

**STAYTON CITY COUNCIL  
MEETING MINUTES  
April 18, 2011**

**CALL TO ORDER**

**7:00 p.m.**

**Mayor Vigil**

**FLAG SALUTE**

**ROLL CALL**

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

**STAFF**

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

**PRESENTATIONS/COMMENTS FROM THE PUBLIC**

- a. **Chuck Murrell, 345 W. Water Street:** Mr. Murrell is concerned that the home next door to him has a sheet of asbestos on its roof. The home is scheduled for a "Learn to Burn," and there was an asbestos test done, which did not show any asbestos. However, he is not convinced there is no asbestos. Mr. Murrell is concerned and feels he is not getting any answers from the Fire Department. Mayor Vigil indicated that Public Works Director David Kinney will contact the Fire Department, and be back in touch with what he finds out.
  
- b. **Randy Cranston, Weddle Funeral Service, 1777 N. 3<sup>rd</sup> Avenue:** Mr. Cranston is representing his employer Weddle Funeral Service. They have purchased an engineered flagpole to install on their property. After applying for a building permit to install the pole, they learned that the City only allows a 20 foot flagpole and their permit application was denied. Mr. Cranston explained he noticed the height of the flagpole at both the Police Department and Pioneer Park, which are over 35 feet tall. Also, it was found that no permits were issued for the pole at Pioneer Park. Weddle Funeral Service would like to install their 35 foot flag pole, but were told they need to meet the 20 foot rule, apply for a variance, or change the rules. In his opinion, it appears the rules have been overlooked in the past and he is requesting the Council allow them to install the 35 foot flagpole. They would like to have the flagpole installed by Memorial Day.

Councilor Loftus stated Mr. Cranston forgot to mention another flag pole, which is located at

the Gardner House. He is sure it the Gardner House's flagpole is approximately 35 feet tall, and was engineered. Councilor Loftus asked that the Weddle Funeral Service flagpole be added for discussion under New Council Business.

- c. **Gary Rychard, North Santiam School District:** Mr. Rychard spoke on behalf of the North Santiam School District in support of Ordinance No. 934. Councilor Quigley asked if the School District had approached the vendor who sells these items directly. Mr. Rychard stated it was his understanding that contact had been made by Methbusters and many concerned parents, who were met with resistance from the vendor.
- d. **SPOTLIGHT – Friends of the Pool Update:** Mary Wallace spoke about the lift chair and it will be delivered on Friday, April 22. Ms. Wallace presented Finance Director Christine Shaffer with a check for the purchase of the chair and gave members of the Council and staff a letter from the Friends of the Pool.
- e. **PRESENTATION – Bethel Excavating, Santiam Park Work, and Santiam Park Progress Report:** Ms. Angelo gave the Council an update on the Santiam Park Poured-in-Place Playground Surfacing Project. This project is part of an improvements project at Santiam Park, funded by grants and donations from local companies. One of these local donors is Bethel Excavating, who assisted with the removal of the hog fuel from Santiam Park and with installation and compaction of the gravel base. The Parks and Recreation Board and Ms. Angelo presented Bethel Excavating with a certificate of appreciation for their donation of \$8,680 toward the Santiam Park Improvements Project.

The next items to be completed at Santiam Park include a new picnic shelter, a unisex restroom building, additional decorative lighting, and benches, tables, and trash receptacles.

Currently, the Parks and Recreation Board and staff are working on a Pioneer Park Improvements Project. Over the next year, the Board and staff will be working with a landscape architect and holding community meetings to gather input on what they would like to see at Pioneer Park. An application to the Oregon Parks and Recreation Department Local Government Grant program will be submitted in April 2012, as well as foundation grant applications over the next year.

Parks and Recreation Board member Griffin Green spoke about the street tree planting donation of \$2,000 per year for the next four years made by Gerry and DeeAnn Aboud. Board members and Public Works employee Michael Bradley visited homes in the Quail Run subdivision last fall, offering trees to homeowners at no cost to them. While only seven trees were distributed, all who received trees have been very pleased with the whole process. The Board plans to begin distributing trees this summer, for planting in the fall.

## ANNOUNCEMENTS

- a. **Additions to the Agenda:** None.

- b. **Declaration of Ex Parte Contacts, Conflict of Interest, Bias, etc.:** Councilor Niegel indicated that from time to time she works with the telephone company, but feels she can make an unbiased decision on the PEG Commission report. Also, Councilor Niegel stated she assisted Sergeant Meeks with the first draft of Drug Paraphernalia ordinance. However, she has been informed that it has been modified many times since she first assisted and feels she can make an unbiased decision on this topic.

## CONSENT AGENDA

Councilor Loftus requested that Resolution No. 868 "Let's Move" be pulled from the Consent Agenda.

- a. **City Council Meeting Minutes of March 21, 2011**

**MOTION:** From Councilor Loftus, seconded by Councilor Emery, to approve the City Council Meeting Minutes of March 21, 2011. **Motion passed 5:0.**

- b. **Resolution No. 868 "Let's Move":** Mr. Kinney provided an explanation of the Let's Move program. He explained the five categories of the program and how the City is already doing activities that fit into many of them. Currently, the City offers a community garden and a site for the School District to provide their summer lunch program. Parks and Recreation Board member Cherie Douglas spoke about the epidemic of obesity in the United States and how the Let's Move program is working to encourage change.

Councilor Quigley questioned what actions the City is agreeing to if they participate in the program. He believes while this is a good program, the Council should be sure of the requirements of the program prior to approval. He noted the City must choose one action item in each of the five categories to carry out. Councilor Quigley mentioned items to be carried out such as launching a city website with information for parents on healthy living, and wondered who on City staff will be responsible for this. He also expressed concern with the food served at town hall forums which includes cookies and punch. Councilor Loftus agreed, stating food served at Executive Sessions would also be considered junk food according to this. Councilor Quigley stated he believes it's good to encourage people to be active and stay active, but encouraged the Council to look at the Let's Move website before making a decision on the Resolution.

Ms. Douglas explained the action items Councilor Quigley mentioned are examples of things a city can do, but are not a requirement of the program. The City can choose to implement the program in whatever way is easiest. She continued that this would be an opportunity to offer healthier options at City meetings and the Pool.

Councilor Loftus stated this is about personal responsibility, personal choices. He feels this program is telling people how to eat. He continued that if this Resolution were in effect and he walked over to the Police Department and there were donuts, they would be in violation of this Resolution.

Councilor Niegel stated she feels they are reading the Resolution out of context, and what they are referring to are the “Whereas” statements. She read from the Resolution, explaining the City would be in support of these items.

Councilor Loftus suggested eliminating everything until the Resolution states we support having a healthy community. He continued that this is not something Stayton needs and didn’t feel the City should obligate itself to making policy changes as Councilor Quigley had pointed out and could have a serious unintended consequence and cost.

Councilor Emery stated while he likes the idea. However, in this situation he has to agree with the views of Councilors Loftus and Quigley.

Mayor Vigil asked the Council where they wanted to go with this issue.

**MOTION:** From Councilor Loftus, seconded by Councilor Quigley, to table the Let’s Move Resolution indefinitely. **Motion passed 4:1 (Niegel).**

**PUBLIC HEARING – None.**

## **UNFINISHED BUSINESS**

### **Report from PEG Commission**

- a. **Staff Report:** Mr. Eubank reviewed the staff report included in the Council packet.

Councilor Loftus asked if a link to the City Council meeting videos is available on the City’s website. Mr. Eubank stated that Ms. Angelo has informed him that there is a link to the meeting videos on the City’s website.

Mr. Kingsley reviewed the PEG Commission memorandum included in the Council packet. The PEG Commission recommends the Council approve Option 1.

Councilors Emery and Porter, as well as Mayor Vigil thanked the PEG Commission for all the work they have done.

- b. **Council Deliberation:** Councilor Loftus referred the Council to the agreement, and pointed out that it states SCTC has exclusive rights to the videos. He suggests this be reconsidered. Mr. Eubank stated this document is still a draft form and thanked Councilor Loftus for pointing out this issue.

At this point, staff is looking for direction from the City Council if they are in support and would like to move forward.

- c. **Council Decision:**

**MOTION:** From Councilor Loftus, seconded by Councilor Emery, to continue negotiations with SCTC and bring a final agreement back to the City Council.

**Motion passed 5:0.**

## **NEW BUSINESS**

### **Ordinance No. 934 SMC 9.40 Relating to Drug Paraphernalia**

a. **Staff Report:** Police Chief Sebens reviewed the staff report included in the Council packet.

Prior to tonight's meeting, staff mailed out a letter notification to local store owners and managers informing them of the proposed Ordinance. A copy of this letter was distributed to the City Council. The North Santiam School District submitted a letter of support for the Ordinance, which was included in the City Council packet. Staff was also contacted by the Perez family who owns La Esperanza, who expressed their support for the Ordinance.

Sergeant Michael Meeks gave a presentation to regarding the origins of the Ordinance, paraphernalia and its effects the community. The Council was provided with handouts which covered examples of paraphernalia and information on paraphernalia sold locally. Sergeant Meeks spoke about the items included in the handouts and how they are used together for drug use. He explained that paraphernalia is a complicated issue, and an officer must look at the totality of the situation.

**Council Deliberation:** Councilor Quigley asked if an item is going to be deemed drug paraphernalia, would it need to have drug residue on it. Sergeant Meeks stated it would be difficult to prove it was paraphernalia if there was no residue or drugs found with the item. Chief Sebens added there are a couple of items that are only used for drugs. He gave one example of a "cracker" which is used to crack open the nitrous-oxide container (aka "whip-its") and then hooked to a balloon for huffing purposes.

Councilor Quigley asked why these items are currently allowed to be sold. Chief Sebens stated the Oregon Revised Statutes are written in such a way that it's not enforceable and is a civil violation.

Councilor Porter asked if it were a stretch to believe vendors were unaware the items they are selling could be considered paraphernalia. Sergeant Meeks agreed, and stated Methbusters had sent a letter to the vendor informing them that these items are paraphernalia.

Councilor Loftus asked if Sergeant Meeks spoke with Bi-Mart or Stayton Pharmacy. He stated he had not. Councilor Loftus stated many of the items included in the Ordinance could be sold individually for legal purposes, and he is concerned about potential for lawsuits if a mistake is made. If this Ordinance is designed to ban these items from being sold in Stayton, he believes the City will run into issues. He suggested including in the Ordinance that the display of these items needs to be concealed, and limit the sale of these items to minors.

Councilor Emery asked if Sergeant Meeks had made an attempt to visit the vendors that sell these items and what response he received. Sergeant Meeks stated contact had been made via letters and visiting the stores.

Councilor Niegel explained that there is a state statute that allows local entities adopt an ordinance such as the one being proposed and many other cities and counties have adopted similar ordinances.

Councilor Loftus asked Sergeant Meeks if guns kill people. He continued that in America it is legal for these items to be sold. These items are legal and the seller doesn't know the intended use of the product. The item has to be used with illegal drugs to be considered paraphernalia. He doesn't feel the government is a babysitter, and that it comes down to personal responsibility. He feels if this moves forward, there needs to be clarification as to the type of establishment or exemptions of establishments that sell these types of paraphernalia such as hypodermic needles for diabetics. Mayor Vigil stated that would not be considered paraphernalia because it is being used for a legitimate purpose, not for illegal drug use.

Chief Sebens stressed that the officers have to look at totality of circumstances in every case.

**b. Council Decision:**

**MOTION:** From Councilor Emery, seconded by Councilor Niegel, to adopt Ordinance No. 934 relating to drug paraphernalia.

Discussion

Councilor Loftus stated he can't support the Ordinance the way it is currently written. He would like to see some modification made to it; however that is not the way the Motion has been made.

**Motion passed 3:2 (Loftus, Quigley)**

**“No Tobacco” in City Parks Draft Ordinance**

- a. **Staff Report:** Mr. Kinney discussed the staff report included in the Council packet and introduced Tobacco Prevention and Education Coordinator Emily deHayr from the Marion County Health Department.

Ms. deHayr spoke about the Marion County Tobacco Prevention and Education Program (TPEP). She gave the Council a brief background of the TPEP program and other communities who have adopted similar policies. In December 2010, Ms. deHayr approached the Parks and Recreation Board to seek support of a “No Smoking” / “No Tobacco” policy in Stayton. She received overwhelming support from the Board.

Councilor Loftus asked if Marion County would be willing to pay for 100% of enforcement. Ms. deHayr stated these policies tend to be self-enforcing, especially when signs are posted. If adopted prior to the end of the fiscal year, Marion County would be willing to pay for 75% to 100% of signage costs.

Councilor Quigley asked if the premise behind this ordinance is because of second-hand

smoke. Ms. deHayr agreed and spoke about the harms of second-hand smoke and smokeless tobacco.

Councilors Emery and Niegel spoke up in support of this Ordinance.

Mr. Kinney stated staff is looking for policy direction from the Council. Staff isn't anticipating a citation process, rather looking at public education and dealing with circumstances as they arise. Ms. deHayr added that as part of the TPEP program, she would be available to assist with technical assistance, communication plans, as well as the adoption and implementation process.

Councilor Porter inquired how the policy is enforced at Chemeketa Community College (CCC). Ms. deHayr explained that it is her understanding that the CCC public safety officers will approach someone who lights a cigarette and inform them of the policy. If someone repeatedly is not following the policy, they will be excluded from the campus.

John Brandt (625 N. 7<sup>th</sup> Avenue) expressed his and his wife's support of this policy. They have regularly cleaned up litter in Pioneer Park and most of what they find are cigarette butts, which take anywhere from 8 months to 10 years to deteriorate.

Councilor Emery asked if violators would be excluded from a park for 30 days. Chief Sebens stated the Stayton Police Department doesn't have the staffing to enforce this policy regularly. However, if an officer was walking through a park and noticed someone smoking, Chief Sebens feels the situation would be handled similarly to CCC.

Mayor Vigil commented that this seems to be more of a self-policing policy, putting it into the hands of park users who can point out the rules to those violating the rules.

Councilor Loftus asked if barbequing was allowed in City parks. Mr. Kinney stated it is. Councilor Loftus asked if it was appropriate to also ban this from the parks because barbeques produce smoke as well. Ms. deHayr stated the smoke from a grill is different from the smoke of a cigarette. There are over 4,000 additives that go into cigarettes, many of which are carcinogenic which are not present in barbeque smoke.

Councilor Quigley asked if this will be limited to all City property or only City parks. Mr. Kinney stated this was something discussed by the Parks and Recreation Board, and they chose to limit it to only parks. Councilor Quigley clarified that during an event such as SummerFest, smoking would be allowed on 3<sup>rd</sup> Avenue during the street fair. Mr. Kinney agreed, but stated at the car show at Pioneer Park it would not be allowed because this is a City park.

c. **Council Deliberation:**

**MOTION:** Councilor Emery, seconded by Councilor Niegel, to direct staff to draft a tobacco-free ordinance for all City parks. **MOTION passed 3:2 (Loftus, Quigley)**

## STAFF/COMMISSION REPORTS

### Finance Director – Christine Shaffer

- a. **March 2011 Finance Department Report:** Ms. Shaffer reviewed the monthly operating report for Finance.

### Police Chief's Report – Rich Sebens

- a. **Statistical Report March 2011:** Chief Sebens briefly reviewed the March 2011 Statistical Report. He also informed the Council about a Drug Turn-In event which will be held on Saturday, April 30 from 10 a.m. to 2 p.m. at the Stayton Public Library.

### Public Works Director's Report – Dave Kinney

- a. **March Monthly Operating Report:** Mr. Kinney reviewed the March Monthly Operating Report for the Public Works Department.
- b. **Public Works Update:** Mr. Kinney informed the City Council of one additional item not included in the Public Works Update. Unfortunately, the City was not funded through the EDA for the 10<sup>th</sup> Avenue improvements. The City has received a grant from ODOT. At this point, staff will be reviewing the project budget to determine how to best move forward.

The High Street waterline is complete. As long as weather permits, paving will be done by June 30.

- c. **WWTP Improvements Progress Report March 2011:** Mr. Kinney reviewed the Progress Report included in the Council packet.

### Pool Manager's Report – Rebekah Meeks

- a. **March 2011 Monthly Operating Report:** Ms. Meeks reviewed the March 2011 Pool Operating Report.
- b. **Pool Update:** Ms. Meeks updated the Council on the Sprint Triathlon and the resurfacing project. Councilor Loftus asked if the City would be going after contractor for the faulty resurfacing and if Ms. Meeks knew the amount of lost revenue due to Pool closures. She was unsure of the exact amount at this time. Councilor Loftus asked her to include lost revenue due to closures in her report next month.

### Library Director's Report – Louise Meyers

- a. **March 2011 Activities/Statistics:** The Library is doing well, and experiencing record-breaking book check-outs.

Councilor Emery asked Ms. Meyers if she had ever thought of doing an event similar to one done at a local library called "Food for Fines." Ms. Meyers stated she had spoke with the City Administrator approximately a year ago about doing a similar event, but hadn't moved forward on it. She continued that if the Council desires, she would be more than happy to put together an event like this for the Stayton Library.

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

**BUSINESS FROM THE CITY ADMINISTRATOR**

- a. **Council/Library Foundation Get Together, April 28<sup>th</sup>, 6:30 p.m.:** Mr. Eubank reminded the Council about the City Council / Library Foundation Get Together which will be held at the E.G. Siegmund meeting room at the Library. This will be a chance for the two groups to get to know each other and share ideas.

**BUSINESS FROM THE MAYOR – None.**

**BUSINESS FROM THE COUNCIL**

- a. **Weddle Funeral Service Flagpole:** Mayor Vigil inquired as to what the procedure would be to allow the installation of the flagpole as proposed. Mr. Fleishman stated the rule would need to be removed completely in order to allow the flagpole to be installed as proposed.

Mayor Vigil asked for background on the flagpole rule. Mr. Fleishman explained that this rule has been in the Stayton Municipal Code since approximately 1989 or 1990. He is unaware of how or why this rule was put into place, but it appears the rule has not been closely followed over the past 20 years. Generally sign codes exempt governmental flags from restrictions. If the City Council would like to increase the height allowed for a flagpole, this would be a policy issue which would need to go through the Planning Commission, public hearings, etc. and will take at least a few months to complete.

Mayor Vigil asked if there is something that can be done quickly that will allow Weddle Funeral Service to install their flagpole now. Mr. Fleishman stated the Council could choose to ignore the Code until such time it is changed.

**MOTION:** From Councilor Loftus, seconded by Councilor Quigley, to waive the Stayton Municipal Code requirements relating to flagpoles and allow Weddle Funeral Service to install a 35' flag pole on their property, and direct staff to return with a modification of the Stayton Municipal Code.

**Discussion:** Councilor Porter felt the placement of the flagpole at the corner of 3<sup>rd</sup> Avenue and Fern Ridge Road would be a distraction to drivers. Mr. Cranston stated the size of the American flag will be 10' by 6', and the state flag flying below it will be smaller in size. The flagpole will be 44' from Fern Ridge Road and 50' from 3<sup>rd</sup> Avenue.

Councilor Emery stated he has no problem with the flagpole.

**Motion Passed: 4:1 (Porter)**

**ADJOURN**

There being no further business, the meeting was adjourned at 9:40 p.m.

APPROVED BY THE STAYTON CITY COUNCIL THIS 2ND DAY OF MAY 2011, BY A \_\_\_\_\_  
VOTE OF THE STAYTON CITY COUNCIL.

CITY OF STAYTON

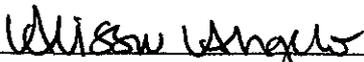
Date: 5/2/11

By:   
A. Scott Vigil, Mayor

Date: 5/2/2011

Attest:   
Don Eubank, City Administrator

Date: 5/3/2011

Transcribed by:   
Alissa Angelo, PW Administrative Assistant