

**COTTAGE GROVE CITY COUNCIL
REGULAR MEETING MINUTES
November 23, 2009**

CALL TO ORDER

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

ROLL CALL/PLEDGE OF ALLEGIANCE

COUNCIL PRESENT: Mayor Gary Williams, City Councilors Mike Fleck, Jeff Gowing, Thomas Munroe, Heather Murphy, Wayne Clark (7:44pm) and Diane Conrad

YOUTH REPRESENTATIVE: Sierra Hakanson

STAFF PRESENT: City Manager Richard Meyers, Police Chief Mike Grover, Finance Director Bert McClintock, Public Works Director Jan Wellman, Community Services Director Pete Barrell, Community Development Director, Howard Schesser and City Engineer Ron Bradsby

CITY ATTORNEY: Sean Kelly

OTHERS PRESENT: Cameron Reiten, KNND Radio

ITEMS TO BE ADDED TO THE AGENDA

None

PUBLIC HEARINGS

None

PUBLIC COMMENT ON AGENDA ITEMS

Jim Welsh, 90050 Killian Lane, Elmira, addressed the Council on Item 7(f) on behalf of the Cottage Grove Board of Realtors. He talked first about Initiative CG1 regarding Type III Procedures which pertained to development requiring quasi judicial review by the Planning Commission. The information from the public hearing could be used to support the Planning

Commission decision or used to revise the decision. The board felt that the present process was working very well. An appeal of the particular decision from the Planning Commission would then move it on up to the City Council. So it was more transparent in the process, there was no doubt about it. There are more eyes on the development in question and the appeal in question. There was more decision around it and was a longer process and definitely an appeal brought more to the table. After that, there was a vote and a process that was still working and a decision could be made. The decision from the Planning Commission could be altered, it could be revised and in some cases improved, there was no doubt about it. The board supports the current process, it is more transparent.

What was being proposed to Council in the initiative would eliminate the use of the information from the Planning Commission and to a De Novo hearing before the City Council. Having a whole new reconsideration, new information looked at by the City Council didn't make sense. The Board of Realtors did not support the measure and would hope the City Council wouldn't approve something that drastic and hoped, once again, the voters of Cottage Grove would not approve that.

Regarding CG2, presently a Planning Commissioner or City Councilor who declared ex parte contact on a quasi judicial matter, could continue to discuss a vote on the decision before the body. It was easy to understand that we are all bias and would be involved from time to time even those elected officials in ex parte contact, that can happen.

The proposed initiative would require the Planning Commission or the City Council member to declare bias or non bias for the decision before them. If it was bias, they would be disqualified , the same as the current process. If they declared a non bias status, then it would go to a vote of the Planning Commission or City Council and all of a sudden politics are injected and just about anything that could be personal between a board, commission or the city council would be injected into the process. That was not intended, that was why you have the process today,

So why should they and why would they support CG2.

Amy Hoffman, 31170 Valley View Lane, Cottage Grove, the 2010 President of the Board of Realtors said she supported what Jim Welsh said . The Board of Realtors was against both initiatives.

David Work, 79080 N. River Road, Cottage Grove, spoke regarding Item 6(b), the City wide CG Wifi pricing. His company, Oregon Internet Properties, was the internet service provider for the City and had been involved with the development of the fiber infrastructure in Cottage Grove, connecting Cottage Grove to Eugene. They were also currently involved in the deployment of wireless radios throughout town and would be the internet service provider backbone for the City, the City would be the internet service provider for the Wifi system, however Oregon Internet Properties would be the administrative, technical back-up support for the system. In arriving at the retail pricing there were three components that went into developing the pricing.

1. The City's cost recovery and a future cost banking of the replacement of equipment as it wears out and becomes obsolete. Without that component the City's Wifi system would simply be deployed and then the City would have to come back for more money to replace equipment or to expand the system later. Part of the pricing was a component that belonged to the City.
2. The upstream band width was the City's fiber project which connected the City of Cottage Grove to Eugene and there were also rings in the City that connect band width between various entities for example the school district could connect to Lane ESD via the fiber. The fiber did not go to the internet, the fiber just simply was a route to get basically from Cottage Grove to Eugene. Once it was in Eugene, it needed to go out to the internet in order to provide public services and to provide services to the City of Cottage Grove in terms of internet access to the police department, etc. That internet access comes at a cost, it was internet band width that was not part of the Cottage Grove infrastructure and had to be purchased separately.
3. Oregon Internet Properties was not a cost recovery component but rather was a support component going forward. Out of the revenues that Oregon Internet Properties would make from the division of the fees that were charged, they would need to pay for equipment, training, technical support personnel, which they will be providing technical support for the consumers who sign up for the service.
4. A fourth component would be a competition component. Qwest, which was the broadband competition in town was a phone company that provided phone service and bundled DSL and high speed broadband into their telephone services. Their focus was the phone and in some ways their fear was that people will stop using their telephone service and start using alternative broadband services such as wireless and that was why bundled Qwest pricing was so cheap. You couldn't compare the wireless pricing to Qwest bundled pricing. When you compare the internet only service that Qwest provide versus the pricing that was provided to Council, the pricing being proposed was cheaper than Qwest stand alone internet service.

They were hoping that it would produce a break even point and they would be able to go forward and expand. They felt the proposed pricing would be beneficial to everyone, the City, the residents of Cottage Grove and Oregon Internet Properties. He went over the pricing list and explained what each provided.

Councilor Munroe read a letter from Lindsey Haskell, 753 N. River Road, Cottage Grove regarding Item 7(f), a copy of which was provided to Council.

RESOLUTIONS AND ORDINANCES

(a) Resolution Adopting Public Records Request Policy

City Manager, Richard Meyers, advised Council the resolution adopted a records request policy that was the result of changes in State law on how public records are dealt with. The City Attorney, Sean Kelly, drafted the policy after reviewing policies from around the state.

Sean said he had talked with Councilor Conrad regarding several issues with the policy. He tried to draft the policy to be as general as possible to address concerns and the variety of public records, but it needed to be specific enough to be helpful to address the concerns. One thing addressed in the State law had to do with fees and the need for a waiver or possibility of a waiver. The State law allowed that if someone submitted a written request stating that the information they had requested would cost them a certain fee and they advised they didn't have the money to pay for the information, they could request a waiver for the fees. The waiver was not included in the City's proposed policy, however it was addressed in the State law and would be implemented as such in the City's policy. He said a concern that Councilor Conrad brought up was the costs that were associated with archived records and the reason for putting that information in the policy was because there were so many different kinds of records and if the State was keeping track of them then he saw no reason to include them in the City's policy eliminating the need to frequently amend the City's fee schedule. The State law did require that the fees had to be reasonably calculated to the costs associated with the City. He didn't know if the costs were reasonably calculated but it would take a considerable amount of time and money to really figure out the exact costs and he didn't think the City wanted to spend the money to figure out how much money it would cost.

He said he felt the concern that the City was charging too much and possibly keeping people from accessing records was a legitimate concern but he thought it was also addressed in the possibility of a waiver of reduction of costs.

He said there were three things that he had put together for Council's consideration. The changes in the fee schedule addressed the copying costs for various sized documents, CDs, DVDs and things that may not be addressed in the fee schedule he hoped would be captured in the OAR. In the ordinance that was being discussed later in the meeting it would adopt the State rules.

Councilor Fleck asked for point in clarification if he was talking about items (a) and (b)?

Sean said they are all related but in order to address them in the confines of the agenda they were spread out.

Councilor Conrad said she had concerns about the policy. It had to do with the rights of the citizens to access public record so they needed to do due diligence. She said she thought that it could be codified so they it was more friendly toward citizens. One concern was that there were some terms that could benefit with definitions in the document and she asked if definitions for "copy", "formalized report" and "document record" could be added.

Sean said that the reason it came up in his discussion with Councilor Conrad was that the concern over whether someone would be charged for a simple electronic email of a document or not. He said the simple dictionary definition of a copy was a thing just like another. If you were asking for a copy of a piece of paper you are going to get a piece of paper back, if you were asking for a copy of a digital record and you wanted it in digital media you would get it and if you got it electronically you could potentially be charged. He said the way he outlined copy in the policy, he had copies of documentary records and then copies of other records and tried to delineate it that way. When he used the term copy he used it as generic as possible and specifically used copy and not photo copy or reproduction. It was actually a term that was used in the statute as well. He said he could appreciate Councilor Conrad's concern and was not opposed to editing it although he was okay with the term copy as it was defined and felt it was clear and if Council wanted to do anything, they may want to flush out the electronic responses or something.

Councilor Conrad said she wondered, if by consensus, they could agree that copy could be defined as "replication or transfer in any form". Would that help clarify?

Councilor Fleck said he had a problem with that because if staff spent thirty hours to create an email, they needed to charge for that staff time, but if they could just email and were not wanting to charge because it was a simple matter than it was justified not to charge and if it was spelled out staff's hands would be tied in regard to the best media possible.

Councilor Murphy said she agreed. It was still costing staff time either or.

Councilor Conrad asked Councilor Murphy if she understood that copy was somehow connected to a cost rather than what they were talking about.

Sierra Hakanson, YAC Representative said she was a sophomore in high school and she gets what he meant, that there are two different things and it was simple, it was a copy of one thing and a copy of another thing, she didn't think that it needed more definition. She said a lot of the words confused her but she got that and thought the average citizen of Cottage Grove would understand it.

Councilor Conrad asked what the difference was between formalized report and just a report.

Sean said a report would just be at the copy cost, a formalized report would be something for dissemination of something that was already available, something that we would pay to have produced and that it was why it was at our cost. That's the distinction between a report and a formalized report, we know what the cost was for a formalized report and there was no reason we should charge more than what we paid for it, we should not make a profit on it.

Mayor Williams said by that statement, he understood it was not a time sensitive thing, it could wait until the next meeting to go over if needed.

Sean said yes, if there were concerns and if Council directed him to work with it some more he was happy to do that and submit it at the next council meeting. There were a couple of things that he could edit, having gone through it with Councilor Conrad and then again on his own.

Mayor Williams started to speak, however Councilor Conrad said she wasn't ready to relinquish the floor.

Councilor Conrad said in the second paragraph, she wanted to know if a time limit to fill the request could be added.

Sean said yes, one of the things that the statute said was a public body should respond as soon as practical and without unreasonable delay, that was about as open as you were going to get. He discussed it with Richard and looked at other cities policies and it was decided seven days would be more than reasonable for a response to the request. In seven days, at a minimum, the City would be able to respond and advise the requestor what the status of their request was, how long it would take to fulfill their request and what the cost would be.

Councilor Conrad asked if he was agreeing to add to the second paragraph?

Sean said it was noted on the public records request form that was created for citizens to fill out at the counter to make a public records request.

Councilor Conrad said that we could add that statement to the second paragraph.

Sean said yes or somewhere in there was where he had it noted.

Richard said it was important to note that it was a response to the request not the information because some of the information may be such that a lot more research would need to be done and trying to pull the information could require more than the seven days, but at least in the seven days they would be notified how long their request was going to take and what it would cost.

Councilor Conrad asked about paragraph three and wanted to know if a statement could be added in the middle of the sentence after "definition of public record" that would read "or are exempt records after discussion with the requestor, the request will be referred to the City's attorney for review and recommendation". Before it was referred to the attorney, it would be discussed with the person making the request.

Sean said that could happen, the requestor would be advised within seven days their request was going to cost more than \$25 and that the request needed to go to the attorney for review and what the estimated cost was going to be.

Councilor Conrad said to add that to clarify in the third paragraph would add clarity to the resolution.

Sean said that could be done or another sentence could be added that restated that if the request was going to be more than \$25, a written response within seven days would go to the requestor and that would clarify two things with one sentence.

Councilor Conrad asked if the following statement could be added. Any City Councilor or Planning Commissioner upon request, shall have access and copy to any non-exempt record, report or document, in any form or stage of its composition and shall not be charged any fee for such access and copy.

Sean said he appreciated Councilor Conrad's concern, that it hadn't occurred to him that as Council members the public records policy would pertain to any of them. One of the things that was talked about that would be appropriate, rather than putting something in the resolution, was if they wanted to create another short policy to address Council record requests rather than addressing it in the resolution.

Councilor Conrad said to simplify the resolution about the costs, that #1, #2 and #3 could be combined and make the statement that they will all be done at actual costs of service.

Sean said what he did was change #1 to indicate at the rate outlined in the comprehensive fee schedule and then left #2 and #3 they way they were worded. You could combine them all, he could go either way with it but #1 needed to be clarified.

Councilor Conrad asked if he was suggesting to keep in the statement regarding OAR 166-10-0016.

Sean said yes, because he had reviewed the law and it said reasonably calculated to reimburse the public body for the public bodies actual cost of making public records available and only because trying to figure out on a case by case basis what the actual cost seemed a little difficult. It's not just someone's wage you were trying to figure out but you also had to include other factors such as their benefits, the costs of the equipment they are using, etc. Also it gave the City some flexibility and there was always the option for the fee waivers. He agreed that some of the fees were expensive.

Councilor Conrad asked if he agreed that it should be changed.

Sean said no. If Council wanted to add language that modified it to say reasonably calculated, it would be fine. The reason the OAR was there was because that was what they figured it roughly cost for each of fees listed and also gave some lap over so if something changed there was something to look to and they could change them and then the City didn't have to change the fee schedule every time.

Councilor Conrad said she had the fee schedule and it was from the State Archives Division and they had high powered people, librarians and the fee schedules were very high, they quoted \$40 per hour when they had an electronic down load, a single page was \$5 and if they had resolution

of 600dpi the price was \$20 per image and she didn't feel that was comparable to actual costs for Cottage Grove.

Councilor Conrad asked if paragraph 4 could have added, "that once such segregation has been determined than it shall be part of the City's database for retrieval which would eliminate double billing for similar requests."

Sean said he didn't feel that procedure would work and gave an example.

Richard also provided some information and background on why he felt the procedure would not work and why it could create extra time.

Councilor Fleck said he appreciated all the work that Councilor Conrad had put into the resolution but that he couldn't agree with any of the points she made. He said he had never had staff not provide documents when he requested them and if it did become a problem it could be addressed at a later date. He said the City had done an exceptional job of putting most of the code on line and accessible to the public. He liked the resolution as written.

IT WAS MOVED BY COUNCILOR FLECK AND SECONDED BY COUNCILOR MUNROE THAT RESOLUTION NO. 1723 BE ADOPTED.

Councilor Conrad asked to add a statement about a time limit in the second paragraph.

Councilor Fleck said he appreciated that and if he felt staff was stalling or taking too long responding to requests, then citizens would have a venue through their City Council to have that addressed. He couldn't accept it.

Councilor Conrad said her concerns had in no way intended to say that staff wasn't doing a good job, they were absolutely doing a good job. Her comments had to do with the right of citizens to public records.

The vote on the original motion was as follows:

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

- (b) Resolution Amending the Comprehensive Fee Schedule to Amend Fees for Public Records Requests and Add Fees for City Wifi Services

Richard said the resolution had two parts. The first added public record request fees and the second added fees for the City's wifi services, defined as broadband services in the resolution. He outlined the prices for the wifi for residential customers. He outlined the different level of services that would be provided and explained how the wifi would work and when users would start being charged,

Councilor Fleck said he currently had DSL internet service with Qwest. He asked if there was a cost to customers based on bandwidth.

Richard explained the City was purchasing bandwidth in addition to all the other costs.

Councilor Fleck said he couldn't see people subscribing to the service because it was more expensive and recommend changing 7 to an 8 or a 9, which Qwest could not offer, he could see people signing up for the service. Maybe all the levels of service could be bumped up. He also asked about the agreement for service, he wanted to make sure there was language about letting customers know they wouldn't get 100% of the time the level of service they signed up for.

Richard said yes, that information would be in the agreement and explained.

Councilor Clark said he shared Councilor Fleck's concern, that Qwest was a lot cheaper and if the City was going to compete with what people were already using, there probably weren't a lot that were dissatisfied with what they were currently using that they would want to change. He asked why the wifi fees were included with the public request fees, he thought they should be separate as he didn't know if he could support the wifi fees.

Richard said it was the comprehensive fee schedule.

Councilor Conrad asked for clarification of the research fee and why it wasn't included in the fee schedule and asked where it could be found.

Richard said it was already established and was adjusted every year based on the cost associated with the personnel doing the research. Every staff person had an hourly wage based on their wages and benefits.

Sierra Hakanson, YAC Representative, asked why the City was putting in the fiber and wifi when there was already something available.

Councilor Fleck said it wasn't just the wifi service that the City was offering, the school district and police department all benefit from the fiber.

Councilor Clark said the City would like to recoup their investment.

Richard said that was the reason some of the rates they were set the way they were. There are citizens that are currently on DSL with Qwest and they would change.

Councilor Clark asked how the fees were calculated.

Richard explained how the monthly fees were figured based on the components David Work talked about earlier in the meeting.

Sean said if you dropped phone service, which many people are doing, the rates would be less than Qwest.

Councilor Munroe asked about the possibility in the future a broadening of the service to provide TV.

Richard said TV on the wifi, the technology was difficult, it wasn't quite there.

Councilor Munroe said if you hooked up a laptop, you could receive sound and video and why it couldn't be done for TV.

Richard explained.

IT WAS MOVED BY COUNCILOR FLECK AND SECONDED BY COUNCILOR MUNROE THAT RESOLUTION NO. 1724 BE ADOPTED.

The vote on the motion was as follows:

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

(c) Public Records Request Ordinance and Policy

Sean said the ordinance enacts the policy that Council previously voted on Resolution 1723.

Councilor Conrad asked if the City Attorney would agree to cross out some words in the ordinance. She suggested under 2.62, the second sentence read "The City may require that record use occur during business hours and may charge fees to recover the costs of retrieval and copying. The language "certain business hours" and "specific locations" would be deleted.

Richard explained why the language in the ordinance was worded the way it was. When citizens wished to view City documents, the documents needed to be secure and city staff needed to be available to accommodate the requests.

Sean said he appreciated Councilor Conrad looking out for the citizens, but Richard had done a good job of explaining why the particular words were in the ordinance.

IT WAS MOVED BY COUNCILOR MUNROE AND SECONDED BY COUNCILOR FLECK THAT ORDINANCE NO. 2988 BE INTRODUCED, READ ONCE BY TITLE ONLY AND FOLLOWING DISCUSSION BE BROUGHT BEFORE THE COUNCIL AT THE NEXT MEETING FOR A SECOND READING AND CONSIDERATION FOR ADOPTION.

The vote on the motion was as follows:

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

City Attorney, Sean Kelly, read Ordinance No. 2988 by title only.

BUSINESS FROM THE CITY COUNCIL

(a) Community Health Project and Upcoming Health Fair

Mary Fechner, 650 West 22nd Place, Eugene, spoke to the Council as a representative of medial and social scientists who were engaged in a research project in Cottage Grove. She introduced the research team to Council. She explained the project and asked the City for assistance in scheduling health fairs to conduct surveys.

Councilor Munroe asked if there was an age limit.

Ms. Fechner said people needed to be over the age of 18 and woman who were not pregnant.

Councilor Fleck asked if they were looking for groups with particular risk factors.

Ms. Fechner said they were looking for a broad representation of the community.

Mayor Williams said Council looked forward to seeing the results of the study.

Ms. Fechner said they looked forward to working with the City to develop a team that will help coordinate the health fairs over the next several months.

(b) Request for Stop Sign

City Engineer, Ron Bradsby, said he received a request from the South Lane Fire and Rescue to install a stop sign at the southwest corner of Tyler Avenue and South 2nd Street. Tyler Avenue was a relatively new constructed city standard street in the Hayden Homes Riverwalk

Subdivision and was classified as a residential local street and South 2nd had been reconstructed to a commercial standard street and was also a local street. He gave the background surrounding the request and said that the request was warranted.. He said staff recommended that City Council authorize the installation of the stop sign on Tyler Avenue and South 2nd Street.

IT WAS MOVED BY COUNCILOR MUNROE AND SECONDED BY COUNCILOR FLECK THAT CITY COUNCIL AUTHORIZE THE INSTALLATION OF A STOP SIGN ON TYLER AVENUE AND SOUTH 2ND STREET.

The vote on the motion was as follows:

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

(c) American Recovery and Reinvestment Act (ARRA Economic Stimulus) Agreement

City Engineer, Ron Bradsby, said early this year the American Recovery and Reinvestment Act (ARRA) was adopted by the Federal Government as a key method to stimulate the economy. The act allocated approximately \$350M for transportation projects in the State of Oregon of which \$202,186 was allocated to the City of Cottage Grove. Council had recommended to staff to use the funds to widen South 8th Street near the aquatic center and to improve Woodson Place between Highway 99 and North River Road. Both projects had right-of- way requirements and had to meet the Federal Highway Administration (FHWA) rules and ODOT was the only agency that the FHWA had appointed to review and certify the rules. There were two right-of-way issues with the projects and one had been resolved and the other was upcoming. The State needed to certify the rules and the agreement before Council was to approve not more than \$5,000 for ODOT to certify the public right-of-way. Staff recommended to Council to pursue the use of the ARRA funds and authorize the Mayor to sign the agreement.

Mayor Williams said that the State gave the City the money and then wanted some back in order to certify the rules.

Ron said yes.

Councilor Munroe asked if the City Attorney had reviewed the agreement and if it was acceptable.

Sean said yes he had reviewed the agreement and the State made up the rules but there was nothing that we could do.

IT WAS MOVED BY COUNCILOR MUNROE AND SECONDED BY COUNCILOR

FLECK TO AUTHORIZE THE MAYOR TO SIGN THE AGREEMENT.

The vote on the motion was as follows:

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

(d) Woodson Place Right-of-Way

City Engineer, Ron Bradsby, said the Woodson Place Right-of-Way was associated with the ARRA. It had come to the City’s attention from ODOT that the majority of the Woodson Place was not in the dedicated right-of-way. Ron provided the background regarding the right-of-way and talked about the maps he had provided in the Council packet. He said that he was working with the City Attorney to prepare the dedication document to correct this problem, which needed to be recorded and a copy sent to ODOT by December 4, 2009. Staff recommended that Council authorize the City Manager to sign the dedication document and formally accept the dedication to correct the right-of-way issue of Woodson Place.

IT WAS MOVED BY COUNCILOR MUNROE AND SECONDED BY COUNCILOR FLECK TO AUTHORIZE THE CITY MANAGER TO SIGN THE DEDICATION DOCUMENT AND TO FORMALLY ACCEPT THE DEDICATION AND CORRECT THE RIGHT-OF-WAY ISSUE OF WOODSON PLACE.

Mayor Williams asked Councilor Munroe asked if he remembered the steel bridge.

Councilor Munroe said no.

Councilor Fleck asked about the map and if parks were marked with a check mark and if the City needed to widen Woodson Place it could be done.

Ron said yes. The way the rules were, no public property or parks property could be used to widen the road, but the City was making a case that it had dropped the ball in the 60s and 70s and we were only correcting that at this time.

The vote on the motion was as follows:

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

NAYS							
ABSTAIN							

(e) Infrastructure Work Sessions

City Manager, Richard Meyers, advised Council they had a work session on October 27, 2009 regarding SDCs and at the end of the session, consensus was to hold additional work sessions to concentrate on the specific infrastructures. Staff was proposing to have a work session on water, another on wastewater, one on stormwater and combine streets and parks into one work session. He said they would also like to take field trips at each work session to see some of the conditions of the infrastructure and would like to schedule several work sessions before the end of year. Meetings could be scheduled during the day and could be morning or afternoon meetings and to keep them to one and a half hours.

Councilor Conrad asked if field trips were necessary.

Richard said yes, they would be beneficial in order for Council to completely understand the systems.

Councilor Conrad asked for the other Councilors opinion on the necessity of the field trips and consensus was they did want to schedule field trips.

After discussion it was decided to schedule a water work session on Monday, December 21st from 9-11am and wastewater on Tuesday, December 22nd from 9-11am.

(f) Initiative Petitions

City Manager, Richard Meyers, said the two initiatives that had been submitted to the City with the appropriate signatures qualified for the ballot. CG1 makes Type III Planning Commission decisions advisory only and CG2 Planning Commission and City Council decisions on members bias. The Council as the governing body could either enact them as they were and avoid the election or reject them and have the choice of putting on competing measures and if rejected they would go to the March 9, 2010 election. Council had thirty days to make the decision as a result of the election laws.

IT WAS MOVED BY COUNCILOR CLARK AND SECONDED BY COUNCILOR FLECK TO REJECT BOTH INITIATIVE PETITIONS.

Councilor Munroe asked Councilor Conrad why. Why did she do it and why did she circumvent Council.

Councilor Conrad said when the initiatives were started, they kind of ran out of time to meet the deadlines so they did not have time to challenge the question and summary like they had wanted

to. They did not have time to complete the number of valid signatures. They ran out of time to come to the City Council before hand. It was a matter of time that they were not presented to City Council first, which would have been a courtesy procedure because an initiative can come from anybody at any time and they don't have to ask to start an initiative.

Why is a good question. The new Development Code changed so that all Type III decisions would be final decisions by the planning code. Some people took issue with that. So the question became, what type of government do you want, do you want the style of governments in which elected officials have no say in decisions for land use and development and the only way elected officials then could have a say in Type III decisions would be by appeal in which the citizen would have to pay \$400. That is part of the why.

She read part of the Municipal Code which established the Planning Commission and the purpose of the commission. In the new code it gave the authority of the planning commission to then make all the final decisions.

Some negative things is it does make more time and cost by staff and some people, and it has been questioned this evening, then what is role of the planning commission if they are not making final decisions. What is the difference between that final decision and making recommendations.

What are the benefits for this new initiative? Elected officials will have the final say without a citizen having to go to appeals and paying \$400. There will be two public hearings instead of just one and the public hearing before the City Council could then be a de novo hearing. What that means is yes we will use all the information from the prior public hearing, but the citizen can then bring new information forward so you don't have to start from square one. You are using the recommendations of the planning commission and their public hearing. Concerning the role of the Planning Commission, the work, the value of the work they process will not change, they will still make a decision, it's just that that decision then will come before elected officials.

The question has been asked about what other cities are doing. She admitted that it was a small survey as she made use of the LOC website. Veneta uses the planning commission as a final decider, Albany has a dual process for the planning commission. If the planning commission makes a favorable recommendation to the applicant, then the City Council calls a public meeting and makes its final decision. If the planning commission recommends against the proposal of the applicant, then the City Council will be used for an appeal. Corvallis uses planning commission as the final decider but Corvallis has a land development hearing board, then the planning commission and then they use the Council for appeals. The following cities use their planning commission as advisories, Boardman, Cannon Beach, Hermiston, Salem, Silverton and Talent.

Councilor Munroe said Councilor Conrad made a statement that she liked the dual process because if they come before the Planning Commission then they can come before Council and introduce other information that the Planning Commission didn't get. He said he didn't believe

that was right. If you are going to have hearings you have to have all your facts and figures at the first hearing not at or do more in the second hearing.

Councilor Conrad said from a citizen's point of view, they might appreciate that opportunity to have their voice before their elected officials. So again, for this particular initiative is what kind of governments do you want and do you want the elected officials making final decisions and allow the Planning Commission to do as it says in the City's code to be an advisory to the Council.

She then talked about CG2, members' bias and why this one. In the not too distant past, the Council was embarrassed by the fact that two councilors were found to be biased on a certain issue and that decreased a lot of the trust in the community. What that says is the way it was now that the system didn't work. What's on the books now is a statement something to the effect that if the Council believed that they were bias, they admit it. It further stated that the Planning Commission did nothing about the City Council, the Planning Commission may vote by majority to recuse that commissioner. Again in recent history, they found that did not work.

What are the negatives of the new initiative. Some people say well one person will have a lot of authority but the way the current code states you don't have to have a reason, you don't have to have a discussion to say someone is bias, you can just say it. This initiative states you must have a discussion and you must give reasons for why you think someone is bias and then you vote. Some people might say we are taking a citizen's representative away and then the question is there is doubt on their bias are they really then representing the citizens.

What are some of the benefits of the new initiative? You are removing any doubt of bias on the Council or Commission so if there is one doubt we want to remove it. Some people are thinking that this will help the trust in the community and will be a step up in the ethical standards of both the Commission and the Council.

Councilor Fleck responded that he had put a lot of time and thought into both of the initiatives and did not support either of them to varying degrees. He started with the Planning Type III decisions. What it would do is drive the cost up because we will now hold two public hearings for any of these items that are Type III decisions, so now the applicant is now guaranteed to pay for both of those public hearings. He hadn't done the research on it but would gather that it was more than the appeal costs. Right off the bat you can't say that we are saving people money in the appeals process because you have just added it up front to everyone regardless of if there is an appeal. And, this is going to push us close to 120 day rule on every single decision based on Type III decisions because the time line for notification for every one of these items will put us to where if there is any hiccup, any place in the process where we stumble, we run the risk of writ of mandamus which is what happened to us in the Mt. David issue and he felt that was one of the worst possible land use outcomes that the City has seen and he has spent close to 5 years on the Planning Commission. Look at what it does to the citizens representatives. There are people who are willing to spend their time and read volumes of information and quite frankly they understand that process much better than Council does, they deal with it every single day,

they understand the issues of land use which are vast and complicated and we do not have any where near the back ground on land use that those appointed representatives do. As appointed representatives they file the same forms with the State that Council does, they are held to the same standards that Council is and just because they haven't gone through an election does not mean that they are not absolutely representatives to our constituents as Council is. Quite frankly he looks at this at micro management. He is the manager of a branch and he believes that empowering the people below him to do their job effectively and this basically is taking all decision process out of their hands. Did this actually change the process with our new system? No. Conditional uses have always been at the hands of the Planning Commission and so what is it that will actual change with the new Development Code? There have been steps added but by and large Type III are the decision of the Planning Commission in Chapter 18 as well. So it didn't change, it was something that we have done for a great number of years and the only good thing that he could about the initiative is that it is not the bias initiative.

He apologized up front because this is hands down undemocratic and is the worse legislative that he has ever come across as his history as an elected official and any time that you empower a minority to be able to force a member of either of these bodies to recuse themselves is absolutely as wrong and against what our country stands for as he can express. He is not making it a personal issue but he absolutely is appalled that this will go before the voters. Part of the political process is the back and forth, the compromise and working and if Councilor Murphy had an idea and he had another idea that they could come to some kind of consensus or process that worked for all the constituents, that legal representation has been able to look at and make sure if it passes constitutional muster. The initiative process while good, has no oversight or compromise and he would not do away with it but it needs to have some sort of guidelines.

He asked the City Manager if the measure passed from the voters, can the Council challenge it based on the constitutionality of it.

City Attorney, Sean Kelly replied that if someone wanted to file there would have to be a reason to challenge it rather than simply questioning the constitutionality so he imagined someone would have to be deemed to be bias at some point and then at that point challenge the constitutionality. He said he wasn't certain, there may be another mechanism to seek redress and have an appeal but that is the one sure fire mechanism that you could do it and there may be another mechanism.

Councilor Fleck said should the initiative pass, he will use every amount of his influence to do everything he can to throw it out. He cannot express how against this he was. He said look at the cost to the City. Both are now going to cost the City he has heard estimates up to \$18,000 because it is now in the March election which typically is going to have the lowest voter turnout and once again I guess if you are smart that is the sort of election you push for but it is really about democracy, is this really about good governance. To him this is about minority groups trying to gain power, this is about a small group of folks who are not getting their way trying to push their values on the rest of these bodies. He thinks the City has all sorts of problems and if everyone accused another of being bias, where do you go from there. The number of possible

confusing outcomes is just mind boggling and he felt it was really poor legislation.

He said the two councilors that she mentioned early were two of the finest people he had ever known. He was appalled that they were being drug through the process. Did they make a mistake? I believe so. In their passion to prevent the changing of their town as they perceived it, they did something that, by introducing information into the record that wasn't pertinent, were the outside of what the information for that situation was, Yes. Did they do something wrong, evil, beyond contempt? Absolutely not. They are salt of the earth people in the community who spent years standing up for the rights of the people that they represent and he is through listening to their names being dragged through the mud.

Councilor Munroe said to Councilor Conrad that you have to keep in mind that this ruling is not made by this town, like you think it is, but by a body outside the City limits. You keep saying that they are an embarrassment to the community. I would be a little cautious about that if you made the ruling on the fact that they were against something that somebody else wanted. If that is the case then we could rule here on your law that you want put into effect that anybody who is against anything that is currently legal is bias. You want to keep that in mind. Thank you.

Councilor Clark said the two initiatives were a wonderful example of why, since hosting the Beeper Show for ten years to right now, he was so opposed to the initiative system. He said we in this country have a representative government, people are elected. When we decide that we need to bypass the elected officials, we take a huge chunk out of what our country was built on. It is built on represented governments. We don't live in a direct democracy and it is hard for people to get that, but we do not live in a direct democracy, we live in a republic based on democratic principles. These initiatives are so easy to walk out the door and say your evil public officials, we have to keep control of them because you can't trust them, look at what they did blah blah blah blah, it goes on. It is a great platform for people to go out and say how evil anyone is who is involved in government and look at the level of government we have, volunteers serving on commissions and councils. It does serious damage to our republic to so weaken the confidence of people in our elected officials. That is what happens in this country, that is what is going on and he thinks it is important to make a stand and say we elect people to represent us and if we don't like them we get to vote them out. But just to because we (a) don't want to take the time or (b) think we can succeed to go collect 350 signatures and put things on the ballot that we can go out and say now we can control your evil elected officials, is wrong and needs to stop. It is like California, that is how that state is governed and is a mess.

Councilor Murphy said when she read the information she may not have felt the passion that some of her fellow councilors felt that she was hearing tonight, but what she did see, especially in terms of the second initiative, it was a mess as far as she was concerned. She didn't feel that it was thought through on the part of the potential motive for the person claiming bias. Politically it was a nightmare in her opinion. Someone could easily strategically resist against a council so easily, it could be so political and the council would never get anywhere with it and she couldn't support this based on what she has read.

Councilor Conrad said now the people would vote on it which is the power of the initiative process that she strongly defends. She clarified two things. One that she never said that the initiatives were based because of the two particular people, she tried to word it so that it would be about the process that allowed certain things to happen and she never said that these people were an embarrassment to the community, they were an embarrassment to the council and the process and that was what the initiatives were trying to change. The second thing she clarified was that Councilor Fleck said something about applicants having to pay for public hearings and she didn't think they paid.

Richard said that applicants currently pay for public hearings and the fees would end up doubling, the amount depended on the different types of applications. They pay for the notice of public hearing and notice requirements and the mailing that is done to hold the public hearings. If you hold two public hearings you have to do extra mailings and notices. He clarified what Type I, II, III and IV were. He provided Council with a list that the planning staff had put together that showed what was in the old code and what was in the new code. He said the new code was based on the model from the Development Code from the State of Oregon and cities throughout the state are adopting the very same model for their planning and development issues.

Sean said if you looked at the chart, under the old code there was no break down, the decisions by the Planning Commission where you could appeal to Council. There are two more under the new code and it is the bottom two, the zone change with a plan amendment, currently a zone change without a plan amendment is included and master plan development/PUD are now included so that is the only difference between the code.

Youth Representative, Sierra Hakanson, said it was interesting to listen to the Council saying what they had to say and it was her opinion was that the Council are elected, they are chosen for their opinions and they are all making sure their opinion is heard and Councilor Conrad can have a different opinion that everyone else and that was for the people who signed her petition and agree with her opinion, but it seemed that the majority of the Council had a different opinion and people didn't like that and she may just be the youth representative but she didn't think it was fair to have one person decide whether someone is bias or not because if you are bias you might as well fess up and say it. There shouldn't be someone else pointing fingers at you, it's like cheating in wall ball in elementary school, everyone has their one opinion and having an opinion it could be someone really isn't bias and then it is the other person's opinion that they are bias so that is a big issue that she thought and she didn't think it was fair because if you wanted one person to make all the decisions then we wouldn't elect six councilors we would only elect one person. So one person shouldn't be able to change everything but should have their chance to be heard.

Mayor Williams said that many things have been demonstrated by the second go around for the initiatives which failed the first time around for lack of signatures. Clearly there are unintended consequences and we don't even know what they are, but tried to address some of them tonight. Some of the consequences, particularly for him, outside of the chambers, some of those

unintended consequences haven't come to light in this venue and he dared to think that there are probably a whole host of unintended consequences pop up. But we hear and have heard about certain public servants who have, in the words of one, been an embarrassment to the community and an embarrassment to the Council, he echos those comments from some of the Council that find that distasteful. This City was incorporated in 1887 and where we have gotten to today is through the good, honest work of literally hundreds of city volunteers, giving of themselves to try and make the community better. He felt that they have done a pretty darn good job in hiring staff and oversight and doing their due diligence and getting it right in the big picture and he thought the City had a Planning Commission and structure that is second to none in the State of Oregon. He thought it was distasteful, that the protocol and those procedures would be called into question by an undertone of illegality for something seedy, something slimy going on in the backroom of planning. Smoke filled rooms and some of the connotations that this brings to mind that there is something broken and needs to be fixed because we are all in jeopardy about things not being so transparent. He said he was getting very tired and he wished transparent would go back to cellophane tape because it is such a poorly used word for micro-management, bad government decision, we see a lot of that, we see more and more of it. Bodies are becoming dysfunctional in the process that we have because of this kind of nonsense. He said unilaterally she did not discuss this with any of your fellows up here, you didn't seek support as on other things, you do not seek the councilor support.

Councilor Conrad said she didn't think they should speak personal to each other on the Council.

Mayor Williams said he was the chair and he could do what he wanted here.

Councilor Conrad said no, he wasn't the king.

Mayor Williams said he gave her more than ample enough time to go on with her comments and now it was his turn.

Councilor Conrad asked was it the standard that they wanted on the Council that we can denigrate personally, was that the standard we wanted.

Mayor Williams said what he was trying to illustrate here was that to be a functional body and to actually represent those people that put her in office, she owed it to them to also try and work with her fellows and move things forward rather than putting up road blocks. He believed that she had demonstrated an alienation of those people that you could have to get things moving forward with a little bit of relationship building. Councils work together best when they work together.

Councilor Conrad said she totally agreed and thought what he had been saying could be worked both ways.

Mayor Williams said perhaps if there were reason behind both sides and frankly he saw a couple of issues that are full of froth with unintended consequences identified and unidentified. The

motion on the floor was:

IT WAS MOVED BY COUNCILOR CLARK AND SECONDED BY COUNCILOR FLECK TO REJECT BOTH INITIATIVE PETITIONS.

The vote on the motion was as follows:

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

(g) Concerns from the City Council

Councilor Munroe commended staff, especially City Manager, Richard Meyers, for the initiative they showed with the water problem, they got right on it and notified every Councilor and kept Council apprised of the status.

Councilor Murphy commended Pete Barrell and his staff on the fantastic job they are doing on the Visions of the Universe exhibit.

Councilor Fleck said he appreciated the YAC representative's comments, it was refreshing to hear a young person's perspective. He said Council may become very passionate about issues but at the end of the day they all are just people representing what they think is right.

Youth Representative, Sierra Hakason, commented that it was good that Councilors were passionate.

Councilor Clark said he agreed with Councilor Conrad's suggestion that Council did not impugn each other, that he had probably been guilty of it in the past.

Councilor Murphy said she agreed as well, that we needed to have standards of respect.

Youth Representative, Sierra Hakason, said being her first time sitting on Council that she was worried it would be boring, but she enjoyed the meeting and that the youth do appreciate the Council and what they do, even though they may not always show it.

Councilor Munroe thanked her for attending and hoped she would continue to attend.

BUSINESS FROM THE CITY MANAGER

(a) Bohemia Mining Days Lease Proposal

Richard advised Council that Bohemia Mining Days was interested in exploring the possibility of using the old house located at 59 S. 15th Street, next to Coiner Park that the City had acquired in November, 2007. He said there were a number of concerns that may make it unfeasible. The house is zoned residential and in order for BMD, it may need to be rezoned and the condition of the house, there is currently no heat.

Councilor Munroe asked if Council could look at the house during one of the tours on December 21st or 22nd.

Councilor Fleck said he would like to know what the costs would be to make the house useable and who would pay for the costs, were grants available. He also asked what the initial thought was when the City purchased the house.

Richard said that was something that would need to be looked into. There wasn't any formal decision when the property was purchased, it was left wide open, but possibly a parking lot or push the park out.

Councilor Clark said he was not in favor of exploring the issue.

Mayor Williams said he was in favor of the City doing some exploring to see what the needs were and to get an assessment of what the costs would be to use the structure.

Councilor Conrad concurred that she felt the City should look at what the City wanted for use of the building, if they wanted to save the building and what the costs would be. And to look at, if the building wasn't there, what land use was allowed to use of the property.

Mayor Williams said the request from staff was for Council to consider if there was any interest to pursue possible uses for the structure and consensus from Council was yes.

(b) Report from the City Manager

Richard advised that on Sunday, December 6, 2009 from 3-5pm at Stacy's there was a roast for Sharon Jean and all the Council was invited to attend.

He shared with Council that the City belonged to the Fiber Consortium and they were recognized as a 2nd Place recipient in the category of providing the community broadband.

On Saturday, December 5th at 5pm was the tree lighting ceremony at Trailhead Park and from 5:30-6:30 Santa would be at City Hall for pictures.

Also the same weekend was the Crafter's Fair at the old McCoy building on Main Street.

Richard said he had met today with City Manager's from Veneta, Junction City and also staff from Lane County regarding scenic byways and bikeways. Interest was expressed in possibly doing a new scenic byway that would go from Cottage Grove and Creswell and go Territorial Highway to Veneta and then to Monroe and Junction City and tying in the vineyards, Applegate Trail History and old, historic cemeteries.

In conjunction with that, Cottage Grove's scenic covered bridge tour route was also discussed and some interest was expressed in having that route designated as a bikeways as well and have it promoted from the State Parks end as well as ODOT. Staff would be exploring it and application will be submitted by the end of January, 2010.

Richard said the League of Oregon Cities had named the Mayor as the Chair of the General Government Committee and Vice-Chair of the Community Development Committee. He had been named as the Chair of the Energy Committee and would also serve on the Telecom and Cable Broadband Committee.

He wished everyone a Happy Thanksgiving. We have a lot to be thankful for in Cottage Grove.

BUSINESS FROM THE CITY ATTORNEY

(a) Report from the City Attorney

Sean said several Councilors had asked him in the past about the Jane Doe vs. Medford School District case, about the case involving the school teacher wanting to carry a hand gun. The decision came down on the 18th and he had the whole decision if anyone wanted to read it, however the long and short was that the Court felt that in passing legislation controlling guns throughout the State and regulating State gun rules, they in no way meant to inhibit or prohibit property owners from passing their own regulations to deal with their own property. What did that mean, school districts can pass what ever regulations they want to deal with handguns or weapons on their property. Likewise, cities, which was addressed in a footnote and has been a question of concern in several cities about the prohibition of carrying weapons into the municipal court room, which basically goes along with the majority opinion in the case that if school districts can restrict it on their property, then cities can likewise restrict weapons on city property.

Councilor Munroe commented that when they toured the State Capitol, he talked with a State Police Officer and commented about their being no metal detectors and was told that it had been decided that the Capitol was the people's building, that they should be able to come and go as they pleased. The officer told him that there were only two officers for the entire structure that were carrying weapons. How were they going to discern that public building from a school building to the public.

Sean said his question was valid from a citizen's prospective that a school district is public, the

city is public and parks are public.

Sean said there had been some discussion on the public records request that he would address with staff about how documents are retained and there had been changes that said drafts needed to be retained and it was complicated, certain drafts were required to be kept as part of public records.

PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

None

CONSENT AGENDA

- a) Minutes of the October 12, 2009 Regular City Council Meeting
- (b) Minutes of the October 26, 2009 Regular City Council Meeting

IT WAS MOVED BY COUNCILOR FLECK, SECONDED BY COUNCILOR MURPHY TO APPROVE THE CONSENT CALENDAR.

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							

ADJOURNMENT

There being no further business, Mayor Williams adjourned the regular meeting of the City Council at 10:08pm.

The next regular City Council Meeting will be held December 14, 2009, at 7:30 p.m. in the Council Chambers at City Hall.

Trudy Borrevik, City Recorder

Gary Williams, Mayor