

**COTTAGE GROVE COUNCIL MEETING
MINUTES
June 8, 2009**

CALL TO ORDER

Mayor Williams called the meeting to order at 7:30 p.m. in the Council Chambers at City Hall.

ROLL CALL/PLEDGE OF ALLEGIANCE

City Recorder Joan Hoehn called the roll. The following were

Present: Mayor Gary Williams, City Councilors Wayne Clark, Diane Conrad, Mike Fleck, Lynn Miller, Thomas Munroe, Heather Murphy

No Youth Representative was present.

Staff Present: City Manager Richard Meyers, Finance Director Bert McClintock, Community Development Director Howard Schesser, Police Chief Mike Grover, Community Services Director Pete Barrell, City Engineer Ron Bradsby

City Attorney Sean Kelly was present.

News Media Present: Cameron Reiten - KNND Radio

ITEMS TO BE ADDED TO THE AGENDA

None

PUBLIC HEARINGS

None

PUBLIC COMMENT ON AGENDA ITEMS

None

RESOLUTIONS AND ORDINANCES

(a) Resolution to Appropriate Specific Purpose Donations

Finance Director Bert McClintock explained that this resolution is before Council tonight because the City was given donations in the amount of \$6,000 from various donors in memory of Les and Eleanor Corey. The donations were specifically to develop a teen center as well as purchasing shelving dedicated to Eleanor Corey in the elementary section and Les Corey in the travel/history sections. The monies are being held in the special trust fund. In order to spend these monies lawfully, they have to be appropriated because they are for a special purpose and that wasn't known at the time the budget was prepared.

IT WAS MOVED BY COUNCILOR MUNROE, SECONDED BY COUNCILOR MILLER THAT RESOLUTION NO. 1706, "A RESOLUTION ESTABLISHING APPROPRIATIONS WITHIN THE SPECIAL TRUST FUND FOR THE EXPENDITURE OF A COREY FAMILY MEMORIAL DONATION FOR THE SPECIFIC PURPOSE OF DEVELOPING A TEEN CENTER AND SHELVES DEDICATED TO ELEANOR COREY IN THE ELEMENTARY SECTION AND LES COREY IN THE TRAVEL/HISTORY SECTION," BE ADOPTED.

The vote on the motion was as follows:

VOTE	Councilor Fleck	Councilor Miller	Councilor Munroe	Councilor Murphy	Councilor Clark	Councilor Conrad	Mayor Williams
AYES	X	X	X	X	X	X	X
NAYS							
ABSTAIN							

(b) Resolution to Appropriate Specific Purpose Grants

Bert explained that the City has received a combination of two grants totaling \$6,800. One was a Friends of the Library grant in the amount of \$950 and a Gates Foundation grant in the amount of \$5,850. These grants are for the specific purpose of purchasing three or more computers and related technology supplies. The City is required to match the grant with a \$1000 expenditure. In order to lawfully spend these monies according to Oregon Budget Law they must be appropriated, and it is okay to do so because it was for a specified purpose grant that was not known at the time the budget was put together.

IT WAS MOVED BY COUNCILOR MUNROE, SECONDED BY COUNCILOR MILLER THAT RESOLUTION NO. 1707, "A RESOLUTION ESTABLISHING APPROPRIATIONS WITHIN THE GENERAL FUND, LIBRARY DEPARTMENT, MATERIALS AND SERVICES, FOR THE EXPENDITURE OF GRANT FUNDS

RECEIVED FOR THE SPECIFIC PURPOSE OF PURCHASING THREE COMPUTERS AND ASSOCIATED TECHNOLOGY SUPPLIES," BE ADOPTED.

Councilor Conrad asked Bert to explain for the record the \$2,000 that's listed on the resolution page under the budget as opposed to the \$1,000 matching grant.

Bert said that the resolution follows the state requirements for adoption. It lists the budgeted amount currently in this year's budget at \$2,000, the increase of \$6800. So the adjusted budget would be \$8800 for computer services and supplies under materials and services in the library department in the general fund.

The vote on the motion was as follows:

VOTE	Councilor Fleck	Councilor Miller	Councilor Munroe	Councilor Murphy	Councilor Clark	Councilor Conrad	Mayor Williams
AYES	X	X	X	X	X	X	X
NAYS							
ABSTAIN							

(c) Second Reading of Ordinance No. 2982 Amending the Comprehensive Fee Schedule

Richard said Council has before it Ordinance 2982 that was read once last meeting. It is before Council for second reading and subsequent consideration for adoption.

Councilor Conrad said Ordinance 2982 is a gesture to have fairness in how Council governs. Ordinance 2981 addressed the building industry. 2982 will open that up to consider any monies that the City collects from businesses so it is across the board rather than just one industry. The ordinance uses approximately the same language as 2981, and also has the same sunset date as 2981 to be in all fairness.

Councilor Conrad said last time Councilor Fleck had a very good concern in asking if renting of rooms in other places in the community in competition with renting the room in the community center if that fee were lowered. She said she spoke with three businesses that rent rooms, and basically they all had what they call a setup charge ranging from a minimum of \$100 to \$200. They all explained that they believed they provided a different service than what the community center room renting would provide. They have staff that set up the room, provide linens for tables, and two of the businesses have staff available for questions or needs during the rental of the room. One of the establishments has staff in the room at all times with the rental of the room, so they feel that they are offering a different service and felt that waiving the rental room in the community center was not in their level of service that they were providing.

Councilor Miller said she understands Councilor Conrad's concern about trying to make fairness of government, but in actuality this promotes unfairness in government. She's comparing apples and oranges. They had the ordinance which was for that specific point and this one then opens up a whole different set of questions about who's going to charge, how much we're going to charge. What concerns her the most is if this had gone through the City Manager and Legal

Counsel and Finance, they would have pointed out a lot of problems. She said there are a lot of problems with this ordinance that have to do with not going through the proper channels to get the comprehension behind what this really means. She said they don't need this ordinance; it seems to be pushing an agenda which she can't support. She said there's one big license fee that the City gets and that's the liquor license; are we now not going to charge for liquor license. She spoke to the cost of giving back money being more than some businesses were charged. She said she couldn't support this; not well thought out.

Councilor Conrad said as far as process when she originally wrote this she did go to the City Manager and asked for his comments.

Councilor Fleck said he likes the intent of the ordinance and would tend to support it. The problem for him is the room rental issue, and there are other organizations that rent out rooms such as his church which isn't the same as the for profit businesses. Will this affect jobs, he didn't know if that would happen or not. He said another thing is there's ambiguity in that if somebody's annual fee hits at that time of the year, do we waive it for the year, do we prorate it. He thought there was some work that needed to be done if Council were to do this. He pointed out that the intent of the other ordinance was for jobs, and SDCs can be quite a burden on developers, and he didn't see much of these charges being overly burdensome. So he has some reluctance to support this.

Councilor Conrad pointed out that in the ordinance the reduction ends October 2009. So far as creating jobs and substantial fees, 2981 was interest on the fee not the fee itself and was only for 6 months. Again, using the figures that were given as an example of the cost of housing and whatever, that 6 month interest came to \$88.00.

IT WAS MOVED BY COUNCILOR CLARK, SECONDED BY COUNCILOR CONRAD THAT ORDINANCE NO. 2982, "AN ORDINANCE AMENDING ORDINANCE 2361 OF THE CITY OF COTTAGE GROVE COMPREHENSIVE FEE SCHEDULE EXHIBIT "A" ITEMS V. BUSINESS, XI. MISCELLANEOUS, XII. COMMUNITY CENTER FEES AND POLICIES," BE READ ONCE IN TITLE ONLY AND PLACED ON ITS FINAL PASSAGE.

Councilor Clark said he wasn't sure he understood Councilor Miller's legal concerns.

Councilor Miller said it's because it hasn't gone through the legal people; someone wrote an ordinance and addressed circuses and several other licenses that only come up to \$7.00 and it's going to take \$20.00 or more to rewrite the code, mail back any license fees. There's a lot more that could be done if you really want to be fair. This is just a very small little piece that doesn't amount to any thing. It's just a nuisance ordinance to her.

Councilor Clark asked if what he hears Councilor Miller saying is that she has a philosophical difference with this.

Councilor Miller said she guessed that's it; the taxpayers are going to have to fork over money to have this thing revised, to have the licensing looked at, to have staff review and make sure whatever comes in gets mailed back for a certain group. She asked how this is ever going to help stimulate business.

Councilor Clark said he wasn't sure stimulating business was the intent of the ordinance.

Councilor Miller asked what this was suppose to make fair.

Councilor Conrad said Ordinance 2981 targeted only one industry, and what she's saying is if Council is going to try (and it's only a gesture) and is saying we understand, the economy is hard what can we do as a gesture. So 2981 targeted the building industry. She said she looked in the code to see what businesses the City collects monies from and came up with those listed in the ordinance. She said if she remembers correctly from last discussion, City staff said there was one taxi cab and two used stores, so we're talking about three businesses that would have to be contacted to see if they wanted a refund for this particular window. So it's not like they're going to have to go through hundreds and hundreds of businesses to see who would get a \$2.00 refund.

Councilor Fleck said if he remembers right staff was saying the ordinance wasn't clear specifically to an annual fee if it fell into this window was that fee just going to be for this window or is going to be for the year. He said he thought it wasn't clear to staff.

Richard said it really isn't. It says the period from July 8th through October 30th the following fees shall be waived. He said it needs some clarification on whether that is the annual fee for that period or if it's prorated for that time. Most paid in January; so does that mean we're giving back a refund for that window of time.

Councilor Clark asked Councilor Conrad if her intent was for new businesses applying for a license during this period of time.

Councilor Conrad said the intent was to make sure the City does for other businesses as they did for the construction industry. Ordinance 2981 was a window of time, so she in all fairness wanted to address that window in time. So if that meant new businesses during that time, then during that time they would get a partial relief. If it was they already paid the fee then they would get a refund for that window in time and everything ends October 31, 2009, and then they start paying the fee again if it's new businesses coming on. The refund would only be for that window of time. Concerning legal issues, she understood the City Attorney to say last time that he saw no legal difficulties with this ordinance.

Sean said it certainly isn't illegal, and he thought staff raised their own set of concerns as well as the financial concerns with how much time it would take that he can't speak to. He said he heard Councilor Conrad mention that he's not sure all the rest of the Council heard the apples and oranges component of this as he sees it is that the prior ordinance waived interest only for a period of time, it did not waive an actual fee. This ordinance is designed to waive fees.

Councilor Conrad said the only difference really is if you want to look at it well is it a fee or an interest payment or do you want to look at it as money that the City was collecting regardless of where the fund of money comes from; it's just the money.

Councilor Fleck asked if this was going to be clear enough at this point for staff to implement; is there enough direction to understand the intent of this ordinance.

Richard said he believed so. He said staff would be interpreting the intent that Council would be waiving any fees that had been or would be paid during that time frame. So staff would be going back and prorating out any fees that have already been paid and refunding those from July through October 31.

There was further discussion by Council of how many businesses would be affected by a refund, how much the refund would be and the time it would take staff to go through and do the refunds.

Councilor Murphy said she appreciates Councilor Conrad's intent, and if some things in this ordinance could be tightened up she would support it but can't at this time because there are too many questions floating around..

Councilor Conrad suggested that there's a simple way to administer this. One way to make it not a nuisance is to give legal notice in an article in the newspaper saying the City will be giving refunds and whatever and if you want your refund please contact the City. So then staff would only deal with those people who actually come and ask for their refunds.

Councilor Clark said he had two amendments he would like to offer. He said he would like to see this amended to say all new licenses and that would take care of licenses that have already been applied for that would be applied for during this time period. The other would be he would like the community center fees and policies to say they would waive all fees for room rentals during this period.

Mayor Williams thought these amendments should come in a separate motion.

Councilor Miller said there are so many questions that she thought there should be more work on this with the City Manager and others to make it a better vehicle.

IT WAS MOVED BY COUNCILOR CLARK, SECONDED BY COUNCILOR CONRAD THAT THE ITEM BE TABLED.

Mayor Williams voiced his concern with this ordinance being created outside the City Manager's Office with no input from him or any direction from the rest of the Council. He thought some things needed to be left to professional people, and Council's job is to give the City Manager direction on policy for him to implement that policy. He didn't think that happened in this case.

Sean said he needed to clarify something. There was a suggested amendment with no motion and then a motion to table with a second. The table is what Council would be voting on now.

The vote on the motion was as follows:

VOTE	Councilor Fleck	Councilor Miller	Councilor Munroe	Councilor Murphy	Councilor Clark	Councilor Conrad	Mayor Williams
AYES	X			X	X	X	
NAYS		X	X				X
ABSTAIN							

(d) Sidewalk Amendments

City Attorney Sean Kelly explained that this ordinance amends ordinances that were already in place, and is a change that’s been needed for some time. When the common law was brought over there was no common law liability for any landowners adjacent to public properties. However, in the development of the codified law in this country, it has been from very early on that municipalities and cities have assigned liability for sidewalks to adjacent landowners. There’s a long-standing tradition and a whole series of cases regarding this type of liability. He reiterated that all he did was rework the language that’s currently in the code to clarify the language.

Councilor Munroe asked if this holds true on Main Street where someone has had a hole in the sidewalk for several years and they’ve tried to get them to repair it and they don’t. Is it that someone has to fall in the hole and break something then the City will do something about it.

Sean responded that in the development code it addresses if there is the need for the City to repair the sidewalk and then how those costs will be assessed.

Councilor Murphy asked if there would be notification to the public about this. She said she doubted people know they’re suppose to take care of the sidewalks and there’s the liability there. She thought any notification that the City could do would be a good idea.

Councilor Conrad said she had a problem with the requirement of clearing the snow within the first two hours of daylight. She didn’t think it was realistic.

Sean indicated that he was trying to stick with the original language as much as possible; he said he looked at samples of language from other cities and this was probably the best.

Councilor Conrad asked if there were cities that didn’t have this ordinance and that the City is responsible for the care of sidewalks.

Sean said there weren’t any that he could find.

Councilor Conrad said her difficulty is on a principal and that is that she didn't think a private citizen should be held to repair a public right-of-way.

Sean said there are two different issues. You're talking about maintaining it in good repair and keep it clear and free of debris. The other thing is that the property owner is the one that comes and goes from the property and is able to assess these things and take a look at them. There is a process for repairing sidewalk wherein the City can come and replace and repair sidewalks and it's assessed to the homeowner. But as far as keeping the sidewalk free and clear from debris, there isn't enough City staff to do that nor to monitor the sidewalks to make sure that those things aren't there. It's for the benefit of the person walking on the sidewalk as much as the citizenry of the people falling on the sidewalk because of someone's negligent act of not maintain that property there that they have the cause of action.

Mayor Williams said the part of this ordinance that bothers him is section B regarding not permitting snow or ice to remain on the sidewalk for a longer period of time than two hours of daylight after the snow has fallen. His concern was that people working in Eugene may not know they have an accumulation. He said he didn't have a problem with the maintenance but did have a problem with the language.

Sean reiterated that this was not changed and again the issue they're dealing with here is liability for anything that may result. It isn't directing that a person has to go out and clean it up; however, if it isn't taken care of within that period of time and someone chooses to sue they may have a cause of action if they can establish that it's been more than a two-hour period of time.

Councilor Clark said people are going to sue the City anyway.

Sean said it's possible that the City could be named and that's why he put in the section B under 8.12.095.

Councilor Conrad said there is the difficult question of the sidewalk buckling because of the roots of the trees and is it a tree that the City owns or is it a tree that a neighbor owns. How will this be negotiated; who's going to be liable for that. How can someone fix the sidewalk if it's the City's tree or a neighbor's tree.

Sean said that person would have to come and address that to the City and do that before someone trips and falls.

Councilor Conrad said she would like this clarified as to if the cause of the repair to the sidewalk is not due to the owner but due to somebody else.

Sean said what if the owner knew about the shape of the sidewalk and was ignoring it; does it become the City's problem.

Councilor Conrad said she would like it to be more clear in the ordinance, but she understands that Sean changed the ordinance very little from what was already there.

City Engineer Ron Bradsby said to add other facts there's a section in Chapter 12 of the code dealing with street trees similar to sidewalks that are the responsibility of the adjacent property owner even if they're in the public right-of-way.

Sean stated again the sections that were clarified and that no actual changes were made to the current ordinance.

Richard explained the sections of the ordinance that the City's insurance recommended be included in the ordinance.

IT WAS MOVED BY COUNCILOR MUNROE, SECONDED BY COUNCILOR MILLER THAT ORDINANCE NO. 2983, "AN ORDINANCE OF THE CITY OF COTTAGE GROVE, OREGON AMENDING SECTION 8.12.090 CLARIFYING THE DUTY TO KEEP SIDEWALKS SAFE AND ADDING SECTION 8.12.095 CLARIFYING LIABILITY FOR SIDEWALK INJURY," BE READ ONCE BY TITLE AND PLACED ON THE NEXT AGENDA FOR SECOND READING AND SUBSEQUENT ADOPTION.

Councilor Conrad reiterated that she felt the 2 hours was unrealistic and she would hope that could be rethought.

Roll as called on the motion and the vote was as follows:

VOTE	Councilor Fleck	Councilor Miller	Councilor Munroe	Councilor Murphy	Councilor Clark	Councilor Conrad	Mayor Williams
AYES	X	X	X	X	X	X	X
NAYS							
ABSTAIN							

Sean read Ordinance No. 2983 once by title only.

BUSINESS FROM THE CITY COUNCIL

(a) Bid Award for Water Line Reconstruction Project

City Engineer Ron Bradsby said in 2007 the City responded to a water leak in Hwy. 99 near Chadwick Avenue in front of the Century 21 offices, and in doing that noticed that the leak caused the asphalt pavement to lift. Once the water valves were shut off, public works crew discovered a full circle split in the 6-inch cast iron pipe. A repair was made to the water line and the street temporarily repaired.

Ron said that since this work was within the Oregon Department of Transportation’s (ODOT) jurisdiction, the City had to follow their requirements to repair the highway. To prevent settlement, ODOT requires: 1) trenches to be filled with controlled density fill (CDF); 2) grind down the asphalt 2 inches for 15 feet on each side of the trench, and 3) place a new 2-inch lift of asphalt in the area which was ground down. He said that prior to patching the road, staff evaluated whether to complete the patch and leave the existing 6-inch cast iron line or remove and replace a section of the cast iron pipe with 8-inch ductile iron pipe, and staff chose the latter since it’s recommended in the water master plan that the minimum water line size should be a minimum of 8-inch line and the City would patch the road once versus coming back in the future and patching the road again. Staff designed the improvements, prepared the plans and specifications for bidding that advertized the project for bidding. Five bids were received on Wednesday, June 3rd and the low bidder was Wildish Construction at \$46,188.50. Engineer’s estimate was \$87,825. Staff recommends that Council award the water line replacement project in Hwy. 99 between Grover and Chadwick to Wildish Construction in the amount of \$46,188.50.

Richard said it should be noted that typically staff doesn’t bring bid awards to Council that are less than \$50,000. Those are awarded through quotes at the staff level. But because there were quotes that were over the \$50,000, it is before Council.

IT WAS MOVED BY COUNCILOR FLECK, SECONDED BY COUNCILOR MILLER THAT COUNCIL AWARD THE WATER LINE REPLACEMENT PROJECT ON HIGHWAY 99 TO WILDISH CONSTRUCTION IN THE AMOUNT OF \$46,188.50.

The vote on the motion was as follows:

VOTE	Councilor Fleck	Councilor Miller	Councilor Munroe	Councilor Murphy	Councilor Clark	Councilor Conrad	Mayor Williams
AYES	X	X	X	X	X	X	X
NAYS							
ABSTAIN							

(b) “If I Were Mayor, I Would...” Contest

Richard explained that Council received entries in all three categories this year. There are seventeen posters, two essays and two PowerPoint presentations. He said that in years past the Mayor has asked two Councilors to help compile the results after all the Councilors evaluated the entries and selected first and second choices. He asked Council for direction. He suggested that

the evaluation be done by June 15th so they can be compiled and the entrants can be notified to come to the Council meeting on June 22nd.

Mayor Williams hoped that all Councilors would participate in this and funnel their evaluations

through the City Manager's Office. He asked Councilors Miller and Clark to serve on the committee again this year to compile the results, and they agreed.

Councilor Conrad suggested to save staff time that Councilors give their comments to the committee people.

Mayor Williams suggested that they go through the City Manager's Office.

(c) Concerns from the City Council

1) Council Miller said that people are going around taking planters from in front of businesses. She said she got a call from Edward Jones and Curves. She said she's also been informed that there's a lot of activity in Coiner Park; kids causing trouble and not wanting to go home.

Chief Grover said the Police Department has arrested several people in Coiner Park. They've had undercover people there in the last two weeks and have pretty much cleaned it up.

Sean indicated that they've prosecuted people for drinking in public and some disorderly conduct for fights in back of the park. He said as far as theft of the planters he hasn't seen any of those yet. There was one about a year ago at the Village Green, and they got their plants backs.

2) Councilor Fleck said he provided Council with a copy of an article from Sunday's Register-Guard (article regarding the City helping the school district with keeping the swimming pool open - attached as Exhibit A), which is the first time he's ever had kudos from a paper so he wanted to share it

BUSINESS FROM THE CITY MANAGER

(a) Report from the City Manager

1) Richard said a set of plans has been submitted into planning for review for a new grocery store, Save a Lot. They have submitted plans to remodel the building in Gateway Plaza that use to be Sears and Thriftway. Don't have any information as far as opening date.

2) Richard said staff received a notice from Department of Administrative Services regarding the disposal of the Armory. They sent a notice out to all the political jurisdictions in the state, tribes and ports asking for anyone that had any interest in the facility to respond by today. He said he sent off a letter last week indicating that the City is interested in the Armory building. The appraised value is \$760,000 for the building.

BUSINESS FROM THE CITY ATTORNEY

(a) Report from the City Attorney

Sean said he and the Chief had an opportunity to meet with some people from the State Police regarding social gaming in Cottage Grove. He said he talked to Council previously about some folks who wanted to start some Texas Hold'em games in town, and at that time there was a resounding no for any social gaming in this community. He said the only reason he's bringing this up is that there may be some enforcement actions as there's some sort of pool betting going on in taverns and some game that happens with bowling leagues where you put some money into a jar and get some cards and that's apparently gambling as well. He said he's mentioning these now to let Council know that staff has heard about it and knows that the state is going out and looking at these things. Council may hear from some local business owners on that issue.

Chief Grover said the issue with this is that they have to be obeying all the gambling laws if you have a lottery. They can't have any other games or chance outside the lottery. So if a business does the lottery, they can't do these other things without social gambling.

Sean said theoretically Council would have to pass a social gaming ordinance in order to allow for the league bowling thing at the bowling alley. If open the door for that, would be opening the door for other things.

PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

1) Jeff Gowing, 337 N. 9th Street, Cottage Grove, said a month ago he left for a 7500 mile journey on his motorcycle to participate in the "Run for the Wall" in Washington, DC. He said Mayor Williams asked him to get rubbings from the wall of the names of people from Cottage Grove and the surrounding area to give to the VFW and American Legion. Jeff said the Mayor gave him 11 names and he found a 12th one. He presented the rubbings to the Mayor.

Mayor Williams showed the Council and audience what they looked like, and said he would make sure the VFW and American Legion get their copies. He said he had gotten rubbings in the past for people.

CONSENT AGENDA

(a) Minutes of the April 27, 2009 Regular City Council Meeting

(b) Cottage Grove Relay for Life Proclamation

ITEMS REMOVED FROM THE CONSENT AGENDA

None

IT WAS MOVED BY COUNCILOR MILLER, SECONDED BY COUNCILOR MUNROE THAT THE CONSENT AGENDA BE ADOPTED.

The vote on the motion was as follows:

VOTE	Councilor Fleck	Councilor Miller	Councilor Munroe	Councilor Murphy	Councilor Clark	Councilor Conrad	Mayor Williams
AYES	X	X	X	X	X	X	X
NAYS							
ABSTAIN							

Mayor Williams reminded Council that an executive session would begin in five minutes.

ADJOURNMENT

There being no further business, Mayor Williams adjourned the regular meeting of the City Council at 8:45 p.m.

The next regular City Council Meeting will be held June 22, 2009 at 7:30 p.m. in the Council Chambers at City Hall.

Joan Hoehn, City Recorder

Gary Williams, Mayor