

**MILL CITY
MINUTES OF THE CITY COUNCIL
Tuesday, August 13, 2019**

Mayor Kirsch opened the meeting at 6:00 PM with the flag salute. Councilors present were Janet Zeyen-Hall, Brett Katlong, Dawn Plotts and Tony Trout. Steve Winn arrived at 6:50 PM. Staff members in attendance were City Recorder, Stacie Cook and Planner David Kinney.

Citizens in attendance were Lynn Andermatt, Scott Baughman, Ann Carey, Robert Castro, Dennis Chamberlin, Earnest Freeman, Jim Grimes, Marge Henning, Robert Johnston, Donna Jones, Dorothy Keasey, Hae Kyong Kim, Anita Leach, Dave Leach, Dan Lemke, Ruth Lemke, Karen Lucas, Rex Lucas, Roel Lundquist, Sandy Lyness, Joanne Olson, Carrie Peterson, Grant Peterson, Chuck Ruettgers, Sheila Ruettgers, Miles Smith, Mark Stegemann, Sandi Stegemann, Gay Stuntzner and Frances Thomas.

DECLARATIONS OF POTENTIAL CONFLICTS OF INTEREST: Mayor Kirsch stated that anyone who felt they may have a potential conflict with anything on tonight's agenda may say so at this time or at any time during tonight's meeting.

CONSENT AGENDA

Councilor Trout moved and was seconded by **Councilor Plotts**, to approve items a; Approval of Minutes of Regular City Council Meeting of July 23, 2019, b; Approval of Minutes of Special City Council Meeting of August 6, 2019, and c; Approval of Accounts Payable, of the consent agenda. Stacie Cook polled the council; the motion passed unanimously, (5:0).

SAVE OUR BRIDGE (SOB) PRESENTATION – TIGER DESIGN RECOMMENDATIONS: Anita Leach, Save Our Bridge Committee Member, handed out an outline of recommendations from the SOB's and said that there are a number of items being presented for the TIGER grant design elements that the SOB Committee would like the Council to consider. These include:

Decking material – SOB Committee would like to have input on stamping design and concrete dying and staining process.

Mesh Railing and Hand Rail - SOB Committee would like these powder coated and painted black.

Bents – Currently there are five bents and the proposal is for three. The SOB Committee would like five to remain. In addition, the bents should be square instead of round. The material; metal or wood, needs to have more information provided before a decision is made. This includes what type of wood products are available and how long will each last? What are long-term maintenance costs? What would the cost and frequency of bridge inspection be? What is the cost of materials for construction? Historic character should be taken into consideration.

Superstructure – Bridge should be power washed and painted black.

Lighting – Light posts along the trail should provide overhead lighting and be full height to minimize vandalism. LED lighting is preferred.

Automobile Bridge – Possibly put a survey in the water bill asking the citizens what color they prefer; ODOT green or rust red.

Streetscaping on Broadway – Prefer softscapes instead of hardscapes. Could use drought-resistant, native plants to minimize maintenance. Trees would be nice.

Transit Station – Should be placed in the Broadway project area not on Wall Street. Cherriots should have some say in where a new shelter is located.

David Leach, SOB Member, said that he did some research on bridge inspections and feels that more reliable information should be provided.

Mayor Kirsch said that his biggest concern is making sure that the process moves quickly to meet the required time frames.

Mr. Kinney said that he spoke with Kevin Groom, Linn County Engineer, and he feels that we have 30-60 days to get these decisions made. A comparative analysis for the material types should be able to be completed in this time frame. Low bollard lighting can look very good and be vandal resistant. A comparative analysis for this may be a good idea as well.

Mayor Kirsch said that if irrigation could be run to any softscapes then it would help with maintenance.

Councilor Trout said that he understood that all lighting would be LED when the presentation was given. Councilor Katlong said that he also understood that was the plan.

Roel Lundquist, SOB Member, said that the past Council did not put in the full amount of money that was planned as match for this project. The Council should look to place additional funding in the budget for the railroad bridge to ensure adequate dollars in case of cost overruns.

Mayor Kirsch said that the SOB Committee has put in a lot of time on this project and thanked each for their efforts.

Councilor Trout said that while the items outside of the bridge are good to have recommendations on, any formal approval from the Council should be only on the bridge so that other members of the community can have input on the other project elements.

Councilor Trout moved and was seconded by **Councilor Zeyen-Hall** to Forward the Recommendations Specifically for the Railroad Bridge from the SOB Committee to Linn County and to State Concurrence of the Council with These Items. The motion passed, (5:0).

CITIZEN COMMENTS AND QUESTIONS: Dan Lemke, SW Kingwood Avenue, asked the SOB Committee if they have noticed a change in attitude on the part of Linn County since the inception of this project. Mr. Lundquist said that Kevin Groom has heard some of the items that the SOB Committee have requested but Linn County has not bent over backward to make changes.

Mr. Leach said that he felt that Linn County didn't accept that the SOB's were a formal committee with the Council's authorization to make recommendations.

Mr. Kinney said that providing recognition of the SOB's participation in this process is part of the reason for a memo signed by the Mayor.

Mayor Kirsch called for a brief break at 6:35 PM.

Mayor Kirsch reconvened the meeting at 6:41 PM

PUBLIC HEARING: File No. 2019-09 Freeman Meadows Subdivision
Applicant: Rex A. Lucas and Scott Baughman, SBC Construction, Inc.
Proposal: Freeman Meadows Subdivision – 15 Lots/Partial Street Vacation
– SE 5th Avenue ROW
Location: 9S4E32BA Tax Lot 3400 4.12 Acres – SE Ivy Between SE 5th
Avenue and SE 6th Avenue

Property Owner: Rex A. Lucas

Mayor Kirsch opened the public hearing at 6:42 PM with the rules of conduct for public hearings and called for any potential conflicts of interest, bias or ex parte contact.

Councilor Plotts said that she spoke with a community member about their concerns with the entrance to the subdivision. Mayor Kirsch asked Councilor Plotts if this will affect her ability to make an impartial decision. Councilor Plotts said that it will not. Mayor Kirsch asked if anyone had objections to Councilor Plotts participating in the hearing process. No objections voiced.

STAFF REPORT: David Kinney, Planner, said that the proposal this evening is a 15 lot subdivision just south of SE Hazel Street. A set of preliminary engineering plans have been submitted to the City with the proposed lot layouts. The application included a request to vacate a 25' section of the SE 5th Avenue right-of-way, which would allow for slightly wider lots along the south side of the development.

The lot sizes average 9000-10,000 square feet. To meet storm drainage needs there will have to be a small detention basin on site, shown on the layout as Tract A.

One major issue the Planning Commission addressed during the public testimony on this subdivision was what are the appropriate street improvements for the area? Staff and the City Engineer strongly recommended providing street access from SE Kingwood Avenue as the main entrance and extend SE 6th to the north and provide entry at SE Hazel Street. Two fire access entries are required for any development site. One of these points is off of SE Kingwood Avenue and the second was proposed at SE 5th Avenue connecting to SE Hazel Street. The Planning Commission received a lot of testimony regarding the street improvements and took these comments into consideration while deliberating. The most contentious point was connection of the street(s) to SE Hazel Street and the intersection at SE 4th Avenue and SE Hazel Street.

Councilor Winn arrived.

The extension of SE 5th Avenue to SE Hazel Street was initially a 34' wide paved street with no curb and gutter. There was a lot of testimony from neighbors about this street because of traffic and safety concerns. The Planning Commission considered these concerns and is recommending a barrier at the end of the subdivision that will allow for fire access but no through traffic. A 20' wide paved fire access lane would be installed instead with pedestrian access. SE Ivy Street would be constructed to SE 5th Avenue.

SE 6th Avenue was originally a 24' wide gravel street. However, the applicant clarified that it was not the intention to construct the gravel section at this time. Instead SE 6th Avenue would be constructed to the north end of the subdivision and a barrier would be installed to stop traffic. The northern section of right-of-way would be graded and seeded.

The section of SE 6th Avenue to SE Kingwood Avenue is proposed as a ¾ street improvement with curb, gutter and sidewalk on the west side of the street. The east side of the street would not be fully developed until such time as the property to the east develops.

SE Ivy Street is proposed as a 40' wide street instead of the standard of 36' side. This will allow for two travel lanes and parking on both sides. Councilor Plotts asked if this would be sidewalks on both sides. Mr. Kinney said that it will be curb, gutter and sidewalk on both sides of this street.

Councilor Trout asked if the Fire Department is okay with not having an access through to SE Hazel Street. Mr. Kinney said that Fire Chief Ohrt prefers that the street be fully constructed to SE Hazel Street but is okay with the fire access as long as he has the ability to review the fire barrier that is to be installed.

Mr. Kinney said that even if the streets are blocked at this time, they are still public right-of-way and there is still a very likely opportunity that one or both may be fully developed when additional development occurs in the area. One issue is traffic safety, specifically at the intersection of SE 4th Avenue and SE Hazel Street. A traffic study will have to be done at some point in the future but this is likely a City issue, not a developer issue, unless the traffic study shows that the development creates additional burden on the area.

Mr. Kinney said that there is a 12" water line that runs in SE Kingwood Avenue, connecting to an 8" water line that runs east. The applicant is proposing that the 8" main be increased to a 12" line, which would connect to a 12" main in SE 6th Avenue. Additionally, a water main will be installed in the internal subdivision street. The cost of the upsizing to the 12" main in SE Kingwood Avenue will be the burden of the City because it is listed in the water plan.

New sewer lines are proposed in SE 6th Avenue as well as within the internal subdivision street. The new mains will connect into existing sewer in SE Hazel Street.

Storm sewer is one of the biggest issues that needs to be addressed. The applicant proposes a storm line within the subdivision that will drain into a detention basin, which will go into a new storm system which will flow north on SE 5th Avenue, turn east to SE 4th Avenue then run north to a discharge point at Kimmel Park. The applicant is responsible for the design and construction of the improvements but the City will have a financial obligation to pay for the City's share of the storm sewer upgrade. Cost estimates are not available at this time. They will be outline within a development agreement between the City and the applicant.

Mr. Kinney said that in making a decision on subdivisions, the applicant has an obligation to present plans that comply with the City requirements and the City has an obligation to review the proposal to ensure that the proposal complies with the criteria within the subdivision code.

APPLICANT'S TESTIMONY: Scott Baughman, co-applicant, said that the first thing that was looked at when this property was purchased was access. The original design was to come through 6th Avenue and do a hammerhead on the internal street. However, after speaking with the City and Fire Chief, the layout was changed to provide additional fire access.

Rex Lucas, co-applicant, said that he has put in around 40 subdivisions and each of these subdivisions had full curb, gutter, sidewalk with 40' width. This is the same proposal that is in the proposed subdivision and is the preference for their developments.

PROPONENT'S TESTIMONY: None.

OPPONENT'S TESTIMONY: Robert Johnston, SE Hazel Street, handed out copies of the testimony provided in the packet for better legibility. Mr. Johnston said that the Planning Commission accepted his recommendation to retain the right-of-way at the south end of SE 5th Avenue. The Council should accept this change.

Mr. Johnston said that the addition of this subdivision will create additional traffic in the area and the SE 6th Avenue entry on SE Kingwood Avenue is very close to the 's' curves, which lessens visibility. Mr. Johnston recommended a traffic study be completed. Future traffic congestion that may occur in the subdivision will likely cause completion of the street improvements to SE Hazel Street.

Anita Leach, SE Hazel Street, said that the subdivision originally proposed connecting SE 5th Avenue to SE Hazel Street. The main street in the subdivision is proposed as 40' wide with the side streets 34' wide in sections. SE Hazel Street is only 18' at some points, which is a safety issue. The intersection of SE 4th Avenue and SE Hazel Street is dangerous and kids walking through will have to walk on the same street as vehicles that are moving.

Lynn Andermatt, SE Kingwood Avenue, said that her concern is the 's' corner. The speed of traffic going through the corner makes it dangerous for people to pull out and adding SE 6th Avenue is concerning.

Donna Jones, SE Hazel Street, handed out a written copy of her testimony. Ms. Jones said that criteria #7, physical characteristics, should be considered, specifically the aquifer. The aquifer is the most valuable aspect of the City and should not be put in jeopardy with a subdivision. The aquifer needs to be protected at all costs. The aquifer lies 50' below the surface at one point and only 47' at another. The confining layers of the aquifer are at 15' or less.

Ms. Jones said that household chemicals cause pollution within ground water and Mill City has an obligation to protect the clean water supply and that a subdivision should not be built over the aquifer, adding that approval could potentially expose the aquifer to pollutants.

Gay Stuntzner, SW 1st Avenue, said that she was concerned when she read the newspaper and the comments related to the aquifer. A geo-hydrologist was contacted and speaking with a water master for the community was recommended. Mrs. Stuntzner said that she thinks the City needs to have expert testimony from a geo-hydrologist, who can speak to how the aquifer can be kept clean. More facts are needed.

Mrs. Andermatt said that she is not in opposition or a proponent but is just concerned with the corner and traffic safety.

Ruth Lemke, SW Kingwood Avenue, said that she would like the City to do more research on the well and the aquifer and to check with a geo-hydrologist to make sure that our water source is kept safe.

GENERAL TESTIMONY: Roel Lundquist, SW Linn Blvd, said that there were a couple of examples where the City will have some expense but the cost is unknown. How this is negotiated is not known either but this is something that needs to be considered for budgetary concerns. The Council may not want to act without some stipulation on maximum costs that the City will occur.

Dan Lemke, SW Kingwood Avenue, said that he is impressed by the process that is being gone through and the quality of the presentations be given this evening. This is a good process for the City to be able to make decisions.

Earnest Freeman, SW Ivy Street, said that he owned the property before it was purchased. Many people could have purchased the property and used it for different uses. Mr. Freeman said that it is his understanding that underground aquifers move and cleanse themselves as they flow.

Ms. Jones said that while the aquifer does move, it is confined to a specific area.

QUESTIONS OF CLARIFICATION FROM CITY COUNCIL: Mayor Kirsch said that he was Mayor when the wells were installed and the site was chosen because of its great water supply. The "Results of Kingwood Well No. 1 Pumping Test, Mill City, Oregon" document dated March 24, 2003 was used for reference during Mayor Kirsch's comments and has been entered into the record.

Mayor Kirsch said that the well has a 100' protection area. The City shop is beyond this distance from each well head. The well was drilled to nearly 200' and water was found at about 50'. However, there is 130' of solid steel well casing around the well so water is drawn at a much deeper point. There is a layer of clay at approximately 100', which creates a containment or "confined aquifer". When the well was drilled, a new designation was created for Mill City; a "river influenced confined aquifer", which allowed the City to transfer its water rights from the river to the

wells. The aquifer is very large and includes running under the hazelnut farm and the existing homes on SE Hazel Street.

Mayor Kirsch said that the traffic issue is the biggest concern he sees that needs to be addressed. However, the subdivision complies with the requirements of our zoning regulations. The questions of traffic counts and pedestrian safety were good to bring forward for consideration. Mayor Kirsch noted that the City's code requires only a 5000 square foot parcel and the applicant is proposing nearly double the size in this subdivision. There is a potential that this subdivision could have nearly double the amount of homes built.

Councilor Trout asked if storm drains fall under SDC funds. Mr. Kinney said that they do not as the City does not have a transportation or storm SDC.

Councilor Trout said that he did research related to prior testimony before this meeting. The traffic impact on SE Hazel Street would probably be fairly low compared to SE Kingwood Avenue and that he appreciates hearing from those in attendance this evening that are not adjacent to the proposed subdivision. Councilor Trout noted that he feels as long as the proposal complies with zoning regulations, property owners have the right to do with their property as they wish.

Councilor Plotts said that she appreciates all of the hard work that has gone into this proposal. The larger street size is very much appreciated as is the larger lot size for the parcels. Councilor Plotts added that she did have concerns about the aquifer but Mayor Kirsch's comments cleared up a lot of this.

APPLICANT'S SUMMARY: Mr. Lucas said that single family homes are being built.

STAFF SUMMARY: Mr. Kinney said that while the applicant has indicated that they will construct single family homes, should the lots be sold after the subdivision is complete, they could still be developed as duplexes. However, the applicant could place a restriction that would apply to future sales that would limit the development to single family development.

The Planning Commission did make modifications to the street layout. The largest is the temporary barrier on SE 5th going to the north. A traffic study was brought up in prior testimony. When the subdivision was first proposed, a conversation was held with the Linn County Engineer and the determination was that 15 homes did not warrant a study. However, if the property to the east were to develop, a traffic study likely would be warranted.

The intersection of SE 4th Avenue and SE Hazel Street may be dangerous but there are not many things that can be done to fix this issue. However, it may need to be addressed at some point in the future.

Mr. Kinney said that if prior statements came across as that he was not concerned with the aquifer that was not the intention; the aquifer is a very big issue that should be considered by the Council. If the Council wishes to hold the record open for seven days to accept additional testimony, this could be entered into the record and the Council could use the information to make a determination on this application.

The cost sharing for proposed improvements, while not firm, are estimated to be within a range that can be covered with SDC funds for the water line. The storm drainage improvements are less known but the City may have an opportunity to include this improvement in a storm drainage grant that was just approved by the governor, which would help to alleviate some of the burden that the City will have for these improvements.

If the Council approves the application, there are a series of steps that need to be taken to meet all of the obligations for the City and the applicant.

Mr. Kinney said that if the hearing is closed tonight, the Council has several options:

1. Leave record open to accept additional testimony from citizens as well as agencies for seven days. If this is done, staff will request information from the Linn County Water Master.
2. If additional testimony is provided within the seven days, the applicant has an additional seven days to submit rebuttal comments.
3. Council deliberation could be held at the next regular Council meeting on August 27, 2019
4. The City has 120 days to make a decision on an application, which is about September 27th. A decision should be made no later than September 10th on the application. This would give one additional meeting should it be needed to complete the process.

CLOSE OF HEARING: Mayor Kirsch continued the public hearing to Tuesday, August 27, 2019 at 7:00 PM, holding the record open to accept additional written testimony only through August 20, 2019 at 5:00 PM.

Mr. Kinney gave a brief overview of process from this point forward. Written testimony can be submitted through August 20, 2019 at 5:00 PM to the City. The applicant will then have seven days to respond to any additional testimony that is submitted. The Council will hold deliberation on August 27, 2019 at 7:00 PM during which no participation from the public may occur. The Council can request clarification on any of the additional testimony but no further information can be provided by the public or staff.

Mr. Kinney stated that the City Council is still under rules regarding public hearings and must refrain from having discussion about this application with anyone other than staff. Should discussions or contact with information take place there must be a declaration of conflict of interest.

Mayor Kirsch thanked the Planning Commission for all of the time and attention to detail on this application, stating that the work that they do makes the Council's job easier. Mayor Kirsch also thanked the members of the public who attended the meeting and provided testimony on this issue.

Mayor Kirsch said that he received an email requesting a letter of support for a grant application that the Recovery Outreach Community Center (ROCC) has applied for through the Oregon Community Foundation. Councilor Katlong said that he is unfamiliar with what they do. Councilor Zeyen-Hall said that this is a peer helping peer program that assists with addicts looking to come out of their addictions and help them find homes.

Councilor Plotts asked what the time frame for making a decision is. Mayor Kirsch said that he was not provided a time frame and offered contact information for anyone who would like to find out more about the program.

ADJOURNMENT

The meeting was adjourned at 8:21 PM.

Prepared by:

Approved by:

Stacie Cook, MMC
City Recorder

Tim Kirsch
Mayor