

**STAYTON CITY COUNCIL  
MEETING MINUTES  
September 06, 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, excused  
Louise Meyers, Library Director, excused  
David A. Rhoten, City Attorney  
Jeffrey M. Strickland, Assistant City Attorney, excused  
Rebecca Petersen, Deputy City Recorder

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

**PRESENTATIONS/COMMENTS FROM THE PUBLIC**

- a. **Update re: Bike Rodeo:** Officer Scott Mumey, Traffic Safety Officer with Stayton Police Department gave an overview of the bike rodeo and child safety device check recently conducted. He and Officer Dean Butler have been trained in the proper installation of child safety seats, and will check for proper installation when citizens request it. In response to a question as to where the funding comes from for the bike helmets that are distributed during the rodeo, Chief Sebens stated some are purchased with grant funds and others with private donations.

**Additions to the Agenda:**

- a. Councilor Loftus requested to discuss the YMCA Swim Team under Business from the Council.

**CONSENT AGENDA**

- a. **August 15, 2011 City Council Meeting Minutes**

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

**PUBLIC HEARINGS – None**

## UNFINISHED BUSINESS – None

### NEW BUSINESS

#### **Ordinance 939 Granting Electric Utility Franchise**

**a. Staff Report:** Mr. Eubank reviewed the staff memorandum included in the packet materials for an ordinance granting a nonexclusive electric utility franchise to Pacificorp, an Oregon Corporation, doing business as Pacific Power & Light, and fixing terms, conditions, and compensation of the franchise.

**b. Council Deliberation:** Referring to page 4, Councilor Quigley asked if the street light maintenance language was new, and Mr. Eubank stated no. Councilor Quigley stated that recently the city approved a graffiti removal ordinance and suggested that the franchise reference the code section relating to the graffiti ordinance, instead of using the term “reasonable time.” Mr. Eubank stated it could be added to the ordinance.

In response to a question from council regarding tree pruning and whose responsibility it is, Doris Johnston, Regional Community Manager Pacific Power, stated if the line is a service line Pacific would come out and drop the line so the customer could proceed with pruning. If it's a distribution line the customer needs to call in and Pacific will come out assess the safety concerns and schedule the trimming to be done. Safety inspections are conducted on a routine basis as well as each time a technician responds to a service call. Every five years a complete circuit inspection is conducted and every two years a drive by inspection is conducted. Anytime it is determined that trees are growing into the lines they are removed, she said.

Referring to page 6, c, SMC 12.04.092, five year moratorium on cutting pavement, Councilor Loftus asked if an employer needed to cut into the road to update their service would they be able to? Mr. Eubank stated only if the city agreed to it. Mayor Vigil asked if Pacific Power should accidentally damage property would they be responsible for the costs of the damages. Ms. Johnston answered in the affirmative.

**c. Council Decision:** From Councilor Niegel, seconded by Councilor Loftus, to approve Ordinance 939 as amended to include the additional language referring the graffiti code section, clean up the numbering, and the map changes. **Motion passed:** 5:0.

#### **Award of Contract 10<sup>th</sup> & E. Pine Street Water Main Contract**

**a. Staff Report:** Mr. Kinney reviewed the staff memorandum in the packet materials. The project includes 1800 lineal feet of new 12” water line on E. Pine Street (Mt. Jefferson Drive to N. Tenth Avenue) and N. Tenth Avenue (E. Pine to E. Fir Street), the abandonment of existing 4” and 6” mains, new water services and a new meter vault in front of Santiam Memorial Hospital. The current budget includes \$275,000 in the N. Tenth Avenue Construction fund and the SDC Funds to pay for engineering and construction of the N. Tenth Avenue & E. Pine Street water main upgrades.

**b. Council Deliberation:** Councilor Loftus asked if there would be any additions, changes or orientations to Jefferson Street and N. Tenth Avenue? Mr. Kinney stated the project includes the water line itself, the storm drainage and street work will be done in a second phase of which the designs are in the beginning stages. Councilor Quigley asked if Street Maintenance fees would be used for the project, and Mr. Kinney stated no.

**c. Council Decision**

**Motion:** From Councilor Loftus, seconded by Councilor Emery, to award the bid for the N. Tenth Avenue and E. Pine Street water main improvements to North Santiam Paving, Inc. in the amount of \$209,980.00.

**Discussion:** Councilor Emery asked if there was any language in the contract for over excavation since the area has a lot of solid shale rock. Mr. Kinney stated it was discussed during the design process and a couple of potholes were dug to see the depth of the rock as it went through near the gas line, and it is shale but the conclusion was they should be able to rip it with a track hoe, and the contract includes a clause for over excavation.

**Motion passed:** 5:0.

## STAFF/COMMISSION REPORTS

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

**a. Summer Street Maintenance Overview:** Mr. Kinney gave an overview of street improvements that have recently been completed. Over 50,000 lineal feet of crack sealing has been done, along with minor cut outs, repairs and striping work. The City has been working with Mike Adams Construction who has installed a handicapped ramp at Regis High School and St. Mary's School. A ramp was added at the corner of Gardner and Regis Street at the City's expense. Staff received an email from an individual that uses a power chair thanking the City for adding a ramp at that location, stated Mr. Kinney.

**b. SMC 12.04 and SMC 15.08:** Mr. Kinney provided a handout outlining the revisions to SMC 12.04 Street Construction and Maintenance of Streets, Sidewalks, and Curbs; and the addition of SMC 15.08 House Numbering and Street Naming standards. SMC 15.08 will set the standards for a uniform numbering system, adopt an address grid map, assign duties to the planning director, street naming rules, procedures to rename streets, enforcement - how to fix addressing errors, and street naming protocol. SMC 12.04 amendments will include street improvements, right of way permits, waivers and deferrals, street maintenance, sidewalks, existing sidewalk problems, sidewalk maintenance and sidewalk priorities. Referring to a question raised at a previous meeting by Councilor Loftus, Mr. Kinney stated if a health or safety issue existed a program such as the Housing Rehab Program could be used for sewer main repairs.

Referring to SMC 12.04.070 to 12.04.080 Waivers and Deferrals, Councilor Loftus asked if the deferral obligates the property owner to a specific amount, is the obligation due at the time of the sale. Mr. Kinney stated not necessarily, the obligation is tied to the property itself. If the city were to pay for the improvements for the property owner's proportionate share, a lien would be assessed against the property. Councilor Loftus stated he was concerned that the city could be clouding a title for a specific dollar amount which could affect the sale of the property. Referring to Street Improvement Exemptions specifically Garage, Councilor Emery asked if a garage is being constructed is the property owner required to install full sidewalk and curb improvements. Mr. Kinney stated under the current code no. Councilor Emery stated the code then needs to be changed to require that the curb improvements be done, otherwise you have two by fours up next to the curb so the property owner can get in and out. Referring to SMC 12.04.110 (1) Extent of Improvements, Councilor Emery asked if it includes sidewalks; Mr. Kinney answered in the affirmative. Councilor Emery stated the curb needs to be installed before construction but the sidewalks should not be as they probably will get run over or dug under. Mr. Kinney stated a deferral or waiver could be applied if that were the case. Councilor Emery pointed out addressing of the pool and community center buildings that are incorrect and need to be changed. Mr. Kinney stated the city was aware and would be addressing the issue.

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

**BUSINESS FROM THE CITY ADMINISTRATOR – None.**

**BUSINESS FROM THE MAYOR – None.**

**BUSINESS FROM THE COUNCIL**

Referring to the City Council meeting minutes of August 15<sup>th</sup> Business From the Council, Councilor Porter stated he was not at the meeting but from reading the minutes it appeared there needs to be better communication. Councilor Loftus invited Councilor Porter to stop by for a cup of coffee to brief him on the issues that might help clarify the situation.

Referring to the Santiam Water Control District (SWCD) Easement Agreement for the Wampler Property, Councilor Loftus stated that the City needs to review all agreements that would bind the City. In reviewing Oregon State Statutes (ORS) 533, 549, and the 2005 Bylaws for SWCD, no place in the documents does it give the water district the authority to issue permits. The City purchased a piece of property and the Council was not provided with all of the documentation and in the easement agreement SWCD is issuing a permit to the City of Stayton. The City of Stayton needs to be very careful in allowing SWCD to do so as they do not have binding authority with the city to do so, and the Council needs to review it.

Mr. Eubank stated that when Councilor Loftus asked for copies of the documentation regarding the easement with SWCD he provided them to Councilor Loftus, and the Councilor was concerned with the permit part of the agreement SWCD and the Wampplers' came up with. Mr. Eubank stated he

consulted with Mr. Rhoten and explained that Councilor Loftus was not pleased with how it read, and Mr. Rhoten sent an email to the Council and Mayor stating this is what we came up with and if the rest of the Council wants to spend the city's money in Mr. Rhoten doing further research, then he would be happy to do it. Mr. Rhoten did not get any affirmative response from the Council so nothing further was done. Councilor Loftus asked Mayor Vigil how an entity inside the City of Stayton can issue permits without authority. Mayor Vigil stated that the word "permit" needs to be defined as there are different types, and asked Mr. Rhoten to explain what his emailed entailed. Mr. Rhoten stated he contacted Councilor Loftus by email stating his notion about a permit was certainly explorable but suggested that Councilor Loftus bring it before the entire Council by expressing his concerns, and Councilor Loftus is responding to his request by relaying this to the Council, and letting the Council itself decide whether or not they wish to approach Councilor Loftus' issue. Councilor Loftus stated a careful review of the easement agreement along with a time line would be best suited for the Council. Councilor Emery stated that at a previous Council meeting he read a letter regarding missing information and felt that if all of the information had been received by the Council perhaps there would have been a different outcome. Councilor Quigley stated that he had no problem obtaining ORS 533, 549 & 553 and review them to see if they are applicable in this situation. Councilor Loftus suggested not only reviewing the statutes but also the SWCD By Laws and the property transaction for the purchase of the Wampler property, including the easement and any background information. Councilor Niegel stated she had no comment as she had not reviewed the easement agreement. Councilor Porter stated his concern that the Council not take off on another wild goose chase, and would rather explore the option of sitting down and discussing with them what type of relationship the City would like to have with the SWCD, instead of confronting them.

**Swim Team/YMCA:** Councilor Loftus stated he had had a parent approach him about the swim team hours at the Stayton Pool, and contacted the coach and from meeting with the parent and the coach it appeared they had some valid concerns that needed to be addressed. He asked the coach to schedule a meeting with the other parents to hear all their concerns and after a flurry of emails appeared before the scheduled meeting, and the meeting was cancelled by someone other than Councilor Loftus. Councilor Loftus wanted to make it clear that if anyone wants to discuss any city business with him he is more than willing to sit down and listen, regardless of what any other organizations tell them, anyone has the right to meet with Councilor Loftus, and that the interference that was conducted by members of the community were inappropriate. The issue is not resolved and when the time is appropriate, he will ask for a meeting by the Council to discuss their concerns. Councilor Quigley asked Councilor Loftus if he had scheduled a meeting with the coach. Councilor Loftus stated he had a meeting with a parent of the swim team that had a very reasonable assessment of the situation, and a letter that had other parents' names on it and the coach. He met with the coach to get his perspective, and based on the discussions they had it seemed appropriate to meet with the other parents that all participated in generating the letter together, to gain a better understanding of what was going on. Councilor Quigley asked if at anytime did Councilor Loftus refer any one of those people to the City Administrator who directly oversees the Manager that runs the pool?. Councilor Loftus stated he did not as they both indicated to him they had already attempted to do that, and they were approaching Councilor Loftus to discuss their concerns, so that he in affect could write a minority report because they didn't feel that their concerns were being addressed. They were also afraid of intimidation and reprisals, and it appears those fears have been realized that in affect they have been intimidated, reprisals have been issued and the meeting was cancelled. Councilor

Quigley stated the best venue would be the full Council and not just one individual Councilor, and said he would have dealt with it differently and bring it to a full Council. Councilor Loftus stated in order for the group to do that they needed to have a solution and needed to vent their concerns, and he was trying to accomplish a solution to the issues. Councilor Niegel stated it was not up to Councilor Loftus to provide a solution for the community. Councilor Loftus stated he was aware of that but felt it was his duty and obligation to assist them in trying to get to a solution.

Mayor Vigil stated that Councilor Loftus can have all the meetings he wants to with others regarding city business, it is absolutely OK. Councilor Quigley stated he wanted to make sure that the role of the Administer was not being overstepped. Under his employment agreement with the city it says (in part)...no Mayor or individual Councilor shall unduly interfere with the City Administrator's ability to carry out his duties, or attempt to influence the Administrators actions in respect to hiring or firing city employees or administration of other City business in carrying out the direction of the City Council. Councilor Loftus asked how meeting with concerned individuals influences, undermines in any way endangered his ability to do his job. Councilor Quigley stated unless the Council hears everyone that Councilor Loftus is meeting with, he has no idea what they are being told. Mayor Vigil stated that any council member that wants to meet with a Council member to discuss city business may do so as long as there is not a quorum present. Until it is brought to the Council and a decision is made by the Council nothing has happened, other than a bunch of talk it is absolutely OK. Councilor Quigley stated in his opinion when Councilor Loftus met with the parent and coach and they felt they were not being heard, at that point it became a City Council issue. Mayor Vigil stated if any Council members discuss issues regarding managers, they might wish to inform the department head of the manager of the issue before bringing it to the full Council.

**ADJOURN**

There being no further business, the meeting was adjourned at 8:55 pm.

APPROVED BY THE STAYTON CITY COUNCIL this 3rd day of October 2011, by a  
VOTE OF THE STAYTON CITY COUNCIL.

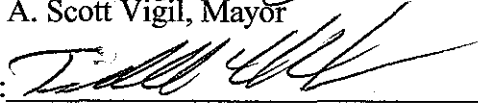
CITY OF STAYTON

Date: 10/02/2011

By: 

A. Scott Vigil, Mayor

Date: 10/03/2011

Attest: 

Don Eubank, City Administrator

Date: 10/03/11

Transcribed by: 

Rebecca Petersen, Deputy City Recorder