being modified. Deletions are ~~bold lined through~~ and additions are **bold underlined**.

**WHEREAS**, Chapter II, Section 4, of the West Linn City Charter provides:

Powers of the City. The City shall have all powers which the Constitution, statutes and common law of the United States and of this State now or hereafter expressly or implied grant or allow the City, as full as this Charter specifically enumerated each of those powers;

**WHEREAS**, the West Linn Municipal Code Chapter 8 (Building) includes provisions for building permit issuance, in Section 8.050; and

**WHEREAS**, the Council desires to ensure installation of public improvements associated with building permits.

**NOW, THEREFORE, THE CITY OF WEST LINN ORDAINS AS FOLLOWS:**

**SECTION 1. Amendment.** West Linn Municipal Code Chapter 8.050(1), Plans and Permits, is amended to read as follows:

...

(1) **Issuance.** The application, plans, specifications, computations and other data filed by an applicant for a permit shall be reviewed by the Building Official **and other assigned staff**. ~~Such plans may be reviewed by other West Linn departments to verify compliance with any applicable laws under their jurisdiction.~~ **Once** the Building Official finds that the work described in application for a permit and the plans, specifications and other data filed therewith conform to the requirements of this code and other pertinent laws and ordinances, ~~and~~ that the fees have been paid, **and any required financial guarantees are in place**, the Building Official shall issue a permit ~~therefor~~ to the applicant.

**Before a building permit may be issued for any project, all required public improvements shall be constructed, inspected and approved by the City in accordance with City Standards, unless the applicant provides a cashier's check or irrevocable assignment agreement executed by a financial institution in a form approved by the City Attorney for a sum approved by the City Engineer as sufficient to cover 125 percent of the cost of the improvements and repairs. Costs shall include, but are not limited to engineering and incidental expenses, as well as City inspections/administrative oversight.**

When the Building Official issues the permit where the plans are required, the Building Official shall endorse in writing or stamp the plans and specifications **REVIEWED FOR CODE COMPLIANCE APPROVED**. Such approved plans and specifications shall not be changed,

modified or altered without authorizations from the Building Official, and all work regulated by this code shall be done in accordance with the approved plans.

The Building Official may issue a permit for the construction of part of a building or structure before the entire plans and specifications for the whole building or structure have been submitted or approved, provided adequate information, ~~and~~ detailed statements have been filed complying with all pertinent requirements of this code and public improvements have been constructed, inspected and approved by the City in accordance with City Standards as outlined above. The holder of a partial permit shall proceed without assurance that the permit for the entire building or structure will be granted.

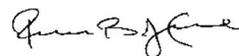
**SECTION 2. Severability.** The sections, subsections, paragraphs, and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

**SECTION 3. Savings.** Notwithstanding this amendment/repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinance(s) or portions of the ordinance were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

**SECTION 4. Codification.** Provisions of this Ordinance shall be incorporated in the City Code and the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Sections 4-6) need not be codified and the City Recorder or his/her designee is authorized to correct any cross-references and any typographical errors.

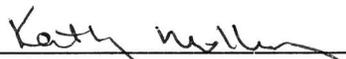
**SECTION 5. Effective Date.** This ordinance shall take effect on the 30<sup>th</sup> day after its passage.

The foregoing ordinance was first read by title only in accordance with Chapter VIII, Section 33(c) of the City Charter on the 14th day of September 2020, and duly PASSED and ADOPTED this 14th day of September 2020.



---

RUSSELL B. AXELROD, MAYOR



---

KATHY MOLLUSKY, CITY RECORDER

APPROVED AS TO FORM:

---

CITY ATTORNEY



## Agenda Bill 2020-09-14-03

Date Prepared: August 27, 2020

For Meeting Date: September 14, 2020

To: Russ Axelrod, Mayor  
West Linn City Council

From: Darren Wyss, Community Development Department *DSW*

Through: John Williams, Interim City Manager *JRW*

Subject: Amendments to Implement Minimum Paved Width for Public Streets in New Subdivision Proposals (CDC-20-01)

---

### Purpose

To hold a public hearing and consider proposed amendments to the West Linn 2016 Transportation System Plan (Ordinance 1714) and West Linn Community Development Code Chapter 85 (Ordinance 1713).

### Question(s) for Council:

Should the Council adopt the proposed amendments as recommended by the West Linn Planning Commission?

### Public Hearing Required:

Yes

### Background & Discussion:

The proposed amendments are in response to community concerns, previously brought to the Planning Commission (PC), over lack of adequate street parking in new subdivisions. The Transportation System Plan (TSP) and Community Development Code (CDC) currently allow a 24-Foot Local (No Parking) street cross-section that is typically utilized in subdivisions with steep cross-slopes or for protection of natural resources.

The PC forwarded this concern to City Council and discussed at a joint work session in February 2019. The outcome was City Council directed staff to amend street cross-section standards to require the 28-Foot Local (Parking on One-Side) as the default in new subdivisions moving forward. Staff implemented this direction through a policy memorandum in April 2019 until an amendment could be brought forward.

City Council and the PC discussed this issue once again at a joint work session on October 21, 2019. The group reached consensus that the policy memorandum needed codified so it could be easily found and implemented into the future. The group reiterated that the 28-Foot Local (Parking on One-Side) would be the default for new subdivisions and not in older, existing neighborhoods. City Council directed staff to put together an amendment proposal and bring it through the legislative process.

Staff explored options to codify the policy direction and brought a proposal to a joint meeting of the PC and the Transportation Advisory Board (TAB) on February 19, 2020. The proposal did not eliminate the 24-Foot Local (No Parking) cross-section, but it created clear direction to applicants on expectations for new street cross-sections in a subdivision proposal. Staff felt keeping the 24-Foot Local (No Parking) option in the TSP and CDC was important to maintain flexibility in older, established neighborhoods where street and right-of-way widths can vary significantly.

These older neighborhoods also have varied levels of stormwater infrastructure available to collect and treat run-off from impervious surfaces. Having flexibility for pavement widths will ensure the stormwater is handled appropriately and effectively. In addition, mature trees are often seen as valuable amenities of these older neighborhoods and have existed with the current right-of-way configuration for many years. Providing some flexibility in the design of street improvements can lead to the retention of mature trees and maintaining the feel of the neighborhood.

After discussion, the PC and TAB found consensus on four items and requested the proposed amendments be updated accordingly and brought back for review and further discussion. The four items:

1. Clarify the 34-Foot Local cross-section can still be utilized in new subdivisions.
2. Both internal streets and streets adjacent to the new subdivision should be subject to the minimum width standard.
3. Create clear and objective standards the PC can utilize to review and make findings against in order to approve a new subdivision proposal with street pavement width less than 28-feet. For example, standards to protect natural resources or steep slopes.
4. Private streets in a new subdivision should also be subject to the minimum 28-foot width standard.

The PC held a second work session on April 15, 2020 where it reviewed the first three items listed above that were incorporated into the proposed CDC and TSP amendments. The PC also discussed the fourth item above to clarify the definition of a private street and provide direction on how to implement the request. To help with the discussion, staff provided background information on the terminology in the CDC, recent subdivision approvals, and how the design relates to the terminology. Staff presented options for the PC to consider. The outcome of the meeting was:

1. The PC found consensus the proposed CDC and TSP amendments were ready for the legislative process, with one minor change to correct a code reference;
2. The PC agreed that the CDC should be amended to make access to more than three lots/parcels by a public street built to public street standards. The code currently allows a private street or shared driveway for up to four lots/parcels and requires a public street built to public street standards for access to five or more lots/parcels. The PC asked for a companion proposal to be brought forward with the proposed amendments; and
3. The PC agreed that private streets should be prohibited and to amend the CDC to remove all references to and definitions of private streets.

After the April meeting, the PC was advised that because items two and three would create additional maintenance costs for the public and they are outside the original project approval from Council, the Council would need to provide policy direction on this issue before proceeding. The Council appointed Mixed-Use Working Group faced a similar situation in 2018 where code improvements were identified

but outside of the direction given by City Council. The working group recommended the specific code amendments as directed by Council and also recommended five items to add to and prioritize on the docket for future amendments.

On June 3, 2020, the PC held its third and final work session on proposed amendments to the CDC and TSP to implement minimum pavement width standards for streets in new subdivisions. Based on the policy implications discussed above, staff requested direction from the PC on how to proceed:

1. Commence the legislative process on the proposed amendments to the CDC and TSP right away. Include a recommendation on the additional items, with a description of the issue, for City Council to discuss and potentially prioritize for a subsequent amendment process.
2. Include a companion code amendment proposal by delaying the legislative process, hold a joint meeting with City Council to discuss the issue, and request Council to direct staff to delay work on another docket priority project while focusing on the companion proposal.

After discussion, the PC found consensus to move forward with Option 1 and commence the legislative process immediately. The PC Recommendation Memorandum found in Attachment 3 contains the items the PC would like to see Council place, and prioritize, on the planning docket for future attention.

The amendment package originally contained proposed changes to the definitions of Major Utility and Minor Utility in the Community Development Code. The City has historically interpreted stormwater facilities as part of a development proposal to be minor utilities and permitted outright in all zoning districts within the City. The purpose the proposed amendments was to clarify this interpretation into the code. However, at the public hearing on August 5, 2020, the PC agreed to pull the definition amendments out of the proposal and add an evaluation of stormwater facilities being classified as a minor utility to the docket and prioritized.

**Budget Impact:**

No immediate impact, but future street maintenance costs will increase in new subdivisions where 24-foot pavement widths would have been utilized.

**Sustainability Impact:**

Increased pavement width will increase stormwater runoff and treatment requirements. Increasing pavement width could potentially conflict with community value of retaining significant trees during the development process.

**Council Goal/Priority:**

Planning Docket Project: Street Width Standards is listed as a priority item currently underway.

**Council Options:**

1. Adopt Ordinances 1685 and 1686 as presented in Attachments 1 and 2;
2. Adopt Ordinances 1685 and 1686 with changes;
3. Do not adopt Ordinances 1685 and 1686.

**Staff Recommendation:**

Approve CDC-20-01, as recommended by the Planning Commission, by adopting Ordinances 1713 and 1714 following a public hearing.

**Potential Motion:**

1. Move to adopt Ordinance 1713 and 1714 as recommended by the Planning Commission
2. Move to adopt Ordinance 1713 and 1714 with the following changes to the Planning Commission recommendation
3. Move to not adopt Ordinance 1713 and 1714 as recommended by the Planning Commission

**Attachments:**

1. Ordinance 1713
2. Ordinance 1714
3. Planning Commission Recommendation Memorandum, dated August 10, 2020
4. Planning Commission Staff Report, dated August 5, 2020
5. Affidavit of Notice for City Council Public Hearing

**ORDINANCE 1713**

**AN ORDINANCE RELATING TO THE AMENDMENT OF WEST LINN COMMUNITY DEVELOPMENT CODE CHAPTER 85 TO IMPLEMENT A MINIMUM PAVED WIDTH FOR PUBLIC STREETS IN NEW SUBDIVISION PROPOSALS**

Annotated to show ~~deletions~~ and additions to the code sections being modified. Deletions are ~~bold lined through~~ and additions are **bold underlined**.

**WHEREAS**, Chapter II, Section 4, of the West Linn City Charter provides:

Powers of the City. The City shall have all powers which the Constitution, statutes and common law of the United States and of this State now or hereafter expressly or implied grant or allow the City, as fully as though this Charter specifically enumerated each of those powers;

**WHEREAS**, the West Linn Planning Commission heard concerns from the community that 24-foot pavement widths in new subdivisions were problematic; and

**WHEREAS**, the Planning Commission and City Council held a work session in February 2019 and Council directed staff to require 28-foot pavement width as default in new subdivisions; and

**WHEREAS**, staff implemented Council direction through a policy memorandum issued in April 2019 until an amendment could be brought forward; and

**WHEREAS**, the Planning Commission and City Council held a work session in October 2019 and Council directed staff to codify the policy memorandum; and

**WHEREAS**, the Planning Commission held work sessions in February 2020, April 2020, and June 2020 to review draft code amendments and provide direction to City staff;

**WHEREAS**, the Planning Commission held a public hearing on August 5, 2020 where it voted unanimously to recommend the City Council adopt the proposed amendments.

**NOW, THEREFORE, THE CITY OF WEST LINN ORDAINS AS FOLLOWS:**

**SECTION 1. Amendment.** West Linn Community Development Code Chapter 85: General Provisions, Section 85.200.A(3) through 85.200.A(4) is amended to read as follows:

3. Street widths. Street widths shall depend upon ~~which~~ **the** classification of street is proposed. The classifications and required cross sections are established in the adopted TSP.

The following table identifies appropriate street width (curb to curb) in feet for various street classifications. The desirable width shall be required unless the applicant or ~~his or her~~ **their** engineer can

demonstrate that site conditions, topography, or site design require the reduced minimum width. For local streets, a 12-foot travel lane may only be used as a shared local street when the available right-of-way is too narrow to accommodate bike lanes and sidewalks.

### City of West Linn Roadway Cross-Section Standards

Street Element	Characteristic	Width/Options
Vehicle Lane Widths (Typical widths)	Minor Arterial	11 – 12 feet
	Collector	10 – 12 feet
	Neighborhood Route	10 – 12 feet
	Local	10 – 12 feet
On-Street Parking	Minor Arterial	Limited (in designated commercial zones)
	Collector	Optional (8 feet typical width)
	Neighborhood Route	Optional (8 feet typical width)
	Local	Optional <u>*</u> (8 feet typical width)
Bicycle Lanes (Typical widths)	Arterial	5 feet
	Collector	5 feet
	Neighborhood Route	5 feet
Cycle Track	Minor Arterial (30 MPH or greater)	7 feet
	Collector (30 MPH or greater)	7 feet
Sidewalks (Typical widths)	Minor Arterial	6 feet, 10 – 12 feet in commercial zones
	Collector	6 feet, 8 feet in commercial zones
	Along Cycle Track	6 feet, 10 – 12 feet in commercial zones
	Neighborhood Route/Local	6 feet (4 – 5 feet in Willamette Historical District), 8 feet in commercial zones
Landscape Strips	Can be included on all streets	6 feet typical (5 feet for minor arterials)
Raised Medians	5-Lane	Optional
	3-Lane	Optional
	2-Lane	Consider if appropriate
Neighborhood Traffic Management	Arterials	None
	Collectors	None
	Neighborhood Route/Local	At the discretion of the City Engineer

## City of West Linn Roadway Cross-Section Standards

Street Element	Characteristic	Width/Options
Transit	Minor Arterial/Collector	Appropriate
	Neighborhood Route	Only in special circumstances
	Local	Not recommended

**\* The minimum paved width for both internal and adjacent Local streets in new subdivision proposals shall be 28-feet, unless reduced in CDC.85.200.A(4).**

4. The decision-making body shall consider the City Engineer’s recommendations on the desired right-of-way width, pavement width and street geometry of the various street types **for streets** within **or adjacent to** the subdivision, after consideration by the City Engineer of, the following criteria: **To approve a street design less than the desirable width in CDC 85.200.A(3), the applicant shall demonstrate with proper documentation that one of the following applies:**

**a. The street design will help protect a Water Resource Area and complies with the submittal requirements and approval standards found in CDC Chapter 32.**

**b. The street design will help protect a Flood Management Area and complies with the submittal requirements and approval standards found in CDC Chapter 27.**

**c. The street design will help protect the Willamette River Greenway, Tualatin River Greenway, or a Habitat Conservation Area and complies with the submittal requirements and approval standards found in CDC Chapter 28.**

**d. The street design will help protect steep slopes and complies with the submittal requirements found in CDC 85.170(C) and approval standards found in CDC 85.200(E).**

**e. The street design will help protect a cluster of significant trees and complies with CDC 85.200.J(9).**

~~a. The type of road as set forth in the Transportation Master Plan.~~

~~b. The anticipated traffic generation.~~

~~c. On-street parking requirements.~~

~~d. Sidewalk and bikeway requirements.~~

~~e. Requirements for placement of utilities.~~

~~f. Street lighting.~~

~~g. Drainage and slope impacts.~~

~~h. Street trees.~~

~~i. Planting and landscape areas.~~

~~j. Existing and future driveway grades.~~

~~k. Street geometry.~~

~~l. Street furniture needs, hydrants.~~

**SECTION 2. Severability.** The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

**SECTION 3. Savings.** Notwithstanding this amendment/repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced, shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinance or portions of the ordinance were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

**SECTION 4. Codification.** Provisions of this Ordinance shall be incorporated in the City Code and the word “ordinance” may be changed to “code”, “article”, “section”, “chapter” or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Sections 2-5) need not be codified and the City Recorder or designee is authorized to correct any cross-references and any typographical errors.

**SECTION 5. Effective Date.** This ordinance shall take effect on the 30<sup>th</sup> day after its passage.

The foregoing ordinance was first read by title only in accordance with Chapter VIII, Section 33(c) of the City Charter on the \_\_\_\_\_ day of \_\_\_\_\_, 2020, and duly PASSED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

---

RUSSELL B. AXELROD, MAYOR

---

KATHY MOLLUSKY, CITY RECORDER

APPROVED AS TO FORM:

---

CITY ATTORNEY

**ORDINANCE 1714**

**AN ORDINANCE RELATING TO THE AMENDMENT OF WEST LINN 2016 TRANSPORTATION SYSTEM PLAN TO IMPLEMENT A MINIMUM PAVED WIDTH FOR PUBLIC STREETS IN NEW SUBDIVISION PROPOSALS**

Annotated to show ~~deletions~~ and additions to the code sections being modified. Deletions are ~~bold lined through~~ and additions are **bold underlined**.

**WHEREAS**, Chapter II, Section 4, of the West Linn City Charter provides:

Powers of the City. The City shall have all powers which the Constitution, statutes and common law of the United States and of this State now or hereafter expressly or implied grant or allow the City, as fully as though this Charter specifically enumerated each of those powers;

**WHEREAS**, the West Linn Planning Commission heard concerns from the community that 24-foot pavement widths in new subdivisions were problematic; and

**WHEREAS**, the Planning Commission and City Council held a work session in February 2019 and Council directed staff to require 28-foot pavement width as default in new subdivisions; and

**WHEREAS**, staff implemented Council direction through a policy memorandum issued in April 2019 until an amendment could be brought forward; and

**WHEREAS**, the Planning Commission and City Council held a work session in October 2019 and Council directed staff to codify the policy memorandum; and

**WHEREAS**, the Planning Commission held work sessions in February 2020, April 2020, and June 2020 to review draft code amendments and provide direction to City staff;

**WHEREAS**, the Planning Commission held a public hearing on August 5, 2020 where it voted unanimously to recommend the City Council adopt the proposed amendments.

**NOW, THEREFORE, THE CITY OF WEST LINN ORDAINS AS FOLLOWS:**

**SECTION 1. Amendment.** West Linn 2016 Transportation System Plan, a supporting document of West Linn Comprehensive Plan is amended as depicted in Exhibit A.

**SECTION 2. Severability.** The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

**SECTION 3. Savings.** Notwithstanding this amendment/repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced, shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinance or portions of the ordinance were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

**SECTION 4. Codification.** Provisions of this Ordinance shall be incorporated in the City Code and the word “ordinance” may be changed to “code”, “article”, “section”, “chapter” or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Sections 2-5) need not be codified and the City Recorder or designee is authorized to correct any cross-references and any typographical errors.

**SECTION 5. Effective Date.** This ordinance shall take effect on the 30<sup>th</sup> day after its passage.

The foregoing ordinance was first read by title only in accordance with Chapter VIII, Section 33(c) of the City Charter on the \_\_\_\_\_ day of \_\_\_\_\_, 2020, and duly PASSED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

---

RUSSELL B. AXELROD, MAYOR

---

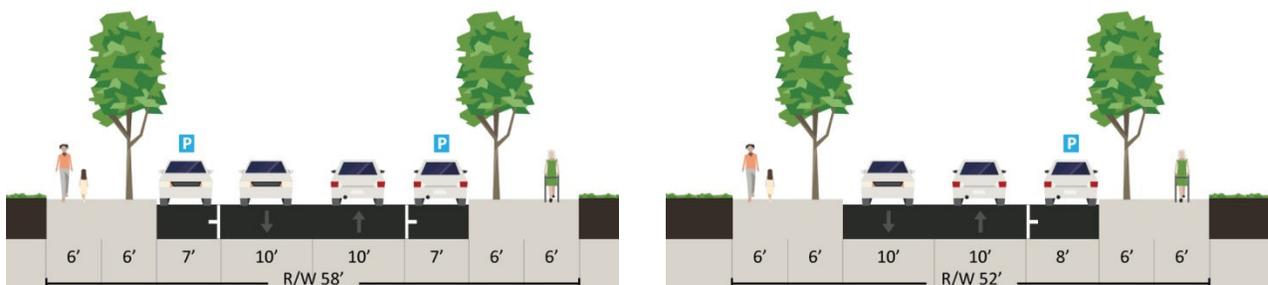
KATHY MOLLUSKY, CITY RECORDER

APPROVED AS TO FORM:

---

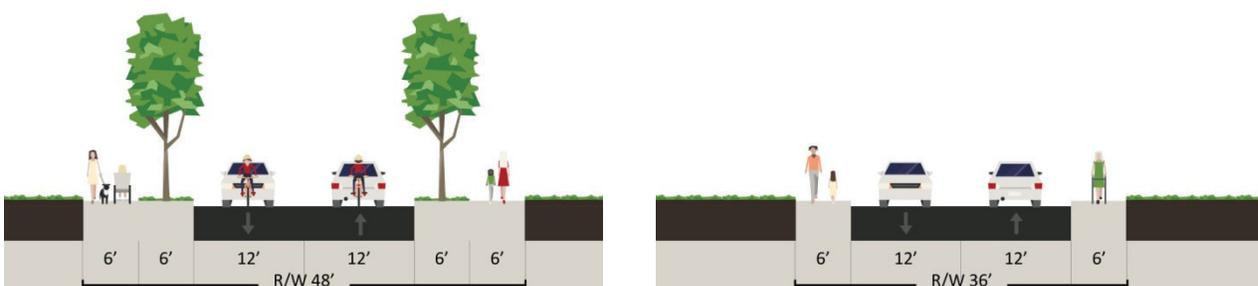
CITY ATTORNEY

Exhibit 9: Local Street Cross Sections



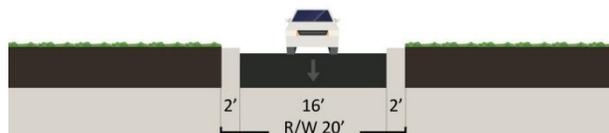
34-foot Local (Parking on Both Sides) \*\*

28-foot Local (Parking on One Side) \*



24-foot Local (No Parking)

Local Constrained



Alley

Table 30: Local Street Cross Section Standards

Standards <sup>3</sup>	Local Streets
Vehicle Lane Widths	10-12 feet
On-Street Parking	7-8 feet <sup>1</sup>
Sidewalks	6 feet (4-5 feet in Willamette Historical District)
Landscape Strips	6 feet <sup>2</sup>
Median/Turn Lane Widths	None
Neighborhood Traffic Management	At the discretion of the City Engineer

1. Allowance of on-street parking shall be based upon the nature and intensity of adjacent development and physical constraints.
2. Landscape strips may be reduced and/or removed at the discretion of the City Engineer.
3. The City Engineer or Planning Director may recommend green street variations of each cross section. These variations may include replacing the standard landscape strip with a rain garden or swale, using pervious material for the sidewalk, and in some cases providing a sidewalk on only one side of the street.

**\* Standard cross-section for internal and adjacent streets in new subdivision proposals**

**\*\* Cross-section also allowed in new subdivision proposals**

## Memorandum

Date: August 10, 2020  
To: West Linn City Council  
From: West Linn Planning Commission  
Subject: CDC-20-01 Recommendation

---

The Planning Commission held a public hearing on August 5, 2020, for the purpose of making a recommendation to the City Council on the adoption of the proposed amendments to the 2016 West Linn Transportation System Plan and the Community Development Code (CDC) found in Land Use File CDC-20-01.

After conducting the public hearing, the Commission made a decision to vote separately on the proposed amendment to implement the 28-foot pavement width as the default for local streets in new subdivisions and the proposed definition amendments to clarify stormwater treatment and detention facilities are minor utilities and permitted outright. The Commission deliberated and voted unanimously (6 to 0) to recommend City Council adoption of the proposed amendments as presented for implementing the 28-foot pavement width as the default for local streets in new subdivisions. No written testimony was submitted prior to the public hearing. No community members provided oral testimony at the public hearing.

The Commission deliberated, but did not vote on the proposed amendments to the major and minor utility definitions. The Commission had previously held work sessions and recommended the proposed definition amendments be brought forward into the legislative process; however, the Commission opted to create a subcommittee to further analyze the stormwater facility issue and recommend the City Council place the issue on the docket and prioritize the issue.

The proposed amendments were crafted by the Commission over the course of four work sessions from February to July 2020. In addition, the Commission discussed other changes to the CDC related to street widths. These discussions were a natural extension of the primary purpose of implementing the 28-foot pavement width standard for new subdivisions as directed by City Council.

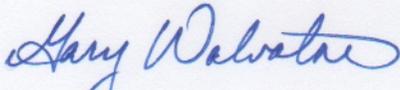
Based on the discussions, the Commission reached consensus on a set of recommendations for future consideration by City Council. The group proposes these recommendations be added to the planning docket for further evaluation and potential CDC changes in the near future. They are as follows:

1. Evaluate the impacts of making access to more than three lots/parcels by a public street built to public street standards. The code currently allows a private street or shared driveway for up to four lots/parcels and requires a public street built to public street standards for access to five or more lots/parcels. At a minimum, evaluate requiring a private street or shared driveway providing access to four lots/parcels to have a 28-foot pavement width to correspond with the Commission's recommended default street width for new subdivisions.

2. Evaluate the differences between shared driveways and private streets and consider amending the CDC to prohibit future development of private streets.
3. Evaluate whether a stormwater facility as part of development should continue being classified as a minor utility and permitted outright or should be classified as a major utility and become a conditional use. If reclassified as a major utility, the conditional use permit standards in Community Development Code Chapter 60 would also need to be amended to comply with Oregon Land Use Planning Goal 10 to ensure housing regulations are clear and objective.

On behalf of the Planning Commission, we would like to thank City Council for the opportunity to develop these recommendations for consideration.

Respectfully,



Gary Walvatne  
Chair, West Linn Planning Commission



# CITY OF West Linn

## STAFF REPORT FOR THE PLANNING COMMISSION

**FILE NUMBER:** CDC-20-01

**HEARING DATE:** August 5, 2020

**REQUEST:** To consider a recommendation to City Council for adoption of proposed text amendments to the 2016 West Linn Transportation System Plan and to West Linn Community Development Code Chapters 2 and 85.

**APPROVAL CRITERIA:** Community Development Code (CDC) Chapters 98, 100, and 105

**STAFF REPORT PREPARED BY:** Darren Wyss, Acting Planning Manager

### TABLE OF CONTENTS

GENERAL INFORMATION .....	2
EXECUTIVE SUMMARY .....	3
RECOMMENDATION .....	3
PROJECT BACKGROUND .....	4
PUBLIC COMMENTS .....	6
ADDENDUM .....	7
EXHIBITS	
PC – 1 PROPOSED TRANSPORTATION SYSTEM PLAN AMENDMENTS .....	16
PC – 2 PROPOSED COMMUNITY DEVELOPMENT CODE AMENDMENTS .....	18
PC – 3 DRAFT PLANNING COMMISSION TRANSMITTAL LETTER TO CITY COUNCIL .....	22
PC – 4 AFFIDAVIT AND NOTICE PACKET .....	24

## GENERAL INFORMATION

**APPLICANT:** City of West Linn

**DESCRIPTION:** The proposal includes amendments to implement a minimum paved width for public streets in new subdivisions and updated definitions for major and minor utilities to clarify stormwater facilities associated with development are minor utilities.

**APPROVAL  
CRITERIA:**

Community Development Code (CDC) Chapter 98 provides administrative procedures for legislative amendments to the Comprehensive Plan and/or the Community Development Code. Section 98.100 of the CDC lists the factors upon which a decision shall be based. These are briefly described below and addressed in greater detail in a separate Section of this report:

1. The Statewide Planning Goals and rules adopted under ORS Chapter 197 and other applicable state statutes;
2. Any federal or state statutes or rules found applicable;
3. Applicable plans and rules adopted by the Metropolitan Service District (Metro);
4. The applicable Comprehensive Plan policies and map; and,
5. The applicable provisions of implementing ordinances.

**PUBLIC NOTICE:** Legal notice was published in the West Linn Tidings on July 23, 2020 and provided to required public agencies and persons who requested notice in writing on July 16, 2020.

**120-DAY RULE:** Not applicable to this legislative action.

## EXECUTIVE SUMMARY

Land Use File CDC-20-01 contains proposed amendments to the 2016 West Linn Transportation System Plan and to West Linn Community Development Code (CDC) Chapters 2 and 85. The proposal was brought forth in response to community concerns over the width of streets in new subdivisions and a Planning Commission request to clarify and codify whether stormwater “ponds” were a permitted use as it was not clearly defined in the code. The City Council directed staff to put together an amendment proposal and work with the Planning Commission to refine it and bring it through the legislative process.

The Planning Commission met a number of times in Spring/Summer 2020 to review and discuss a package of amendments and after finding consensus, directed staff to bring the proposal through the legislative process.

Staff is seeking a recommendation from the Planning Commission regarding CDC-20-01. This staff report details the background and intention of the proposed amendments, addresses applicable criteria, and supports the proposed amendments.

The proposed amendments address City Council’s direction to implement a standard street width for new subdivisions and clarifies the stormwater “pond” question raised by the Planning Commission. The amendments were initiated by the City Council pursuant to CDC 98.035.

## RECOMMENDATION

Staff recommends that the Planning Commission consider the proposed amendments, if warranted, revise the amendments, and **RECOMMEND** approval of the amendments to the City Council.

## PROJECT BACKGROUND

### Street Width Standards in New Subdivisions

The proposed amendments are in response to community concerns, previously brought to the Planning Commission (PC), over lack of adequate street parking in new subdivisions. The Transportation System Plan (TSP) and Community Development Code (CDC) currently allow a 24-Foot Local (No Parking) street cross-section that is typically utilized in subdivisions with steep cross-slopes or for protection of natural resources.

The PC forwarded this concern to City Council and discussed at a joint worksession in February 2019. The outcome was City Council directed staff to amend street cross-section standards to require the 28-Foot Local (Parking on One-Side) as the default in new subdivisions moving forward. Staff implemented this direction through a policy memorandum in April 2019 until an amendment could be brought forward.

City Council and the PC discussed this issue once again at a joint worksession on October 21, 2019. The group reached consensus that the policy memorandum needed codified so it could be easily found and implemented into the future. The group reiterated that the 28-Foot Local (Parking on One-Side) would be the default for new subdivisions and not in older, existing neighborhoods. City Council directed staff to put together an amendment proposal and bring it through the legislative process.

Staff explored options to codify the policy direction and brought a proposal to a joint meeting of the PC and the Transportation Advisory Board (TAB) on February 19, 2020. The proposal did not eliminate the 24-Foot Local (No Parking) cross-section, but it created clear direction to applicants on expectations for new street cross-sections in a subdivision proposal. Staff felt keeping the 24-Foot Local (No Parking) option in the TSP and CDC was important to maintain flexibility in older, established neighborhoods where street and right-of-way widths can vary significantly.

These older neighborhoods also have varied levels of stormwater infrastructure available to collect and treat run-off from impervious surfaces. Having flexibility for pavement widths will ensure the stormwater is handled appropriately and effectively. In addition, mature trees are often seen as valuable amenities of these older neighborhoods and have existed with the current right-of-way configuration for many years. Providing some flexibility in the design of street improvements can lead to the retention of mature trees and maintaining the feel of the neighborhood.

After discussion, the PC and TAB found consensus on four items and requested the proposed amendments be updated accordingly and brought back for review and further discussion. The four items:

1. Clarify the 34-Foot Local cross-section can still be utilized in new subdivisions.
2. Both internal streets and streets adjacent to the new subdivision should be subject to the minimum width standard.
3. Create clear and objective standards the PC can utilize to review and make findings against in order to approve a new subdivision proposal with street pavement width less than 28-feet. For example, standards to protect natural resources or steep slopes.
4. Private streets in a new subdivision should also be subject to the minimum 28-foot width standard.

The PC held a second work session on April 15, 2020 where it reviewed the first three items listed above that were incorporated into the proposed CDC and TSP amendments. The PC also discussed the fourth

item above to clarify the definition of a private street and provide direction on how to implement the request. To help with the discussion, staff provided background information on the terminology in the CDC, recent subdivision approvals, and how the design relates to the terminology. Staff presented options for the PC to consider. The outcome of the meeting was:

1. The PC found consensus the proposed CDC and TSP amendments were ready for the legislative process, with one minor change to correct a code reference;
2. The PC agreed that the CDC should be amended to make access to more than three lots/parcels by a public street built to public street standards. The code currently allows a private street or shared driveway for up to four lots/parcels and requires a public street built to public street standards for access to five or more lots/parcels. The PC asked for a companion proposal to be brought forward with the proposed amendments; and
3. The PC agreed that private streets should be prohibited and to amend the CDC to remove all references to and definitions of private streets.

After the April meeting, the PC was advised that because items two and three would create additional maintenance costs for the public and they are outside the original project approval from Council, the Council would need to provide policy direction on this issue before proceeding. The Council appointed Mixed-Use Working Group faced a similar situation in 2018 where code improvements were identified but outside of the direction given by City Council. The working group recommended the specific code amendments as directed by Council and also recommended five items to add to and prioritize on the docket for future amendments.

On June 3, 2020, the PC held its third and final work session on proposed amendments to the CDC and TSP to implement minimum pavement width standards for streets in new subdivisions. Based on the policy implications discussed above, staff requested direction from the PC on how to proceed:

1. Commence the legislative process on the proposed amendments to the CDC and TSP right away. Include a recommendation on the additional items, with a description of the issue, for City Council to discuss and potentially prioritize for a subsequent amendment process.
2. Include a companion code amendment proposal by delaying the legislative process, hold a joint meeting with City Council to discuss the issue, and request Council to direct staff to delay work on another docket priority project while focusing on the companion proposal.

After discussion, the PC found consensus to move forward with Option 1 and commence the legislative process immediately. Final proposed amendments are found in Exhibits PC-1 and PC-2.

#### Major/Minor Utility Definitions

The Planning Commission (PC) engaged in a long running discussion on the lack of specific “use” language for stormwater detention/treatment facilities (primarily ponds) in the Community Development Code (CDC). The most closely associated “uses” listed in the CDC are major and minor utilities, however neither one directly identifies stormwater detention/treatment facilities in its definition. On December 4, 2019, the PC voted 5 to 1 in favor of requesting a CDC Chapter 80 hearing to determine if these facilities should be classified as a minor utility. CDC Chapter 80 addresses unlisted uses, with the purpose being *“determining whether certain specific uses would have been permitted in a zone had they been contemplated, and whether such unlisted uses are compatible with the listed uses”*.

The PC then held work sessions on February 5, 2020 and May 6, 2020 to discuss the Chapter 80 hearing notice requirements and process, as well as background information on stormwater planning/engineering and how the City currently addresses each. Subsequent to the latter meeting, Interim City Manager/Community Development Director Williams, Mayor Axelrod, and PC Chair Walvatne held a conference call to discuss several issues the PC wants to place on future agendas, including the purpose of the Chapter 80 hearing and whether it will constructively address the PC concerns. Based on advice from the City Attorney that the Chapter 80 hearing needs a specific proposal and not an open ended question, and in addition the result could conflict with state housing law, the conference call ended with a recommendation to hold an additional work session with the following goals:

1. Discuss state housing law and its relationship to stormwater permitting in further detail with the purpose of understanding the legal framework;
2. Review and discuss the history of major/minor definition amendments over the years and how other jurisdictions permit stormwater facilities, particularly above ground ponds in both subdivisions and commercial developments; and
3. Find consensus on whether current City process is sufficient or code amendments are necessary. If so, clearly define the problem to be solved with the amendments.

The additional work session was held on June 3, 2020. To help with the discussion, staff provided background on the history of amendments to the major and minor utility definitions, research on other jurisdiction approaches to stormwater facilities, and a series of questions for the PC to assist in building consensus and help identify the most efficient and effective path forward to address PC concerns related to the stormwater detention/treatment facility “use” discussion.

After discussion, the PC found consensus on the following:

1. An amendment to the major/minor utility definitions to clarify stormwater detention/treatment facilities are a minor utility will appropriately address the issue;
2. Both the 1983 and 2011 definitions (see below) contain language that is more clear, as opposed to the last change in 2014, in distinguishing between the two “uses”;
3. Add stormwater facility language to the minor utility definition; and
4. Staff will draft definition amendments for final review.

The final PC work session for this topic was held on July 1, 2020. Staff provided a draft of proposed amendments to the definitions based on the direction above and after discussion, the PC requested some minor word changes:

1. Add health and safety to list of impacts for both major and minor utilities;
2. Clarify an electrical power plant or substation; and
3. Change regional sewer pump station to publicly-owned sewer pump station.

With the minor word changes, the PC found consensus the definition amendments (see Exhibit PC-2) were ready for the legislative process.

## **PUBLIC COMMENTS**

At the time this Staff Report was prepared, the City had received no written comment on the proposed amendments.

**ADDENDUM**  
**PLANNING COMMISSION STAFF REPORT**  
August 5, 2020

**APPLICABLE CRITERIA AND COMMISSION FINDINGS**

West Linn Community Development Code

Chapter 98 - Procedures for Decision Making: Legislative

CDC 98.035 Citizen Engagement in Legislative Changes

A. Purpose. The purpose of a legislative working group is to provide a forum to discuss different points of view on a proposed land use legislative change.

B. New and modified land use legislative changes to this code will be developed by a representative working group of citizens and assisted by planning staff, unless the City Council determines that a working group is not necessary.

**Findings:** The City Council found a working group was not necessary as a discussion forum and directed staff to draft proposed amendments for review by the Planning Commission. The Planning Commission met five six times in 2020 to discuss and find consensus on the two topics that are part of the amendment proposal.

CDC 98.040 Duties of Director

A. The Director shall:

1. If appropriate, or if directed by the City Council or Planning Commission in their motion, consolidate several legislative proposals into a single file for consideration;

**Findings:** The proposed legislative amendments to the West Linn Comprehensive Plan and Community Development Code have been consolidated into one file as allowed. The consolidation is appropriate as all proposed amendments are the result of recommendations made by the Planning Commission on two narrowly focused improvements to the code.

2. Upon the initiation of a legislative change, pursuant to this chapter:

a. Give notice of the Planning Commission hearing as provided by CDC [98.070](#) and [98.080](#);

**Findings:** The Planning Commission public hearing will be held on August 5, 2020, with the City Council public hearing tentatively scheduled for September 14, 2020. Legislative notice was provided as required and documentation can be found in Exhibit PC-4. Notice was provided to the Department of Land Conservation and Development on June 9, 2020 meeting the required 35-day notice timeline. The Community Development Director determined no notice was necessary under ORS 227.186 as the proposed amendments do not limit or prohibit uses previously allowed.

b. Prepare a staff report that shall include:

1) The facts found relevant to the proposal and found by the Director to be true;

2) The Statewide planning goals and rules adopted under Chapter 197 ORS found to be applicable and the reasons why any other goal or rule is not applicable to the proposal except that goals 16 through 19 which are not applicable to the City of West Linn need not be addressed;

3) Any federal or State statutes or rules the Director found applicable;

- 4) Metro plans and rules the Director found to be applicable;
- 5) Those portions of the Comprehensive Plan found to be applicable, and if any portion of the plan appears to be reasonably related to the proposals and is not applied, the Director shall explain the reasons why such portions are not applicable;
- 6) Those portions of the implementing ordinances relevant to the proposal, and if the provisions are not considered, the Director shall explain the reasons why such portions of the ordinances were not considered; and
- 7) An analysis relating the facts found to be true by the Director to the applicable criteria and a statement of the alternatives; a recommendation for approval, denial, or approval with modifications; and at the Director's option, an alternative recommendation;

**Findings:** Relevant facts and associated analysis for applicable Statewide Planning Goals, federal and state statutes and rules, Metro plans and rules, West Linn Comprehensive Plan goals and policies, and West Linn Community Development Code criteria are found in the sections of the Staff Report below.

c. Make the staff report and all case file materials available 10 days prior to the scheduled date of the public hearing under CDC [98.070](#);

**Findings:** The staff report, proposed amendment, and all other associated project materials were made available on July 24, 2020, twelve days prior to the hearing.

d. Cause a public hearing to be held pursuant to CDC [98.070](#);

**Findings:** The West Linn Planning Commission is scheduled to hold the first evidentiary public hearing on August 5, 2020, with the West Linn City Council tentatively scheduled to hold its public hearing and make a final decision on September 14, 2020.

*CDC 98.100 Standards for Decision*

A. The recommendation of the Planning Commission and the decision by the City Council shall be based on consideration of the following factors:

1. The Statewide planning goals and rules adopted under Chapter 197 ORS and other applicable State statutes;

Statewide Planning Goal 1 – Citizen Involvement:

*This goal outlines the citizen involvement requirement for the adoption of Comprehensive Plans and changes to the Comprehensive Plan and implementing documents.*

**Findings:** The City has a citizen involvement program which has been acknowledged by the State. This legislative process to review the proposed amendments will require two public hearings (one before the Planning Commission on August 5<sup>th</sup> and one before City Council on September 14<sup>th</sup>) pursuant to CDC Chapter 98.

The Planning Commission, who recommended the proposed amendments, held four work sessions between February and July 2020. All work sessions were open to the public and noticed in accordance with City rules and regulations. All work session materials, including meeting recordings and summaries, were available throughout the process on the City's website. All of the aforementioned venues provided the opportunity for gathering feedback and comments.

As part of the legislative process, public notice requirements for the Planning Commission public hearing were met (see Exhibit PC-4). The Council public hearing will be noticed as well. The notice was sent to persons who requested notice, affected government agencies, neighborhood associations, and was published in the July 23, 2020 issue of the West Linn Tidings. The notice invited public input and included the phone number of a contact person to answer questions. The notice also included the address of the City's webpage where the draft of the proposed amendments can be viewed.

Statewide Planning Goal 2 – Land Use Planning:

*This goal outlines the land use planning process and policy framework. The Comprehensive Plan was acknowledged by DLCD as being consistent with the statewide planning goals.*

**Findings:** The City of West Linn has an acknowledged Comprehensive Plan and enabling ordinances. The amendment to the West Linn Comprehensive Plan is to update the 2016 West Linn Transportation System Plan (TSP), which is supporting document of the Comprehensive Plan. The TSP has four cross-section options for locally designated streets and this proposal will clarify the 28-foot cross-section will be the minimum required in new subdivision proposals. The amendments to the West Linn Community Development Code are being undertaken to update the City's acknowledged land use planning program to be consistent with current conditions and citizen values. The amendments will provide updated definitions to clarify that stormwater facilities constructed as part of development are minor utilities and permitted outright. The amendments will also clarify, same as the Comprehensive Plan amendments, that the 28-foot cross-section will be the minimum required in new subdivision proposals. The amendments are being processed in accordance to the City's adopted procedures, which requires any applicable statewide planning goals, federal or state statutes or regulations, Metro regulations or plans, comprehensive plan policies, and the City's implementing ordinances be addressed as part of the decision-making process. The amendment is being processed as a post-acknowledgement plan amendment (PAPA) and noticing requirements have been met. All applicable review criteria have been addressed within this staff report; therefore, the requirements of Goal 2 have been met.

Statewide Planning Goal 5 – Natural Resources:

*This goal requires the inventory and protection of natural resources, open spaces, historic sites and areas.*

**Findings:** The City is currently in compliance with the State's Goal 5 program and Metro's Title 13: Nature in Neighborhoods program, which implements Goal 5. The amendment does not alter the City's acknowledged Goal 5 inventories or associated land use programs. No changes will occur to current natural resource protections. As a result, the amendments are in compliance with Goal 5 process requirements.

Statewide Planning Goal 6 – Air, Water, and Land Resource Quality:

*To maintain and improve the quality of air, water, and land resources of the state.*

**Findings:** The City is currently in compliance with Metro's Title 3: Water Quality and Flood Management program, which implements Goal 6. The amendment does not alter the City's acknowledged land use programs regarding water quality and flood management protections. As a result, the amendments are in compliance with Goal 6.

Statewide Planning Goal 7 – Areas Subject to Natural Hazards:

*To protect people and property from natural hazards.*

**Findings:** The City is currently in compliance with Goal 7 and Metro’s Title 3: Water Quality and Flood Management program. The amendment does not alter the City’s acknowledged Goal 7 land use programs. No changes will occur to current natural hazard protections. As a result, the amendments are in compliance with Goal 7.

Statewide Planning Goal 8 – Recreational Needs:

*This goal requires the satisfaction of the recreational needs of the citizens of the state and visitors.*

**Findings:** The proposed amendments do not address or alter any City recreational programs or land use requirements related to parks and recreation. The amendments are in compliance with Goal 8.

Statewide Planning Goal 9 – Economic Development:

*To provide adequate opportunities for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.*

**Findings:** The City is currently in compliance with Goal 9 and Metro’s Title 4: Industrial and Other Employment Areas. The amendments do not alter the City’s compliance with Goal 9.

Statewide Planning Goal 10 – Housing:

*To provide adequate housing for the needs of the community, region and state.*

**Findings:** The City is currently in compliance with Goal 10 and the Metropolitan Housing Rule (OAR 660-007/Division 7), and Metro’s Title 1: Housing Capacity. No changes to permitted residential uses are proposed. The amendments clarify stormwater facilities are permitted outright during development, making the City’s code more clear and objective. The amendments do not alter the City’s compliance with Goal 10 and are consistent with this goal.

Statewide Planning Goal 11 – Public Facilities and Services:

*To plan and develop a timely, orderly, and efficient arrangement of public facilities and services to serve as framework for urban and rural development.*

**Findings:** The City is currently in compliance with Goal 11 through its acknowledged Comprehensive Plan. This includes an adopted Public Facility Plan as required by Oregon Revised Statute 197.712 and Oregon Administrative Rule 660-011. The amendments do not alter the City’s compliance with Goal 11 and are consistent with this goal.

Statewide Planning Goal 12 – Transportation:

*To provide and encourage a safe, convenient, and economic transportation system.*

**Findings:** The City is currently in compliance with Goal 12 and Metro’s Regional Transportation Plan through its acknowledged Comprehensive Plan and TSP as required by Oregon Administrative Rule 660-012 (Transportation Planning Rule). The amendments clarify the minimum pavement width for local streets in new subdivisions, but do not alter the City’s compliance with Goal 12 and are consistent with this goal.

Statewide Planning Goal 13 – Energy Conservation:

*Land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based on sound economic principles.*

**Findings:** The City is currently in compliance with Goal 13 through its acknowledged Comprehensive Plan. The amendments do not alter the City's compliance with Goal 13 and are consistent with this goal.

Statewide Planning Goal 14 – Urbanization:

*To provide for orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.*

**Findings:** The City is currently in compliance with Goal 14 and Metro's Title 11: Planning for New Urban Areas through its acknowledged Comprehensive Plan and land use regulations. The City also has a signed Urban Growth Management Agreement with Clackamas County as required by ORS 195.065. The amendments do not alter the City's compliance with Goal 14 and are consistent with this goal.

Statewide Planning Goal 15 – Willamette River Greenway:

*To provide for keeping the land green along the banks of the river and providing for recreation access.*

**Findings:** The City is currently in compliance with Goal 15 through its acknowledged Comprehensive Plan and land use regulations. The amendments do not alter the City's compliance with Goal 15 and are consistent with this goal.

**Conclusion:** Based on the analysis above, the Commission finds the proposed amendments are consistent with applicable Statewide Planning Goals.

2. *Any federal or State statutes or rules found applicable;*

**Findings:** The federal Clean Water Act, administered through the State Department of Environmental Quality and Department of State Lands, requires the City to comply with stormwater regulations to ensure no degradation to the waters of the state. The West Linn Stormwater Management Plan and regulations are currently in compliance with state and federal regulations. The amendments do not alter compliance, but simply clarify stormwater facilities are permitted outright as part of a development proposal. Staff is not aware of any other applicable state or federal regulations that are impacted by the proposed draft ordinance. The City has an acknowledged Comprehensive Plan and associated land use regulations that comply with applicable state statutes and administrative rules. The Oregon Department of Land Conservation and Development, Metro, and Clackamas County were sent notice of the proposed amendments and provided the opportunity to comment. The amendments do not alter the City's compliance with any state or federal statutes or rules.

**Conclusion:** Based on the analysis above, the Commission finds the proposed amendments are consistent with applicable federal or state statutes or rules.

3. *Applicable plans and rules adopted by the Metropolitan Service District;*

The Metro Urban Growth Management Functional Plan

**Findings:** The City of West Linn is currently in compliance with the Metro Urban Growth Management Functional Plan (UGMFP). Metro staff was sent notice of the proposed amendment and provided the

opportunity to comment. The proposed change will not impact compliance with requirements found in the UGMFP.

**Conclusion:** Based on the analysis above, the Commission finds the proposed amendments are consistent with applicable plans and rules adopted by Metro.

4. *The applicable Comprehensive Plan policies and map;*

Goal 1: Citizen Involvement

*Policy 2. Support neighborhood associations as a forum for discussion and advice on issues affecting the community.*

**Findings:** Notice was sent to the president of all eleven recognized neighborhood associations for each of the four Planning Commission work sessions, as well as the August 5, 2020 public hearing. Each president had the opportunity to relay information back to the associations for feedback and comment. Meeting agendas and materials were available for review and comment on the City's website.

*Policy 3. Encourage individuals to organize and work in groups to develop recommended programs or position on various issues.*

**Findings:** The City Council appointed the West Linn Planning Commission to work on the proposed amendments. The Planning Commission held four work sessions from February to July 2020 and reached consensus on a set of recommendations, including the proposed amendments found in Exhibits PC-1 and PC-2.

*Policy 4. Provide timely and adequate notice of proposed land use matters to the public to ensure that all citizens have an opportunity to be heard on issues and actions that affect them.*

**Findings:** As part of the legislative process, public notice of the Planning Commission public hearing was sent to persons who requested notice, affected government agencies, neighborhood associations, and was published in the July 23, 2020 issue of the West Linn Tidings. The notice invited public input and included the phone number of a contact person to answer questions. The notice also included the address of the City's webpage where the entire draft of the proposed amendment could be viewed. The same notice will be sent for the upcoming City Council public hearing.

The Planning Commission, who recommended the proposed amendments, held four work sessions from February to July 2020. All work sessions were open to the public and noticed in accordance with City rules and regulations. All work session materials, including meeting recordings and summaries, were available throughout the process on the City's website. All of the aforementioned venues provided the opportunity for gathering feedback and comments.

*Policy 5. Communicate with citizens through a variety of print and broadcast media early in and throughout the decision-making process.*

**Findings:** Information was distributed throughout the process via the City website. The Planning Commission, who recommended the proposed amendments, held four work sessions from February to July 2020. All work sessions were open to the public and noticed in accordance with City rules and regulations. All work session materials, including meeting recordings and summaries, were available

throughout the process on the City's website. All of the aforementioned venues provided the opportunity for gathering feedback and comments.

As part of the legislative process, public notice of the Planning Commission public hearing was sent to persons who requested notice, affected government agencies, neighborhood associations, and was published in the July 23, 2020 issue of the West Linn Tidings. The notice invited public input and included the phone number of a contact person to answer questions. The notice also included the address of the City's webpage where the entire draft of the proposed amendment could be viewed. The aforementioned venues provided the opportunity for gathering feedback and comments. The same notice will be sent for the upcoming City Council public hearing.

Goal 2: Land Use Planning

*Section 1: Residential Development*

*Policy 9. Foster land use planning that emphasizes livability and carrying capacity.*

**Finding:** The amendments related to clarifying that the 28-foot pavement width will be the minimum required in new subdivision proposals is the result of citizen concerns brought to the Planning Commission. The citizens requested 28-foot pavement widths versus 24-foot pavement widths to ensure emergency responders can safely access new neighborhoods and guests to the neighborhood will have safe spaces to park when visiting friends or family.

*Section 5: Intergovernmental Coordination*

*Policy 1. Maintain effective coordination with other local governments, special districts, state and federal agencies, Metro, the West Linn-Wilsonville School District, and other governmental and quasi-public organizations.*

*Policy 4. Coordinate with Metro planning activities on all areas in which Metro has jurisdiction and as specified in Goal 14 of this Plan.*

**Finding:** Notice was sent to Department of Land Conservation and Development, Metro, Clackamas County, and all West Linn Neighborhood Associations. They were provided the opportunity to review and comment on the amendments proposed for adoption.

Goal 5: Open Spaces, Scenic and Historic Areas & Natural Resources

Goal 6: Air, Water & Land Resources Quality

Goal 7: Areas Subject to Natural Disasters and Hazards

Goal 8: Parks and Recreation

Goal 9: Economic Development

**Finding:** None of the goals or policies under Goals 5 through 9 apply to this proposal.

Goal 10: Housing

*Policy 8. Adhere to clear and objective standards to promote timely and predictable plan review.*

**Finding:** The amendments to the West Linn Community Development Code will improve the clear and objective standards by providing clarity that stormwater facilities are permitted outright with new development and that 28-foot pavement widths will be required with new subdivision proposals.

Goal 11: Public Facilities and Services

**Finding:** None of the goals or policies under Goal 11 apply to this application.

Goal 12: Transportation

*Streets*

*Policy 7. Require new development to design and construct new internal streets to current city standards and existing adjacent and through streets consistent with current city standards.*

**Finding:** The amendments to the West Linn Comprehensive Plan and Community Development Code will clarify the 28-foot cross-section will be the minimum required street width in new subdivision proposals. The 2016 West Linn Transportation System Plan (TSP), which is supporting document of the Comprehensive Plan, has four cross-section options for locally designated streets and this proposal will clarify the standard that must be met for new subdivision proposals.

Goal 13: Energy Conservation

Goal 14: Urbanization

Goal 15: Willamette River Greenway

**Finding:** None of the goals or policies under Goals 13 through 15 apply to this application.

**Conclusion:** Based on the analysis above, the Commission finds the proposed amendment is consistent with applicable West Linn Comprehensive Plan policies and map.

5. *The applicable provisions of the implementing ordinance.*

Chapter 100 - Procedures for Adoption or Amendment of Supporting Plans

*CDC 100.030 Initiation of Process*

*The procedure for adopting or amending supporting plans may be initiated by the City Council, the Planning Commission, or the Planning Director.*

**Finding:** The West Linn City Council directed staff to initiate the 28-foot pavement width amendment at its meeting on October 21, 2019. The West Linn Planning Commission voted 5 to 1 on December 4, 2019 to initiate a process to clarify whether a stormwater “pond” was a major or minor utility.

*CDC 100.530 Process*

*The Planning Commission shall hold at least one public hearing and shall make a recommendation to the City Council. The City Council shall hold at least one public hearing before adopting or amending any supporting plan. The City Council shall adopt any amendments or new supporting plan by resolution, but may deny a requested amendment or supporting plan by motion.*

**Findings:** The Planning Commission public hearing will be held on August 5, 2020, with the City Council public hearing tentatively scheduled for September 14, 2020.

*CDC 100.070 Notice*

*Notice shall be given in a newspaper of general circulation in the City at least 10 days prior to the initial hearing of the Planning Commission and at least 10 days prior to the initial hearing of the City Council.*

**Findings:** The Planning Commission public hearing will be held on August 5, 2020 and notice was published in the West Linn Tidings on July 23, 2020. The City Council public hearing is tentatively scheduled for September 14, 2020 and notice will be published in the West Linn Tidings on September 3, 2020.

*Chapter 105 – Amendments to the Code and Map*

*CDC 105.030 Legislative Amendments to this Code and Map*

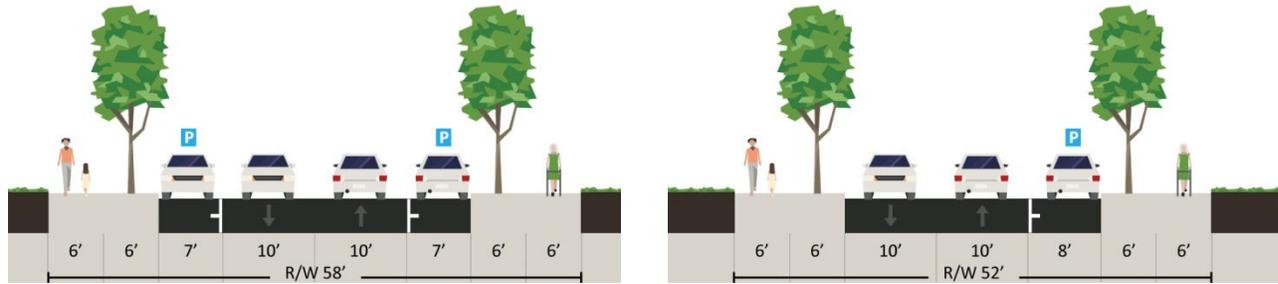
*Legislative amendments to this code and to the map shall be in accordance with the procedures and standards set forth in Chapter 98 CDC.*

**Findings:** The legislative process is being carried out in conformance with CDC Chapter 98 per Findings found on pages 7 to 15 of the Staff Report.

**Conclusion:** Based on the analysis above, the Commission finds the proposed amendment is consistent with applicable provisions of the implementing ordinance.

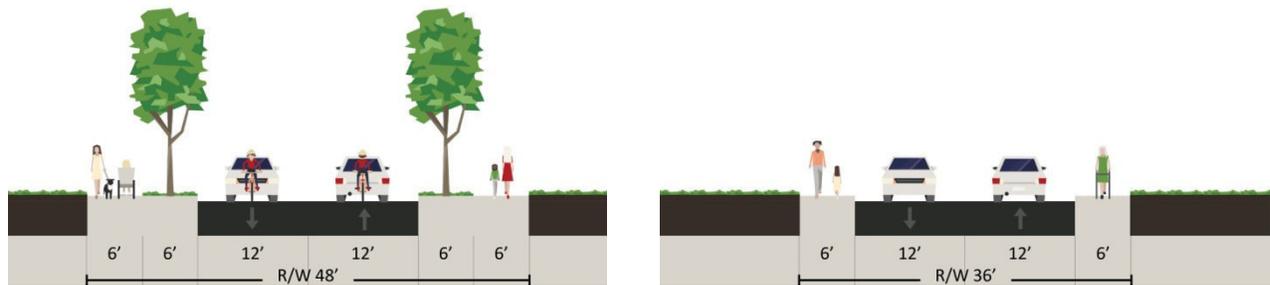
# EXHIBIT PC-1 – PROPOSED TRANSPORTATION SYSTEM PLAN AMENDMENTS

Exhibit 9: Local Street Cross Sections



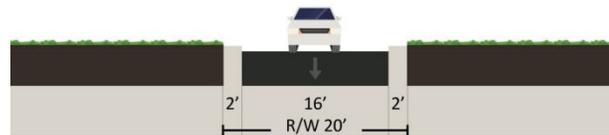
**34-foot Local (Parking on Both Sides) \*\***

**28-foot Local (Parking on One Side) \***



**24-foot Local (No Parking)**

**Local Constrained**



**Alley**

**Table 30: Local Street Cross Section Standards**

Standards <sup>3</sup>	Local Streets
Vehicle Lane Widths	10-12 feet
On-Street Parking	7-8 feet <sup>1</sup>
Sidewalks	6 feet (4-5 feet in Willamette Historical District)
Landscape Strips	6 feet <sup>2</sup>
Median/Turn Lane Widths	None
Neighborhood Traffic Management	At the discretion of the City Engineer

1. Allowance of on-street parking shall be based upon the nature and intensity of adjacent development and physical constraints.
2. Landscape strips may be reduced and/or removed at the discretion of the City Engineer.
3. The City Engineer or Planning Director may recommend green street variations of each cross section. These variations may include replacing the standard landscape strip with a rain garden or swale, using pervious material for the sidewalk, and in some cases providing a sidewalk on only one side of the street.

**\* Standard cross-section for internal and adjacent streets in new subdivision proposals**

**\*\* Cross-section also allowed in new subdivision proposals**

# EXHIBIT PC-2 – PROPOSED COMMUNITY DEVELOPMENT CODE AMENDMENTS

**Proposed Community Development Code Amendments**

Chapter 85.200(A)

3. Street widths. Street widths shall depend upon which **the** classification of street is proposed. The classifications and required cross sections are established in the adopted TSP.

The following table identifies appropriate street width (curb to curb) in feet for various street classifications. The desirable width shall be required unless the applicant or his or her **their** engineer can demonstrate that site conditions, topography, or site design require the reduced minimum width. For local streets, a 12-foot travel lane may only be used as a shared local street when the available right-of-way is too narrow to accommodate bike lanes and sidewalks.

**City of West Linn Roadway Cross-Section Standards**

Street Element	Characteristic	Width/Options
Vehicle Lane Widths (Typical widths)	Minor Arterial	11 – 12 feet
	Collector	10 – 12 feet
	Neighborhood Route	10 – 12 feet
	Local	10 – 12 feet
On-Street Parking	Minor Arterial	Limited (in designated commercial zones)
	Collector	Optional (8 feet typical width)
	Neighborhood Route	Optional (8 feet typical width)
	Local	Optional * (8 feet typical width)
Bicycle Lanes (Typical widths)	Arterial	5 feet
	Collector	5 feet
	Neighborhood Route	5 feet
Cycle Track	Minor Arterial (30 MPH or greater)	7 feet
	Collector (30 MPH or greater)	7 feet
Sidewalks (Typical widths)	Minor Arterial	6 feet, 10 – 12 feet in commercial zones
	Collector	6 feet, 8 feet in commercial zones
	Along Cycle Track	6 feet, 10 – 12 feet in commercial zones
	Neighborhood Route/Local	6 feet (4 – 5 feet in Willamette Historical District), 8 feet in commercial zones
Landscape Strips	Can be included on all streets	6 feet typical (5 feet for minor arterials)
Raised Medians	5-Lane	Optional
	3-Lane	Optional

**City of West Linn Roadway Cross-Section Standards**

Street Element	Characteristic	Width/Options
	2-Lane	Consider if appropriate
Neighborhood Traffic Management	Arterials	None
	Collectors	None
	Neighborhood Route/Local	At the discretion of the City Engineer
Transit	Minor Arterial/Collector	Appropriate
	Neighborhood Route	Only in special circumstances
	Local	Not recommended

**\* The minimum paved width for both internal and adjacent Local streets in new subdivision proposals shall be 28-feet, unless reduced in CDC.85.200.A(4).**

4. The decision-making body shall consider the City Engineer’s recommendations on the desired right-of-way width, pavement width and street geometry of the various street types **for streets within or adjacent to the subdivision, after consideration by the City Engineer of, the following criteria: To approve a street design less than the desirable width in CDC 85.200(3), the applicant shall demonstrate with proper documentation that one of the following applies:**

- a. The street design will help protect a Water Resource Area and complies with the submittal requirements and approval standards found in CDC Chapter 32.**
- b. The street design will help protect a Flood Management Area and complies with the submittal requirements and approval standards found in CDC Chapter 27.**
- c. The street design will help protect the Willamette River Greenway, Tualatin River Greenway, or a Habitat Conservation Area and complies with the submittal requirements and approval standards found in CDC Chapter 28.**
- d. The street design will help protect steep slopes and complies with the submittal requirements found in CDC 85.170(C) and approval standards found in CDC 85.200(E).**
- e. The street design will help protect a cluster of significant trees and complies with CDC 85.200.J(9).**

- ~~a. The type of road as set forth in the Transportation Master Plan.~~
- ~~b. The anticipated traffic generation.~~
- ~~c. On-street parking requirements.~~
- ~~d. Sidewalk and bikeway requirements.~~
- ~~e. Requirements for placement of utilities.~~
- ~~f. Street lighting.~~
- ~~g. Drainage and slope impacts.~~
- ~~h. Street trees.~~
- ~~i. Planting and landscape areas.~~
- ~~j. Existing and future driveway grades.~~
- ~~k. Street geometry.~~

~~4. Street furniture needs, hydrants.~~

5. Additionally, when determining appropriate street width, the decision-making body shall consider the following criteria:

- a. When a local street is the only street serving a residential area and is expected to carry more than the normal local street traffic load, the designs with two travel and one parking lane are appropriate.
- b. Streets intended to serve as signed but unstriped bike routes should have the travel lane widened by two feet.
- c. Collectors should have two travel lanes and may accommodate some parking. Bike routes are appropriate.
- d. Arterials should have two travel lanes. On-street parking is not allowed unless part of a Street Master Plan. Bike lanes are required as directed by the Parks Master Plan and Transportation Master Plan.

## Chapter 2: Definitions

Utility, Major – **A utility facility or service that will have, or the installation of which will have, a significant impact on the surrounding uses or the community in terms of health and safety, generating or disrupting traffic, interfering with access to adjacent properties, creating noise or causing adverse visual effects.** A major utility facility or service includes, but is not limited to: **an electrical power plant or** substation; **publicly-owned sewer** pump station; water storage tank; sewerage treatment plant; water treatment plant; and transmission lines for water, drainage or sewerage collection systems, gas or electric, or other similar use.

Utility, Minor – **A utility facility or service that will have, or the installation of which will have, a minor impact on the surrounding uses or on the community in terms of health and safety, generating or disrupting traffic or access to adjacent properties, creating noise or causing adverse visual effects.** A minor utility facility or service includes, but is not limited to: overhead or underground electric, telephone or cable television poles and wires, **stormwater treatment or detention ponds as part of development,** and distribution lines for electric, gas, water, drainage or sewerage collection systems, or other similar use.

**EXHIBIT PC-3 – DRAFT PLANNING COMMISSION TRANSMITTAL LETTER TO CITY  
COUNCIL**

## Memorandum

Date: August 6, 2020  
To: West Linn City Council  
From: West Linn Planning Commission  
Subject: CDC-20-01 Recommendation

---

The Planning Commission held a public hearing on August 5, 2020, for the purpose of making a recommendation to the City Council on adoption of the proposed 2016 West Linn Transportation System Plan and Community Development Code (CDC) amendments found in Land Use File CDC-20-01.

After conducting the public hearing, the Commission deliberated and voted (*vote count here*) to recommend City Council adoption of the proposed amendments as presented/with the following changes (*list changes if relevant*). No written testimony was submitted prior to the public hearing. (*Number*) community members provided oral testimony in favor of/opposed to the proposed amendments at the public hearing.

The proposed amendments were crafted by the Commission over the course of four work sessions from February to July 2020. In addition, the Commission discussed other changes to the CDC related to street widths. These discussions were a natural extension of the primary purpose of implementing the 28-foot pavement width standard for new subdivisions as directed by City Council.

Based on the discussions, the Commission reached consensus on a set of recommendations for future consideration by City Council. The group proposes these recommendations be added to the planning docket for further evaluation and potential changes in the near future. They are as follows:

1. Evaluate the impacts of making access to more than three lots/parcels by a public street built to public street standards. The code currently allows a private street or shared driveway for up to four lots/parcels and requires a public street built to public street standards for access to five or more lots/parcels. At a minimum, require a private street or shared driveway providing access to four lots/parcels to have a 28-foot pavement width.
2. Evaluate the differences between shared driveways and private streets and consider amending the CDC to prohibit future development of private streets.

On behalf of the Planning Commission, we would like to thank City Council for the opportunity to develop these recommendations for consideration.

Respectfully,

Gary Walvatne  
Chair, West Linn Planning Commission

**EXHIBIT PC-4 – AFFIDAVIT AND NOTICE PACKET**

# AFFIDAVIT OF NOTICE

We, the undersigned do hereby certify that, in the interest of the party (parties) initiating a proposed land use, the following took place on the dates indicated below:

## GENERAL

File No. CDC-20-01 Applicant's Name City of West Linn  
Development Name Text Amendments to the 2016 TSP and CDC Chapter 2 and 85  
Scheduled Meeting/Decision Date Aug 5, 2020

**NOTICE:** Notices were sent at least 20 days prior to the scheduled hearing, meeting, or decision date per Section 99.080 of the Community Development Code. (check below)

## TYPE A Legislative X

- |    |                                |                |                             |
|----|--------------------------------|----------------|-----------------------------|
| A. | Metro (date)                   | <u>7/16/20</u> | (signed) <u>Z Schwedler</u> |
| B. | Clackamas County (date)        | <u>7/16/20</u> | (signed) <u>ZS</u>          |
| C. | City of Lake Oswego (date)     | <u>7/16/20</u> | (signed) <u>ZS</u>          |
| D. | All neighborhood assns. (date) | <u>7/16/20</u> | (signed) <u>ZS</u>          |

At least 10 days prior to the scheduled hearing or meeting, notice was published/posted:

Tidings (published date)	<u>7/23/20</u>	(signed) <u>ZS</u>
City's website (posted date)	<u>7/15/20</u>	(signed) <u>ZS</u>

**STAFF REPORT** mailed to applicant, City Council/Planning Commission and any other applicable parties 10 days prior to the scheduled hearing.

(date) 7-24-2020 (signed) [Signature]

**FINAL DECISION** notice mailed to applicant, all other parties with standing, and, if zone change, the County surveyor's office.

(date) \_\_\_\_\_ (signed) \_\_\_\_\_

**CITY OF WEST LINN  
PUBLIC HEARING CDC-20-01**

**TO ADOPT TEXT AMENDMENTS TO THE 2016 WEST LINN TRANSPORTATION  
SYSTEM PLAN AND COMMUNITY DEVELOPMENT CODE CHAPTERS 2 AND 85.**

The West Linn Planning Commission will hold a virtual public hearing on **Wednesday, August 5, 2020 at 6:30 p.m.** to consider adoption of text amendments to the 2016 West Linn Transportation System Plan and to West Linn Community Development Code Chapters 2 and 85. Following the legislative hearing, the Planning Commission will make a recommendation to the City Council.

The proposal includes amendments to implement a minimum paved width for public streets in new subdivisions and updated definitions for major and minor utilities to clarify stormwater facilities associated with development are minor utilities.

At least 10 days prior to the hearing, a copy of the proposed amendments and associated staff report will be available for inspection at no cost at City Hall and on the City website, <https://westlinnoregon.gov/planning/proposed-transportation-system-plan-and-community-development-code-amendments>. Alternately, copies may be obtained for a minimal charge per page.

The hearing will be conducted in accordance with the rules of CDC Section 98, 100, and 105. At the public hearing(s), the Planning Commission will receive a staff presentation, and invite both oral and written testimony. The Commission may continue the public hearing to another meeting to obtain additional information, leave the record open, or close the public hearing and take action on the proposed amendments as provided by state law. Failure to raise an issue in person or by letter at some point prior to the close of the hearing, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue, precludes an appeal to the Land Use Board of Appeals (LUBA) based on that issue.

**Anyone wishing to present written testimony for consideration on this matter shall submit all material before 12:00 pm on August 5, 2020. Persons interested in party status should submit their letter and any concerns about the proposal by the comment deadline. Written comments may be submitted to [dwyss@westlinnoregon.gov](mailto:dwyss@westlinnoregon.gov) or [askthepec@westlinnoregon.gov](mailto:askthepec@westlinnoregon.gov).**

**To speak during the meeting, complete the form located at <https://westlinnoregon.gov/citycouncil/meeting-request-speak-signup> by noon the day of the meeting. Instructions on how to access the virtual meeting will then be provided by email prior to the meeting. If you do not have email access please call 503-742-6013 for assistance.**

For further information, please contact Darren Wyss, Acting Planning Manager, at City Hall, 22500 Salamo Road, West Linn, OR 97068, phone (503)742-6064, or via e-mail at [dwyss@westlinnoregon.gov](mailto:dwyss@westlinnoregon.gov).

Publish: West Linn Tidings, July 23, 2020



**AFFIDAVIT OF NOTICE  
Legislative Notice**

We, the undersigned do hereby certify that, in the interest of the party (parties) initiating a proposed land use, the following took place on the dates indicated below:

**PROJECT**

File No.: **CDC- 20-01** Applicant's Name: **City of West Linn**  
Scheduled Decision Date: **City Council Decision on September 14, 2020**

**MAILED NOTICE**

Notices were mailed at least 20 days prior to the decision date per Section 99.080 of the Community Development Code to:

- |   |                |                                      |
|---|----------------|--------------------------------------|
| <b>1. Metro</b>                         | <b>8/25/20</b> | <b>(signed)</b> <u>Lynn Schroder</u> |
| <b>2. Clackamas County</b>              | <b>8/25/20</b> | <b>(signed)</b> <u>Lynn Schroder</u> |
| <b>3. City of Lake Oswego</b>           | <b>8/25/20</b> | <b>(signed)</b> <u>Lynn Schroder</u> |
| <b>4. All Neighborhood Associations</b> | <b>8/25/20</b> | <b>(signed)</b> <u>Lynn Schroder</u> |

**TIDINGS**

Notice was posted in the West Linn Tidings at least 10 days prior to the decision date.

**9/3/20** (signed) Lynn Schroder

**WEBSITE**

Notice was posted on the City's website at least 10 days prior to the decision date.

**8/25/20** (signed) Lynn Schroder

**STAFF REPORT** mailed to applicant, City Council any other applicable parties 10 days prior to the decision date.

**9/3/20** (signed) Don S. Wynn

**FINAL DECISION** notice mailed to all other parties with standing.

**DATE** (signed) \_\_\_\_\_

**CITY OF WEST LINN  
PUBLIC HEARING CDC-20-01**

**TO ADOPT TEXT AMENDMENTS TO THE 2016 WEST LINN TRANSPORTATION  
SYSTEM PLAN AND COMMUNITY DEVELOPMENT CODE CHAPTER 85.**

The West Linn City Council will hold a virtual public hearing on **Monday, September 14, 2020 at 2:00 p.m.** to consider adoption of text amendments to the 2016 West Linn Transportation System Plan and to West Linn Community Development Code Chapter 85. The proposal includes amendments to implement a minimum paved width for public streets in new subdivisions.

At least 10 days prior to the hearing, a copy of the proposed amendments and associated staff report will be available for inspection at no cost at City Hall and on the City website, <https://westlinnoregon.gov/planning/proposed-transportation-system-plan-and-community-development-code-amendments>. Alternately, copies may be obtained for a minimal charge per page.

The hearing will be conducted in accordance with the rules of CDC Section 98, 100, and 105. At the public hearing(s), the City Council will receive a staff presentation, and invite both oral and written testimony. The Council may continue the public hearing to another meeting to obtain additional information, leave the record open, or close the public hearing and take action on the proposed amendments as provided by state law. Failure to raise an issue in person or by letter at some point prior to the close of the hearing, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue, precludes an appeal to the Land Use Board of Appeals (LUBA) based on that issue.

**Anyone wishing to present written testimony for consideration on this matter shall submit all material before 12:00 pm on September 14, 2020. Persons interested in party status should submit their letter and any concerns about the proposal by the comment deadline. Written comments may be submitted to [dwyss@westlinnoregon.gov](mailto:dwyss@westlinnoregon.gov) or [citycouncil@westlinnoregon.gov](mailto:citycouncil@westlinnoregon.gov).**

**To speak during the meeting, complete the form located at <https://westlinnoregon.gov/citycouncil/meeting-request-speak-signup> by noon the day of the meeting. Instructions on how to access the virtual meeting will then be provided by email prior to the meeting. If you do not have email access please call 503-742-6013 for assistance.**

For further information, please contact Darren Wyss, Acting Planning Manager, at City Hall, 22500 Salamo Road, West Linn, OR 97068, phone (503)742-6064, or via e-mail at [dwyss@westlinnoregon.gov](mailto:dwyss@westlinnoregon.gov).

**DECLARATION OF FOURTH EMERGENCY EXTENSION  
CITY OF WEST LINN, OREGON**

**WHEREAS**, the City of West Linn has enacted a local Ordinance (West Linn Municipal Code Section 2.700 et seq.) pursuant to the authority granted by ORS Chapter 401 granting City Council to authority to declare a local state of emergency; and

**WHEREAS**, the following conditions have resulted in the need for a state of emergency:

On March 8, 2020, the Governor of the State of Oregon declared a statewide emergency due to COVID-19 under ORS 401.025(1) and requested all Oregonians to help in facing this challenge.

**WHEREAS**, the following damage to life and property can be expected from the above conditions:

COVID-19 is an emerging disease and requires a great deal of resources at the local level for response in order to keep the public informed and safe as possible. Resources related to contact tracing, disease investigation, community information and funding are expected to be exhausted.

**WHEREAS**, on January 31, 2020, the Secretary of the U.S. Department of Health and Human Services declared a public health emergency for the United States; and

**WHEREAS**, on March 2, 2020, Clackamas County, acting as an emergency management agency under ORS 401.305 and Clackamas County Code Chapter 6.03, declared a local state of emergency and declared emergency measures; and

**WHEREAS**, on March 11, 2020 the World Health Organization declared the COVID-19 outbreak a pandemic; and

**WHEREAS**, a declaration of state of emergency is necessary to ensure the City of West Linn has the appropriate resources to respond to COVID-19 public health emergency; and

**WHEREAS**, ORS 401.309 authorizes certain actions to be taken during a state of emergency when necessary for public safety or for the efficient conduct of activities to minimize or mitigate the effects of the emergency; and

**WHEREAS**, all local resources have, or will likely be, expended, and there is a need of the following additional resources from the State:

Assistance regarding consistent messages to the public and disease investigation.

**WHEREAS**, on March 19, 2020, the City Council of West Linn declared a state of emergency for the entire city of West Linn;

**WHEREAS**, on April 20, 2020, the City Council of West Linn extended the state of emergency, declaring it shall remain in effect until May 31, 2020, unless sooner terminated by City Council; and

**WHEREAS**, on May 1, 2020, the Governor extended the state of emergency due to the continued threat for public health and safety from COVID-19 for additional 60 days, through July 6, 2020.

**WHEREAS**, on May 18, 2020, the City Council of West Linn extended the state of emergency, declaring it shall remain in effect until June 30, 2020, unless sooner terminated by City Council.

**WHEREAS**, on June 30, 2020, the Governor extended the state of emergency due to the continued threat for public health and safety from COVID-19 for additional 60 days, through September 4, 2020.

**WHEREAS**, on September 1, 2020, the Governor extended the state of emergency due to the continued threat for public health and safety from COVID-19 for an additional 60 days, through November 3, 2020.

**NOW, THEREFORE, BE IT DECLARED BY THE CITY COUNCIL OF THE CITY OF WEST LINN:**

1. A state of emergency for the entire City of West Linn is extended and shall remain in effect until November 9, 2020, unless sooner terminated by the City Council, and may be further extended by the City Council if the conditions for the public health emergency continue to exist.
2. The City Manager remains empowered to carry out the appropriate functions and duties identified in Municipal Code 2.700 *Emergency Planning* during times of emergency and shall implement the Emergency Operations Plan.
3. The City Manager shall take all necessary steps authorized by law to coordinate response and recovery from this emergency, including, but not limited to, requesting public assistance from United States of America federal government as authorized by the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as Amended (Stafford Act), Title 42 of the United States Code (U.S.C.) § 5121 et seq., the State of Oregon and Clackamas County.
4. The following measures are necessary, or may become necessary as determined for public safety or for the efficient conduct of activities to minimize or mitigate the effects of the emergency:
  - Commit to mutual aid agreements;
  - Redirect funds for emergency use;
  - Order such other measures as are found to be immediately necessary for the protection of life and/or property.

DATED THIS \_\_\_\_ DAY OF SEPTEMBER, 2020.

\_\_\_\_\_  
RUSSELL B. AXELROD, MAYOR

ATTEST:

\_\_\_\_\_  
KATHY MOLLUSKY, CITY RECORDER

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

**DECLARATION OF EMERGENCY FOR WILDFIRES  
CITY OF WEST LINN, OREGON AS AFFIRMED BY THE CITY COUNCIL**

**WHEREAS**, the City of West Linn has enacted a local Ordinance (West Linn Municipal Code Section 2.700 et seq.) pursuant to the authority granted by ORS Chapter 401 granting the City Manager the authority to declare a local state of emergency if the nature of the emergency requires immediate action be taken; and

**WHEREAS**, the following conditions have resulted in the need for a state of emergency:

On September 8, 2020, the Clackamas County Board of County Commissioners declared a state of emergency under ORS 401.305 due to several wildfires in Clackamas County; and

High winds, drought conditions and dry air mass have caused large, unprecedented and dangerous wildfires in Clackamas County and elsewhere in the state, resulting in large-scale evacuations and orders for evacuation readiness. Although high winds have abated, drought conditions and dry air mass continue to create extreme fire risk throughout the City; and

The City of West Linn was under Evacuation Level 1, meaning that all residents must be prepared for potential evacuation; and

As of September 14, while the evacuation designation had been removed, dry air mass and poor air quality conditions persist so emergency readiness remains necessary; and

Firefighters and other public safety personnel and resources are limited within the City, as some resources have been deployed to assist other communities during this emergency; and

Because of the current extreme conditions and the demands placed on firefighting and other public safety resources, it is necessary that extraordinary measures be taken to prevent and reduce the risk of wildfires within the City, and to suppress any fires that may occur; and

**WHEREAS**, the following damage to life and property can be expected from the above conditions:

Several active fires in the Clackamas County area threaten damage to life and property; and

Firefighting resources are limited due to fires throughout the county, state, and nation; and

**WHEREAS**, a declaration of state of emergency is necessary to ensure public safety and ensure that the City of West Linn and other agencies have the appropriate resources to respond to wildfire emergencies; and

**WHEREAS**, ORS 401.309 authorizes certain actions to be taken during a state of emergency when necessary for public safety or for the efficient conduct of activities to minimize or mitigate the effects of the emergency; and

**WHEREAS**, the extensive nearby wildfires and the drought conditions within the City described in these findings also meet the definition of an "emergency" under ORS 401.025(1) and West Linn Municipal Code 2.710; and

**WHEREAS**, all local resources have, or will likely be, expended, and there may be need of additional resources from the State and other agencies.

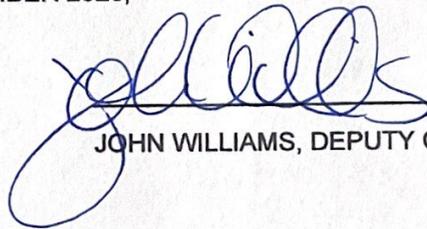
**NOW, THEREFORE, BE IT DECLARED BY THE CITY MANAGER OF THE CITY OF WEST LINN:**

1. A state of emergency for the entire City of West Linn is immediately in effect and shall remain in effect until October 5, 2020, unless sooner terminated by the City Council, and may be further extended by the City Council if the conditions for the public health emergency continue to exist. This Declaration of a State of Emergency was presented to the West Linn City Council for review and revision at a meeting held on September 14, 2020 at 2:00 p.m.
2. The Deputy City Manager, who issued the original declaration as Interim City Manager and who is the designee of the City Manager, and the City Manager, remain empowered to carry out the appropriate functions and duties identified in Municipal Code 2.700 *Emergency Planning* during times of emergency and shall implement the Emergency Operations Plan.
3. The City Manager and Deputy City Manager shall take all necessary steps authorized by law to coordinate response and recovery from this emergency, including, but not limited to, requesting public assistance from United States of America federal government as authorized by the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as Amended (Stafford Act), Title 42 of the United States Code (U.S.C.) § 5121 et seq., the State of Oregon and Clackamas County.
4. The following measures are necessary, or may become necessary as determined for public safety or for the efficient conduct of activities to minimize or mitigate the effects of the emergency:
  - a. Commit to mutual aid agreements;
  - b. Redirect funds for emergency use;
  - c. Order such other measures as are found to be immediately necessary for the protection of life and/or property;
  - d. The City may close or restrict access to City parks and other facilities as necessary where the extreme risk of fire exists. Those restrictions may include the cancellation of programs. Public information about closures, cancellations and restrictions will be posted on the City website.
  - e. To respond to fires and extreme fire risks, the City may procure needed goods and services in accordance with ORS 279B.080 and without compliance with normal procurement procedures, redirect any necessary City funds for emergency purposes, and take any other actions set forth or authorized in WLMC 2.700 through 2.750.
5. Except for use by City, County, State, and Federal personnel and entities working under contract with those agencies to ensure the public health, safety and welfare of the public, the following activities are prohibited until further written notice to the public:
  - a. Any open burning, including, but not limited to, bonfires, recreational fires, and outdoor fireplaces.
  - b. Any outdoor open flames, including without limitation:
    - Open flame cooking devices such as charcoal, gas, and propane grills and camp stoves;
    - Candles and lanterns;
    - Outdoor heaters;

- Torches of any kind, including without limitation decorative torches and torches used for construction (e.g. welding equipment);
  - Lighters or matches.
- c. Outdoor smoking.
- d. Use of powered yard maintenance and construction equipment that creates sparks, including, but not limited to, lawnmowers, chainsaws, chippers, blowers and weed whackers.
- e. Use of any other device that causes an outdoor spark or flame, as outlined in the 2019 Oregon Fire Code.
- f. Use of outdoor maintenance equipment that further impacts the then current air quality.

6. All provisions herein are enforceable as code violations and may be prosecuted in Municipal Court by municipal citation as authorized by CDC 2.750. Enforcement through the West Linn Municipal Court is in addition to all other legal remedies available to the City and does not preclude pursuit of multiple remedies for violation of this Declaration.

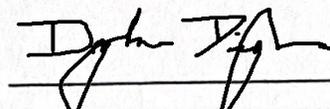
DATED THIS 14<sup>th</sup> DAY OF SEPTEMBER 2020;

  
\_\_\_\_\_  
JOHN WILLIAMS, DEPUTY CITY MANAGER

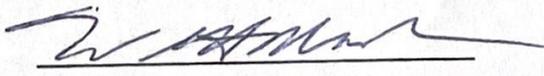
RATIFIED AND AMENDED THIS 14<sup>th</sup> DAY OF SEPTEMBER, 2020.

  
\_\_\_\_\_  
RUSSELL B. AXELROD, MAYOR

ATTEST:

  
\_\_\_\_\_  
Dylan Digby  
for  
KATHY MOLLUSKY, CITY RECORDER

APPROVED AS TO FORM:

  
\_\_\_\_\_  
CITY ATTORNEY

**West Linn Project Tracking List  
9/1/2020**

	A	B	C	D	E	G	H
1	Date	Project/Department	Description of Task	Deadline	Assigned to	Contact	Notes
2	<b>Immediate Priority</b>						
3	4/3/2019 36808	19145 View Drive	Negotiate driveway contract, draft contract for Matton Excavation, negotiate deposit/estimate.		Tim Ramis	Morgan Coffie, Lance Calvert	Tim to prepare letter to their attorney.
4	9/16/2019 36842	Ethics Complaint	Two ethics complaints filed against the Mayor and Council.		Tim Ramis, Chris Dolan	City Council	Last update 1/2/2020
5	9/24/2019 36842	Bolton Firehouse	Asking staff to compile information if Bolton Firehouse can be repaired to operate in similar fashion as Sunset Firehouse.		Tim Ramis	City Council	Email request 9/24/19
6	11/8/2019 <b>36808?</b>	PSA Review	Review PSA and supplemental information for Commstruct contract.	ASAP	Tim Ramis, Matthew Kahl, Bill Monahan	Shane Boyle, Lance Calvert	Last update 3/11/2020
7	12/9/2019 36839	Legal Review WLMC 8.050	Review Public Improvement Ordinance	12/31/19	Tim Ramis	Amy Pepper	Scheduled to go before Council May 2020. Last update 3/3/2020
8	12/19/2019 <b>36845?</b>	Facility Use Agreements	Discuss facility use agreements and decision on funding for the buildings.		Tim Ramis	John Williams, Ken Warner, Dylan Digby	Last update 3/31/2020 (same as FORS or is this diff, like a template for multiple buildings?)
9	1/22/2019 36845	Cedar Island Dredging Cedar Oak Boat Ramp	Map review and memorandum of understanding.		Tim Ramis/Matthew Kahl	Ken Warner	Last update 7/6/2020
10	<b>1/24/2019 36842</b>	<b>WES-Cities Regional Wastewater Cooperative IGA</b>	<b>Review IGA for general acceptance from legal perspective.</b>	<b>1/31/2020</b>	<b>Tim Ramis</b>	<b>Russ Axelrod</b>	<b>Last update 3/9/2020 Complete?</b>
11	2/26/2020 36839	4493 Riverview Ave	Resident has questions regarding another property connected to their water meter.		Tim Ramis/Matthew Kahl	Amy Pepper	Last update 4/7/2020
12	2/26/2020 39479	Alarm Permit Ordinance & Master Fee Schedule	Can the city add verbiage to fee schedule that sets penalty for not paying false alarm charge on time?		Tim Ramis/Matthew Kahl	Shane Boyle	Last update 4/7/2020
13	3/2/2020 36842	Amendments to Historic City Hall Letter of Commitment	Review, amend or create new LOC. Specifically section 2 & 3. 7/16/2020 request for parking lease agreement template to go with LOC.	6/12/2020	Tim Ramis/Bill Monahan	John Williams	Last update 7/15/2020
14	4/6/2020 36844	Zoning Violation	Resident violating zoning code, discuss options.		Tim Ramis/Kelly Burgess	Cole Bateman, Chris Myers, John Millar	Last update 4/15/2020
15	4/17/2020 36839	West Linn Central Village	Review request regarding Post Office, applicant proposing two options for design review application. City recommends coordinating with the Neighborhood Association.		Tim Ramis	Jennifer Arnold	Last update 4/20/2020
16	<b>4/16/2020 36845</b>	<b>Heritage Center Lease Agreement</b>	<b>Review agreement used in Tualatin.</b>		<b>Tim Ramis/Matthew Kahl</b>	<b>Ken Warner</b>	<b>Last update 5/26/2020 Complete?</b>
17	5/5/2020 36839	Chene Blanc Construction Start	Construction starting and official notice was not provided, in addition to list of outstanding items.		Tim Ramis	Amy Pepper	Last update 6/2/2020
18	5/1/2020 36844	Possible Tort Claim	Demand letter to WLPD regarding stolen legal document.		Tim Ramis	Peter Mahuna	Last update 5/5/2020

**West Linn Project Tracking List  
9/1/2020**

	A	B	C	D	E	G	H
1	Date	Project/Department	Description of Task	Deadline	Assigned to	Contact	Notes
19	5/7/2020 36839	Permit issue	Change to driveway in SONA, permit issued 1/21/2020, original land use decision approved in 2015, location on flagpole not allowed.		Tim Ramis	Jennifer Arnold Amy Pepper	Last update 5/26/2020
20	5/21/2020 36808	Request for Contract Changes	Review contract template and scope of services and notify if changes can be approved and incorporated.		Tim Ramis	Morgan Coffie	Last update 6/4/2020
21	5/29/2020 36808	Release of Liability	Review documents and prepare letter to Icon regarding footings in ROW and pouring new sidewalk.		Tim Ramis/Matthew Kahl	Morgan Coffie	Last update 6/3/2020
22	6/4/2020 36845 36838	Dangerous Alder Tree	Citizen notification of dangerous tree, what are necessary steps in situation? HOA owns tree in green space.		Tim Ramis/Kelly Burgess	Dylan Digby Ken Warner	Last update 6/5/2020
23	6/11/2020 36845	Release of Liability/Waiver	Create document to be utilized by outside groups that wish to use city facilities (fields, picnic shelters, rooms etc.)		Tim Ramis/Matthew Kahl	Ken Warner	Last update 7/31/2020
24	6/11/2020 36837 36842	Request for Legal Advice	Review cited documents and advise on process.		Tim Ramis/Matthew Kahl	Council? Elissa Preston?	Last update 6/12/2020
25	<b>6/16/2020 36842</b>	<b>DEI RFQ Responses 2020</b>	<b>Review responses and ensure information is correct.</b>		<b>Tim Ramis/Bill Monahan</b>	<b>John Williams Council</b>	<b>Last update 6/26/2020 Complete?</b>
26	6/22/2020 36839	ROW Vacation	ROW Vacation MISC 20-03, what steps needed to bring before Council for a vote?		Tim Ramis	Chris Myers	Last update 6/26/2020
27	<b>6/26/2020 36837</b>	<b>Contract/Fee Agreement</b>	<b>Review fee agreement for Dee Rubanoff.</b>		<b>Tim Ramis/Bill Monahan</b>	<b>Elissa Preston</b>	<b>Last update 6/26/2020 Complete?</b>
28	<b>6/29/2020 36845</b>	<b>Mowing Lower Meadows</b>	<b>Legal opinion on contracting between private resident and a private company for work on City property.</b>		<b>Tim Ramis</b>	<b>Ken Warner</b>	<b>Last update 6/30/2020 Complete?</b>
29	<b>7/1/2020 36842</b>	<b>NA Bylaw Review</b>	<b>Review bylaws for BHT and provide comments to pass onto the NA. Also, should Nas get Council approval on changes to their bylaws by motion or resolution?</b>		<b>Tim Ramis/Matthew Kahl</b>	<b>Dylan Digby</b>	<b>Last update 7/14/2020 Complete?</b>
30	7/1/2020 36808	Legal Opinion Franchise Obligation	Review on whether Centurylink is required to pay for relocation of lines from aerial to underground per franchise agreement.		Tim Ramis/Bill Monahan	Morgan Coffie Erich Lais	Last update 7/21/2020
31	7/6/2020 36808	WES Master Plan Review Contract	Review personal service contract and scope of work for Carollo Engineers.		Tim Ramis	Morgan Coffie	Last update 8/3/2020
32	7/10/2020 36839	2196 Tannler Drive	Discuss memo regarding amendment to approval.		Tim Ramis	Jennifer Arnold Amy Pepper	Last update 8/27/2020
33	7/14/2020 36839	SUB 20-01 Street Alternative	Review email from Peter Watts and assist with response.		Tim Ramis	Jennifer Arnold	Email received 7/14/2020
34	7/15/2020 78294	MCD A Inquiry	MCD A reviewing information received regarding former Chief Timeus.		Tim Ramis	John Williams Peter Mahuna	Last update 7/23/2020
35	7/16/2020 36842	Local Govt Brief Freedom for All Americans	Confirm signature block for Tim Ramis, draft brief will be emailed for review next week.		Tim Ramis/Kelly Burgess	Russ Axelrod John Williams	Last update 8/4/2020
36	<b>7/23/2020 36808</b>	<b>CenturyLink Franchise</b>	<b>Is there a franchise agreement for CenturyLink to require pay back for facility relocation?</b>		<b>Tim Ramis/Bill Monahan</b>	<b>Erich Lais</b>	<b>Last update 7/28/2020 Complete?</b>
37	<b>7/24/2020 36809</b>	<b>Executive Session Memo</b>	<b>Prepare memo to Council regarding potential property acquisition for discussion at 8/3 ES.</b>		<b>Tim Ramis/Kelly Burgess</b>	<b>Lance Calvert Morgan Coffie</b>	<b>Last update 7/24/2020 Complete?</b>

**West Linn Project Tracking List  
9/1/2020**

	A	B	C	D	E	G	H
1	Date	Project/Department	Description of Task	Deadline	Assigned to	Contact	Notes
38	7/28/2020 36838	Philip Meier Tort Claim	Tort Claim regarding use of Roundup.		Tim Ramis/Kelly Burgess	Lauren Breithaupt	Last update 8/17/2020
39	7/30/2020 36839	Upper Midhill LUBA Appeal	Applicant filing appeal of Director's Decision.		Tim Ramis	Amy Pepper	Last update 8/14/2020
40	8/5/2020 36839	The Marylhurst School Off Site Improvements	Proposal, subject to agreement, letter of credit draw down system to address financing construction of off site improvements.		Tim Ramis	Amy Pepper Lance Calvert	Last update 8/13/2020
41	8/7/2020 36808	1616 Willamette Falls Drive	Prepare settlement agreement		Tim Ramis/Bill Monahan	Erich Lais	Last update 8/17/2020
42	8/7/2020 36845	22995 Bland Circle ROW	ROW Vacation done previously, what needs to occur to allow the vacation to go to other property owner?		Tim Ramis/Matthew Kahl	Ken Warner	Request received 8/7/2020
43	8/13/2020 36837	Payroll Tax Deferral	Advice on how to implement Presidential executive order.		Tim Ramis/Elizabeth Rosso	Elissa Preston	Last update 8/31/2020 Complete?
44	8/17/2020 36845	ACTIVE Network Contract	Assist with preparing redline and edits to contract for renewal.		Tim Ramis/Bill Monahan	Ken Warner Shane Boyle	Last update 8/19/2020 Complete?
45	8/19/2020 78421	Emergency Declaration Extension	Extend emergency declaration and answer question regarding future extensions.		Tim Ramis/Matthew Kahl	Kathy Mollusky	Last update 8/19/2020
46	8/21/2020 36808	Purchase Agreement for Review	Review agreement regarding Cartegraph to upgrade asset management software.		Tim Ramis/Bill Monahan	Morgan Coffie	Last update 8/31/2020
47	8/26/2020 36839	Island Annexation	Prepare memo to Council regarding annexation of ODOT island property		Tim Ramis/Armand Resto-Spotts	John Williams Kathy Mollusky	Last update 8/28/2020
48	8/26/2020 78208	Public Records Request	All legal expenses related to Councilor Cummings legal defense regarding her meeting notes since the case first began and all legal fees billed to the city from Jan 1, 2020 to current.		Tim Ramis/Kelly Burgess	Kathy Mollusky	Last update 8/26/2020
49	8/27/2020 36842	Gender Neutral Code Changes	Review code changes.		Tim Ramis/Matthew Kahl	Kathy Mollusky	Last update 8/27/2020
50							
51							
52	<b>Ongoing / Specified Due Date</b>						
53	3/7/2019 39479	ROW Management / Small Cell	Review email from Shane Boyle, monitor code changes, develop PSA with ROW Consultants.		Bill Monahan	Shane Boyle	Last update 12/6/19
54	2/14/2114	Bialostosky Public Records Litigation	Executive Session		Tim Ramis, Chris Dolan	John Williams	Appealed to Court of Appeals.
55	4/4/2019 36842	Gramor / Post Office Property	Temporary stay demand?		Tim Ramis	Russ Axelrod John Williams	
56		Personal Service Agreement	Rework 2012 PSA		Bill Monahan	John Williams	Standby
57	8/20/2019 36842	Neighborhood Associations and D&O Coverage	Are neighborhood associations agents of city and covered by city insurances?		Tim Ramis	John Williams	Last update 12/9/19
58	9/20/2019 36842	NA Quorum Requirements	Quorum requirement to cover NAs, update bylaws.		Tim Ramis	John Williams, Dylan Digby	Last update 12/9/19
59	9/24/2019 36839	PA-19-14 Easement Vacation Process	Provide formal response regarding the nexus and rough proportionality associated with obtaining land use approval.		Tim Ramis	Amy Pepper	Last update 10/2/19
60	10/14/2019	Negotiate NW Natural Franchise	Pull NW Natural franchise out of ROW to renew and renegotiate.		Tim Ramis, Bill Monahan	Lance Calvert	Last update 10/28/19

**West Linn Project Tracking List  
9/1/2020**

	A	B	C	D	E	G	H
1	Date	Project/Department	Description of Task	Deadline	Assigned to	Contact	Notes
61	?36845	Community Center Management Agreement	Revise agreement between City and Friends of Robinwood Station (FORS).		Tim Ramis/Matthew Kahl	Ken Warner	Last update 7/31/2020
62							
63	<b>Longterm</b>						
64	3/8/2019 36839	Code Changes Chapters 98 & 100, possibly 105	Review code, CDC, plan changes to confirm if on track.		Tim Ramis, Matthew Kahl	??	Last update 7/24/19
65	9/9/2019 36839	I-205 Regulatory Framework	Develop process for permitting, etc.		Tim Ramis	John Williams, Lance Calvert	
66	8/14/2019 36842	September Agenda Priorities	Council Records Retention Policy		Tim Ramis	John Williams	
67	8/22/2019 36839	TIA Weatherhill Neighborhood	Is PC asking city to undertake traffic impact study or opinion from public works?		Bill Monahan, Matthew Kahl	John Williams, Lance Calvert	Last update 8/26/19
68	8/26/2019 36842	Potential Purchase	Review draft report and attachments to provide recommendation to Council.		Tim Ramis	John Williams	Last update 10/15/19
69	9/4/2019 36808	Percentage for Arts, Public Utility / Transportation Projects	Concern regarding Council discussion on proposed changes to percentage for arts code update. Utility/Transportation only allows public art installations when connected to operation of system.		Tim Ramis, Matthew Kahl, Bill Monahan	Lance Calvert	Last update 11/13/19
70							
71	<b>Consider Revised Schedule</b>						
72	3/3/2019	Bolton Fire Hall Use	Renewed interest by daycare.		Tim Ramis	John Williams	Dan Olsen updated status 6/24/19
73	36808	Public Works Contracts	Respond to insurance limits, tort claim limits, CIS input.		Bill Monahan	Lance Calvert	Standby
74	36842	Gassack Litigation	Collections, judgement issued		Tim Ramis, Chris Dolan	??	Per CKD need to follow up in a few months. Last update 11/21/19