

**COTTAGE GROVE CITY COUNCIL
REGULAR MEETING MINUTES
September 27, 2010**

CALL TO ORDER

Council President Tom Munroe called the meeting to order at 7:30 p.m. in the Council Chambers at City Hall.

ROLL CALL/PLEDGE OF ALLEGIANCE

City Recorder Trudy Borrevik called the roll. The following were

PRESENT: Mayor Gary Williams (by phone), City Councilors Mike Fleck, Jeff Gowing, Tom Munroe, Heather Murphy and Wayne Clark

EXCUSED: City Councilor Diane Conrad

YOUTH REPRESENTATIVE: None

STAFF PRESENT: City Manager Richard Meyers, Police Commander Dan White, Community Services Director Pete Barrell, Community Development Director Howard Schesser, City Planner Amanda Ferguson, Finance Director Bert McClintock and City Engineer Ron Bradsby

CITY ATTORNEY: Sean Kelly; Gary Ackley

OTHERS PRESENT:

ITEMS TO BE ADDED TO THE AGENDA

7(b) Amendment to Department of Energy Charges

7(c) Work Session on System Development Charges

IT WAS MOVED BY COUNCILOR FLECK AND SECONDED BY COUNCILOR GOWING TO ADD ITEMS 7(b) AND 7(c) TO THE COUNCIL AGENDA UNDER ITEMS FROM THE COUNCIL.

The vote on the motion was as follows:

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

PUBLIC HEARINGS

- (a) Public Hearing on the Land Use Board of Appeals Remand on Zone Change (ZC-5-04) and Mixed Use Master Plans (MUM-1-05) for the Cottage Grove Speedway and Western Oregon Exposition Fair Grounds

Gary Ackley addressed the Council and said staff had been working on the item and it had been before LUBA and was remanded back to the City Council. Staff had tried to address everything so it wouldn't come back if it was appealed. He said it was a different posture this time around in that there were a couple of new parties and a different attitude in trying to get the issues resolved. He said what happened was that staff had taken a hard line position, pretty strict constructionist type position on the code which had resulted in changes being made that staff thought addressed some of the concerns LUBA made last time. He said an example, and some may remember from reading the record or from the discussion, there was an issue about the number of parking days and one of the arguments made last time was that you could average the parking that you did over a period of time so that you could exceed ten days per month. In other words if you were less than that some months you could go over the next. That was not what the code really addressed and we have it as you can tell from the proposed findings, we have it at ten a month and staff was sticking as closely as we can to the code. He said Howard would explain all the background as far as the findings but he wanted to let Council know that staff was doing their best to make sure that this gets done. We don't want it back, we want it done and we have tried to make sure that we have complied.

Community Development Director, Howard Schesser, said he believed Councilor Munroe was going to go through some steps first.

Council President, Tom Munroe, said he had a prepared statement that he would read. He asked if any member of the Council had ex parte contact to declare.

Councilor Gowling said "I was at a Council forum a few weeks ago where the question was asked on their opinion of the race track and I didn't answer because of the quasi judicial processes being done. I don't think it had any bearing on my opinion."

Councilor Fleck said "I also attended the event and gosh over all the years that I have been on Council it has certainly been around that conversation, it will not impact my decision on this matter."

Councilor Munroe said, “as will my decision be based on the same findings, I too attended the meeting and was more interested in the candidates than really a lot of what the answers were and especially when it pertained to certain things.”

Mayor Williams said, “the issue has been going on for five or six years, there have been occasions when people have approached me and wanted to speak to me about speedway related issues at that time or at those times I declared there will be a breach of protocol to do that and so I am sure that a total during the five or six years there have been people who wanted to chat with me but I did not engage in any conversation regarding the speedway and WOE and I have no ex parte concerns.”

Councilor Munroe asked if any Council Member had a potential conflict in participating in the public hearing.

Councilor Gowing stated, “yes, I have a potential conflict, my brother-in-law is the flagger at this speedway. I, nor any member of my family, receive any financial compensation or benefits because of this. It’s not my brother-in-law’s primary job, it is a weekend thing he does and I believe I can consider the facts and give an unbiased opinion to this.”

Councilor Munroe asked if any Council Member or member of the public had any objection to Councilor Gowing participating in the public hearing.

There were no objections.

Councilor Munroe asked Howard to do the staff report.

Community Development Director, Howard Schesser, asked Councilor Gowing, since last time we had it, if he had received and read the complete record of proceedings of the applications regarding the speedway and the WOE.

Councilor Gowing said yes sir.

Community Development Director, Howard Schesser, asked Councilor Murphy if she had read the proceedings.

Councilor Murphy said she had never received the proceedings.

Director Schesser said she would be ineligible to participate tonight and on behalf of staff, apologized. We got our timing mixed up to when you were appointed and when Council dealt with this last and believed you had the materials. Director Schesser asked Mayor Williams “since you are not physically present, you did receive the Memo dated September 27th in Austin where you are?”

Mayor Williams said, “ yes, I have received that document via fax and have read all of the materials presented.”

Howard said you have before you eight items that were remanded by the Oregon Land Use of Appeal (LUBA) back to City Council. As pursuant to case law this hearing is only dealing with those eight items and the advertising and notice was related just to those eight items. He said some of you have asked me if noise is included in those eight items, it is not. The last time that LUBA ruled, they found that the City did apply the applicable DEQ noise standards and imposed conditions as a result and said the City wasn't in error so that wasn't remanded back to you. Of the eight items that were remanded back to you, the elephant in the room was the Transportation Planning Rule and Goal 12 Transportation. He said new findings had been prepared and were contained on pages 4-8 in the Memorandum. He said the findings found that in accordance to the Transportation Planning Rule in effect in 2004, it did an analysis of the traffic impact of uses allowed in the PR Zone through the end of the planning period that was identified in the City's Transportation System Plan at that time, that being 2005 and 2015. He said based on that analysis and the findings that you have in that memorandum that were in the Traffic Impact Study (TIS), it has been concluded that the proposal will not significantly affect State or local transportation facilities. You have a letter from the Oregon Department of Transportation dated September 13th of this year which agrees with that analysis and the findings, although it did ask for an additional condition to be added to the ordinances relating to potential for future review should the under crossing of the railway be closed or that more than fifteen hundred parking spaces, there was an amendment requesting to use more than that. The other item that Gary has already made reference to was when it came to City Council the Council changed the Planning recommendation to more than ten days of activities of combined activities of WOE and the speedway during the summer months. That was remanded back to Council. The Cottage Grove Zoning Code at that time very specifically related to infrequency use and not requiring pavement, limited to ten days per month anytime during the year. The findings and the Memorandum that you have before you shows the condition to be changed to only allow ten days per month throughout the year. The other item that had to do was a front yard setback at the entrance to the speedway. The original plan showed that setback being used for parking which was not permitted by the Cottage Grove Zoning Code. That has now been changed and the parking spaces will be moved out of that setback and therefore the front yard setback will be in compliance with the code. There are additional findings that address the other, the rest of the eight items that took into account the existing information that was in the record and developed further findings. You do have the Memo that I made reference to of September 27th before you that just firstly clarified some of the roman numerals in relationship to the eight items in the Memo of the September 20th just so it was clear and also made a further clarification as to the offsite road improvement sections of 18.50.050 and its concluded by the City Engineer and actually by ODOT as well, that other than the items that are contained in the report that require off street improvements, there were no additional improvements that are required. So at this time I recommend you hold the public hearing.

Councilor Munroe said with that point being made I will point out the hearing will be conducted as followed: The order of testimony will be the applicant, proponents of the application, opponents of the application and applicant rebuttal. As you testify please identify yourself by name and address for the record, direct your arguments and evidence toward the applicable approval criteria and if someone has said something which you support, you do not need to repeat their testimony but can say that you support their testimony. All comments should be directed to the chair. No person shall be disorderly, abusive or disruptive of the orderly conduct

of this hearing and there shall be no audience demonstration such as applause, cheering, display of signs or other conduct that would disrupt the meeting. You are, however, free to come and go during the hearing.

Councilor Munroe: If anyone at this time wishing to testify as the applicant, please step forward.

No one appeared to speak.

Councilor Munroe: Will the proponents of the application please step forward.

Denny Deatherage, 31080 Kennedy Lane, Cottage Grove: I would like to testify on two of these items. One I believe is related to the public need related to rezone the property. I think in this day we need to help every business stay in business, our community desperately needs jobs and the speedway is one thing that helps employment for people. The other thing is Item 8, addressing how the proposal was compatible with the site and the surrounding area. It's been a speedway for fifty-four years and it is a beautiful fit. Thank you.

Councilor Munroe: Anyone else? May we have the opponents to the application.

Martin Kilmer, 1245 E. Adams Avenue, Cottage Grove: I have a few questions here from Mr. Woodard's and my attorney, one of which is rather technical and I won't read it, the other three I would like to read and then I have a statement of my own. The City staff report now includes findings, well actually before I get into that. I would like to say that I strongly object that the fact that it took two years for this Council to address this remand and then there is a City Councilor who has a relative who works at the track, yet there is a City Councilor who was not notified in a timely manner and therefore is being disqualified, that is really absurd given the time frame that it has taken the City staff and the Council to deal with this issue. Especially given the fact that the remand was primarily about bias so I would like the Council to do something about reinstating the Council member who was disqualified from these proceedings.

Mr. Kilmer read from a prepared statement which is attached to these minutes as Exhibit A. He added at the end of #3, "contrary to what Mayor Williams stated, it was actually eight years ago was the first time I appeared in this room to discuss this issue. It was more like six years ago when the ill conceived annexation took place. Eight years ago I addressed this body concerning a letter sent to Lane County expressing full and unqualified support for a business that was in violation of so many land use laws that its application was denied flat out by the County. Unqualified support was given without securing any concessions by the City from the absentee owners of the business who came here and without so much as taking out a building permit, built uninspected structures to hold thousands of people for the express purpose of taking a small town one night a week or less track on the very edge of town into a "premier racing facility". They bulldozed the riparian zone, doubled or tripled the amount of scheduled races overnight and started running cars and other vehicles that Cindy Weeldreyer herself stated were louder than ever before. Giving unqualified support for this so called golden goose, then lead this body, lead by this Mayor, to make the decision to annex this financial and legal albatross mere weeks before the State Land Use Board of Appeals (LUBA) rendered a definitive decision on the appeal that the Leach's themselves had taken to LUBA. A decision from LUBA that the City in

its seeming infinite hubris refused to even enforce and still refuses to enforce. Here we are eight years and hundreds of thousands of taxpayer dollars later while our so called water bills have doubled in that time, and thanks to the sewing circle of vested interests and poor so called expert advice, we are no closer to settling this matter and giving the fans a safe reliable venue than we are at providing some relief to the community from the impacts of this business. This unnecessary burden on taxpayers in the midst of a depression is in my opinion shameful and it never should have taken place. I applaud the fact that the staff seems to have finally gotten serious about addressing the issues that we have been putting before this Council and the staff for eight years. Either way you look at this, annoying petulance or golden goose, there's an opportunity here that was missed by some of you or your predecessors to look for a solution that is legal and that everyone can live with. I implore you now that there are fresh faces and new perspectives to exert your authority and to make this local institution safe, legal and a tolerable part of this community for the future.

Mr. Kilmer provided copies of the questions he read from the attorney. He thanked Council for their attention.

Fred Colgan, 79093 Hwy 99, Cottage Grove. "I didn't come prepared to testify and it scares the heck out of me. I came to introduce myself and meet some of my neighbors and let me just start off by doing that. My wife Lisa and I bought an odd piece of property surrounded by City five and a half years ago and hauled off a bunch of trash and cleaned the property up and planted a bunch of trees and settled in to enjoy our retirement in a dream come true, a small town in Oregon by the river. My property is the closest residence to the racetrack in town. Some of my friends here I know are big time race fans and racers and like I said I didn't come to testify but I came to share some of my experiences with you of being in this town and to ask you for a favor. When I first bought the property, before I bought the property, I knew the racetrack was there, I knew it had been there historically for along time. I have no objection to the track being there, I believe that we all are entitled to our own forms of recreation and besides appearances to the contrary withstanding, I am an aging gentleman with failing hearing and races don't actually bother me all that much, we just go inside on race nights. That said I have had trouble hearing the priest at my church during the homilies when the races are going at OLPH (Our Lady of Perpetual Hope). I have often been out tending my trees and my garden when there are unscheduled practice runs on the racetrack and I am driven indoors. Last summer believing that the racetrack was going to go silent during the WOE Fair which is my epitome of this wonderful, small town. I invited friends to come and spend the weekend with us and go to the fair and the racetrack ran right over the fair, we couldn't hear the music, we couldn't hear the Bingo caller, we couldn't converse and we came back on the one weekend, the one weekend since I have lived here, that we thought the racetrack was going to go silent and we were driven indoors. My wife and I are also big fans of nature and one of our favorite spots in Cottage Grove is an Osprey nest where we watch a breeding pair of Osprey raise chicks every year. On the fourth of July the fireworks nearly touched the Osprey nest and we fear every year for those chicks. They seem to be tough, they seem to be surviving but. My request is this. When I bought my property I had no idea the racetrack was going to run every sunny Saturday night of the year. I had no idea it was going to run most Friday nights from May till October. This year they scheduled fifty-one races I believe and except for rain outs, ran almost all of them. I have this old fashioned idea that our government is a place where we come together and you represent everyone's interests and find

compromise solutions to disagreements and I believe my friends who love the races are entitled to have a lot of races here because they have been doing it for along time. I believe also that the rest of us who came here for small town life and want to have an occasional Saturday night where we can sit out of doors and enjoy our friends and enjoy this beautiful little city, can do that in peace and quiet. So I would like to ask you Councilors to please give us back some quiet weekends as part of your deliberations. We think, I think, this is not a football game, this is democracy and it is a sacred trust to represent everyone and I beg you to represent everyone and give us back some quiet weekends. Thank you.”

Councilor Munroe asked if there was any further rebuttal from the applicant.

There was none.

Councilor Munroe closed the hearing.

PUBLIC COMMENT ON AGENDA ITEMS

None

RESOLUTIONS AND ORDINANCES

- (a) First reading of Ordinance No. 2927 Amending The City Wide Zoning Map for Cottage Grove Speedway and Western Oregon Exposition to PR Park and Recreation District ZC-4-05

Community Development Director, Howard Schesser, said he and Gary Ackley had a quick discussion. Council did have a request as the third request in his written testimony, Mr. Kilmer asked to leave the record open. Historically the Council has done that. If Council wanted to do that, staff recommended that they leave it open for seven days and any written comments to come in by 5:00 p.m. next Monday. That gave staff time to review that as well as look at the questions that were submitted and bring it back at the next meeting on October 11, 2010. Staff recommended that Council not give it first reading at this time but that they keep the record open for seven days.

Councilor Munroe said he understood that staff wished to table the item.

Howard said to take no action on the ordinance but leave the record open for seven days for the next three ordinance items.

IT WAS MOVED BY COUNCIL FLECK AND SECONDED BY COUNCILOR GOWING THAT COUNCIL KEEP THE RECORD FOR THE NEXT THREE ITEMS OPEN FOR SEVEN DAYS.

The vote on the motion was as follows:

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

- (b) First Reading of Ordinance No. 2928 Establishing The Cottage Grove Speedway Mixed Use Master Plan Overlay and Amending the City Wide Zoning Map MUM-1-05
- (c) First Reading of Ordinance No. 2929 Establishing The Western Oregon Exposition Mixed Use Master Plan Overlay and Amending the City Wide Zoning Map MUM-1-05

BUSINESS FROM THE CITY COUNCIL

- (a) City Manager Annual Performance Evaluation Form and Evaluation Date

City Manager, Richard Meyers, said the evaluation form for the annual evaluation for the City Manager was attached to the Memo provided to Council. He said the thirteenth anniversary was arriving on October 1, 2010. The Council’s decision would be to either use the current form and set a date for the Executive Session to do the performance evaluation or prepare and do some modification to this and come back at another date to approve the performance evaluation form and set a date then.

IT WAS MOVED BY COUNCILOR CLARK AND SECONDED BY COUNCILOR MURPHY TO APPROVE THE CITY MANAGER EVALUATION FORM CURRENTLY BEING USED.

The vote on the motion was as follows:

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

Discussion was held on when to schedule the City Manager’s Evaluation. It was decided to schedule it for Friday, October 29, 2010 at 1pm.

- (b) Amendment to Department of Energy Grant Agreement

City Manager, Richard Meyers, explained that the City had received a Department of Energy Grant which the Council had approved at the September 13, 2010 Council meeting. On Friday, September 24, 2010, the Department of Energy contacted City Engineer, Ron Bradsby, and they had additional money and offered the City \$24,500 to fund a feasibility study for solar battery backup on the City shop. The Council was provided with the Amendment to the Agreement

which basically added the additional amount and scope which needed to be approved by September 30, 2010.

IT WAS MOVED BY COUNCILOR FLECK AND SECONDED BY COUNCILOR GOWING TO APPROVE THE AMENDMENT TO INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF COTTAGE GROVE AND THE OREGON DEPARTMENT OF ENERGY TO ACCEPT AN ADDITIONAL \$24,500 FOR A SOLAR BACKUP FEASIBILITY STUDY AND AUTHORIZE THE CITY MANAGER TO SIGN THE AMENDMENT.

The vote on the motion was as follows:

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

(c) Work Session on System Development Charges

City Engineer, Ron Bradsby, said Monday, September 20th, the Council had a work session on System Development Charges (SDC) and Council had questions and scenarios they wanted additional information on and staff has contacted FCS Group about their time line to provide the information to Council and the SDC meetings needed to be scheduled. Due to vacations and a conference the City Manager was attending, the work session needed to be scheduled for after October 20, 2010.

Discussion was held and it was decided to hold the work session on Friday, October 29, 2010 at approximately 2:30 pm after the Executive Session scheduled for that date at 1 pm.

(d) Concerns from the City Council

Councilor Jeff Gowing said he attended the League of Oregon Cities Conference last week in Eugene and that he learned a lot and thought it was a good conference. He was the voting alternate for the City and ended up voting as the Mayor was unable to attend the business meeting. He said the Mayor was elected as Vice President of the League of Oregon Cities for this next year and congratulated the Mayor.

Councilor Fleck said he also attended the League of Oregon Cities Conference and was disappointed with a couple of the sessions that he attended but overall it was a good event.

Councilor Murphy said she attended two sessions on Friday of the League of Oregon Cities Conference.

Mayor Williams said he attended the National Alliance on Mental Illness at the Village Green on

Saturday which was attended by approximately 120 delegates from around the State as well as the Superintendent of the Oregon State Hospital.

BUSINESS FROM THE CITY MANAGER

(a) **Report from the City Manager**

City Manager, Richard Meyers, said the City received two awards at the League of Oregon Cities Conference from CityCounty Insurance Services. The Gold Safety Award for zero work time injuries for the year with sixty-seven employees and the Bronze Medal Award for the Wellness Promotion Program.

Richard said those who attended the League of Oregon Cities Conference were able to attend the gubernatorial forum with the gubernatorial candidates which is also available on TV several times during this week on KEZI 2.

On October 5th at noon there will be an exchange of the key for the Armory and the \$1 the City is paying as a down payment on the front steps of the Armory.

Currently there are applications being taken for the Youth Advisory Council (YAC) through Friday, October 1st at 5 pm.

Richard said the Gateway to India ribbon cutting that was scheduled for today was rescheduled to Friday, October 1st at noon.

Richard said he had discussions with two other cities at the League conference who were looking at purchasing their armories, about the process the City went through. They were interested in how the City got the price reduced compared with what the State was asking.

BUSINESS FROM THE CITY ATTORNEY

None

PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

None

CONSENT AGENDA

(a) **Minutes of September 13, 2010 Regular City Council Meeting**

IT WAS MOVED BY COUNCILOR FLECK AND SECONDED BY COUNCILOR GOWING TO APPROVE THE CONSENT AGENDA.

The vote on the motion was as follows:

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

ADJOURNMENT

There being no further business, Council President Munroe adjourned the regular meeting of the City Council at 8:20 p.m.

The next regular City Council Meeting will be held October 11, 2010 at 7:30 p.m. in the Council Chambers at City Hall.

Trudy Borrevik, City Recorder

Gary Williams, Mayor