

CITY OF McMinnville
MINUTES OF CITY COUNCIL MEETING
Held at the Kent L. Taylor Civic Hall on Gormley Plaza
McMinnville, Oregon

Tuesday, June 25, 2019 at 7:00 p.m.

Presiding: Scott Hill, Mayor

Recording Secretary: Melissa Bisset

Councilors:	<u>Present</u>	<u>Excused Absence</u>
	Adam Garvin	Remy Drabkin
	Zack Geary	Kellie Menke
	Sal Peralta	
	Wendy Stassens	

Also present were City Attorney David Koch, City Manager Jeff Towery, Community Development Director Mike Bisset, Finance Director Marcia Baragary, Fire Marshal Debbie McDermott, Fire Operations Chief Amy Hanifan, Human Resources Manager Kylie Bayer-Fertterer, Parks and Recreation Director Susan Muir, Planning Director Heather Richards, Police Chief Matt Scales, Associate Planner Jamie Fleckenstein, Human Resources/ Communications Information Systems Director Scott Burke, Intern Magen Boegli, Program Manager Janet Adams, Community Center Manager Katie Noyd and Senior Center Manager Anne Lane, and members of the News Media Tom Henderson, *News Register* and Jerry Eichten, McMinnville Community Media.

1. CALL TO ORDER: Mayor Hill called the meeting to order at 7:02 p.m. and welcomed all in attendance.

2. PLEDGE

Councilor Garvin led the Pledge of Allegiance.

3. PROCLAMATIONS

3.a. Park and Recreation Month

Mayor Hill read the proclamation declaring July 2019 as Park and Recreation Month and presented the proclamation.

Ms. Noyd discussed the park activities scheduled for July.

3.b. 2020 Census

Mayor Hill read a proclamation declaring support for the 2020 Census and presented it to Jim Graham.

4. ADVICE/ INFORMATION ITEMS

4.a. Reports from Councilors on Committee & Board Assignments

Councilor Geary reported on the Kids on the Block Technical Advisory Committee meeting where policy discussions took place.

Councilor Garvin had gone out to the airport to look at the fuel tank installation, which would be completed soon. He had attended the YCOM meeting where a standard 3% rate increase had been adopted. Willamina got some funding from Fire House Subs for part of their radio system.

Councilor Peralta said the Mid-Willamette Valley Council of Governments adopted its 2019-20 budget. The Parkway Committee was waiting for the final budget from the legislature.

Mayor Hill reported on Visit McMinnville where their budget and goals for the coming year had been discussed. Tourism print pieces were being updated and they were planning a media activation trip to New York City. They were also working with Visit Newberg in helping them get organized. They had amplified their investment in advertising in the Seattle marketplace. He had attended a convention with the American Public Power Association. McMinnville Water and Light was the second lowest power provider in the State of Oregon.

4.b. Department Head Reports

Police Chief Scales shared that there was a planning session with the Oregon International Air Show. Motorola was shipping equipment to Day Wireless and implementation would begin over the next 2-3 months. Christine Rudd had recently been hired as a new lateral police officer. The Prohibited Camping Ordinance would take effect on Thursday. Cars and campsites were tagged and noticed there had been a lot of communication.

Parks and Recreation Director Muir shared that structures had been delivered to the Jay Pearson Neighborhood Park and the ribbon cutting would be scheduled soon. She thanked everyone who had responded to the survey. The survey results would be brought to Council in July.

Human Resources Manager Bayer shared that the Administration Department had a summer intern, Magen Boegli.

Finance Director Baragary shared that there had been a recent ratings call with Moody's Investor Services. Regulators were being more diligent in complying with requirements to perform ratings calls on a regular cycle. They had been notified that Moody's completed their review and the City's current rating of AA3 was considered appropriate and there was no need for a new rating. This was a high quality rating and subject to low credit risk.

City Attorney Koch reported on Municipal Court which was held on Wednesdays.

5.

PUBLIC COMMENTS

Gioia Goodrum, McMinnville Chamber President had heard from businesses in the Lafayette and Riverside area that were upset about the repurposing of City land for a homeless camp without any planning, hearing, or notification to the neighbors abutting the property. She asked that the City collaborate with the business community on the project.

Barbara Dell, McMinnville resident, lived in the neighborhood where they were she said the City was planning to put a homeless camp. She stated the City did hold a meeting with the residents about this project and the plan would move the homeless to a lot with more visibility than other locations. She thought that it would have a huge impact on the equity of her home. She was also concerned about the park that was very impacted by the problem right now. She stated that families would not bring their children to the park and it would impact the bottom line. It seemed like it was a small band aid on a huge problem. What was being proposed was not big enough to handle the situation and it would not prevent people from continuing to go where they wanted to go.

Andrew Holiday, owner of Mac Glass, opposed the plan to change the lot at Riverside Drive and Lafayette Avenue to a homeless camp. He thought that it would have a direct impact on his business. Customers would feel intimidated and threatened. If the City allowed Champion Team to build a privacy fence it would block all his signage and advertisement from the road. His property had already been vandalized on multiple occasions and people had scoped out his business for possible theft. There were multiple safety issues with the proposed location. He had a small family business. Children frequented the shop and he was concerned for their safety and comfort. He understood what Champion Team was trying to do and they had good intentions, but the way that it was communicated to business owners was less than par.

Aaron Orta, McMinnville resident, discussed the safe overnight camping program. He asked why the public had not been informed about the

program sites that were City property in a timely matter. The homeowners and businesses had not been notified or given an opportunity to refute the sites. He wanted to know if the money to upkeep the sites was coming from the grant to Champion Team or was it from City resources. He stated action without public input was not governing and the vetting process for the participants in the program seemed lackluster at best. He stated the Director of Champion Team did not know that the national database and County database only reported Level 3 sex offenders. It did not instill confidence that it was a professional program. He wanted to know what steps were being taken to protect the owners, employees, and family members. The surrounding businesses were not involved in the decision of the campsite. What were the projected problems with placing a campsite at this location on the Urban Renewal process? He felt they were looking at the problem from an incorrect perspective, focusing on the problem as a lack of affordable housing. They needed to look at the serious substance abuse and mental health problem. There needed to be more resources to provide rehab facilities and services with a greater emphasis on mental health treatment.

Buffy Miller, McMinnville resident, had lived in McMinnville Manor mobile home park for over 20 years. She found out about the camp on Facebook. They were a 55 year and older park and the nicest mobile home park in McMinnville. They had a meeting in June with City staff and a resident had asked if a camp would be put on this lot and was told that it would not happen. The camp across the street would bring more terror to the elderly residents. There were a lot of widows living there by themselves. Many residents were on fixed incomes and they had to install locks, alarms, motion detector lights, and locking gas caps on cars. It was difficult to find affordable housing in McMinnville. This park was one of the few places with affordable housing. People would not want to buy in an area across the street from a camp. Street people had been taking showers in their clubhouse. They had to lock up the clubhouse so they would not use the facility and steal from the building. They were forced to cancel their annual garage sale. They had the police driving through the park on a regular basis. The park had to spend money on gates, signage, and cameras and this had all occurred before a camp was set up.

Anne Kromer, manager of McMinnville Manor Park, stated the park had always been a peaceful place to live. She now had to be the security guard because in the middle of the night she was chasing people out of the park. There were 126 residents and 50 percent were single senior ladies who were afraid to be by themselves. Putting the camp down the corner was bringing the problem closer. She was told that they were not allowed to camp in residential areas. This was a residential and Urban Renewal area. She felt that putting the camp there was going to make matters worse.

Sharon Ryan, resident of McMinnville Manor, said for the past year she had been afraid of going in her backyard and was scared and anxious over any unexpected sounds. She and her neighbors had been yelled at by people passing by, some neighbors had witnessed people climbing over her fence, and she had found human waste in her backyard. She heard someone running across her deck after dark and people had been seen entering her yard in the early morning, and the alarm had gone off on her car. She was unable to use the pool and clubhouse due to the invasion of homeless. Recently they met with City staff and were told that the homeless camp was being disbanded. Now they were being told they were going to move closer. She loved McMinnville and had always felt safe and secure and happy, but those who had taken up residence in the camp nearby harassed, stalked, and attempted to steal from them and tried to take advantage of them. She stated the residents in the park had rights to live safely as citizens in the community and she asked that the Council not approve this.

Merv Zook stated that Nice Electric had been in McMinnville since the early 1990s. They had a few break-ins over the years, but recently they had 7-9 break-ins since November. On Sunday they were broken into again. They broke the windows in a van and stole some tools and then came back later to try to steal more. Fortunately the van had been moved and there was a good video this time. He was disheartened about this situation. He stated these people did not care about the reprisals that came from an arrest and did not care about fines that they would not pay. They were not put in prison because the City could not afford to. There were no options for business owners. The police wanted to help but bottom line was that it's been there and now it's moving closer. It made him give pause. He would not want this in his backyard.

Glenda Curl was born and raised in McMinnville and moved to McMinnville Manor three years ago. She stated that there were a number of homeless going through their park. People had been destroying and breaking things. From where she lived she could see the number of people that were coming through the main entrance and jumped over the fence. It was hundreds of people. They came through with an empty back pack and when they left it was full. If any percentage of the homeless were moved down the street next to their fence they would be overwhelmed. She thanked the brave police officers that were helping. The community was offering assistance to these people, but they did not care as long as they got their drugs. All times of the day they were coming through the park searching for things to take.

6. Receive Report and Recommendation from Gary Eastlund, Hagan Hamilton, to approve the 2019 – 2020 Property, Liability, Workers Compensation, and Auto Insurance Coverages.

Mr. Eastlund recommended renewing the contract with CIS for property/liability, auto, mechanical breakdown, and workers compensation. He explained that the proposed annual contribution for the CIS package, not including the workers' compensation, was \$522,335. This represented a \$46,527 or a 9.8% increase over the prior year's contribution of \$475,808. The increase was attributed to increases in personnel services expenditures, property value increases, and other additions made in the past 12 months. He also proposed to increase the General Liability/Public Official Liability from the current \$5,000,000 limit to \$10,000,000. That would increase the cost by \$7,000. These higher limits would provide additional protection to the City and Council members for any claims which were brought in federal court. CIS was offering renewal of the City's workers compensation with a deposit premium of \$177,327. This deposit represented a decrease of \$4,519 or 2.5% as compared to the deposit of \$181,846 paid last year. This was due to the effectiveness of the City's safety management programs. The airport liability insurance had been moved from Berkley to Ace Property & Casualty Insurance Company. The annual premium for \$5,000,000 limits was the same as the expiring policy, \$5,675. He requested a quote for the cost to increase this limit to \$10,000,000 should the Council decide to increase the CIS limits. If the City proceeded with plans to host the FKA Hillsboro Airshow, this policy would need to be endorsed to extend coverage for that specific event.

Councilor Garvin asked about the Experience Modification Factor. Mr. Eastlund expected that it could continue to fall. A lot of it had to do with creating a safety culture, however if they had a few injuries it would have an impact.

Mayor Hill expressed his thanks for the work.

7. PUBLIC HEARING

7.a. Public Hearing for the 2019 – 2020 Budget to be adopted by City Council for the Park Development Fund.

Finance Director Baragary explained this was a change to the budget that was approved by the Budget Committee. The purpose of the hearing was to take comment on the proposed increase in the 2019-20 budget for the Park Development Fund. The change was due to a carryover of the project for the Jay Pearson Neighborhood Park as the process of building the park was not where they had initially thought it would be by June 30. It would be extended into the 19-20 budget year. The grant donation revenue that was received would also be carried forward. The revised financial summary was published as required by local budget law.

Mayor Hill opened public hearing at 8:00 p.m.

There was no public testimony.

Mayor Hill closed the public hearing at 8:00 p.m.

Councilor Geary asked about the \$16,000 increase in materials and services.

Parks and Recreation Director Muir explained it was a carryover. They did not end up spending it in 18-19 and carried it over. The overall contract had not expanded.

Councilor Stassens asked if the funds were still going to carry over so it would cancel each other out. Parks and Recreation Director Muir said that was correct.

7.b. Public Hearing for the 2019 – 2020 Budget to be adopted by City Council for the Airport fund

Finance Director Baragary stated that there was a proposed increase for the Airport Maintenance Fund. The change was due to a carryover of a previous project. The progress of the project wasn't where they thought it would be by June 30. The total increase was \$133,128.00.

Mayor Hill opened the public hearing at 8:04 p.m.

There was no public testimony.

Mayor Hill closed the public hearing at 8:04 p.m.

8. CONSENT AGENDA

- a. Consider the Minutes of the March 20th, 2019 and April 17, 2019 Work Sessions.
- b. Consider request for an OLCC Full On-Premises License from Momiji McMinnville LLC located at 913 N Highway 99 Suite A.
- c. Consider request for an OLCC Winery 1st Location License from At the Wire LLC DBA: Lytle-Barnet located at 2803 NE Orchard Avenue.
- d. Consider request for an OLCC Off-Premises License from Shreeji Hospitality Group McMinnville LLC.
- e. Consider **Resolution No. 2019-40**: A Resolution declaring the City's election to receive state revenues.
- f. Consider **Resolution No. 2019-41**: A Resolution certifying provision of municipal services by the City of McMinnville as required by ORS 221.760.

- g. Consider **Resolution No. 2019-42**: A Resolution extending the City of McMinnville's workers compensation coverage to the City of McMinnville volunteers.
- h. Consider **Resolution No. 2019-43**: A Resolution providing for and approving a form of contract by and between the City of McMinnville, Oregon and the McMinnville Rural Fire Protection District.

Councilor Peralta asked to remove from the consent agenda **Resolution No. 2019-43**: A Resolution providing for and approving a form of contract by and between the City of McMinnville, Oregon and the McMinnville Rural Fire Protection District. He was concerned that they were not recapturing the full costs of service to the rural fire district.

Councilor Geary MOVED to adopt the consent agenda except Resolution No. 2019-43; SECONDED by Councilor Garvin. Motion PASSED unanimously.

Councilor Peralta stated that in the 2018 budget the amount they were contracting with the rural fire district was substantially less than the cost for providing service. At that time he raised the concern that they should be recapturing more of these costs. It seemed like they were renewing the same contract. Given the staffing shortage in the Fire Department, he asked why they were not trying to recapture those costs.

City Manager Towery stated that this was related to the Fire Protection Service they provided to the district, not to EMS. He thought there was not a significant loss in costs. This was a cost recovery model.

EMS Operations Chief Hanifan added that the rural fire district would be providing 50 percent of the cost for a brush rig. She thought they had a good partnership with them.

Councilor Peralta would like to see the actual cost of services versus the cost recovery. He thought that the City was under in both Fire Protection Service and EMS.

Councilor Garvin stated that the rural district had been a good partner but he agreed with Councilor Peralta that it should be reviewed.

Councilor Stassens was in agreement with looking at the numbers. She asked what would happen if they waited to see the numbers before approving the resolution.

City Attorney Koch stated that there would be no contract to provide fire services and he did not know whether they would continue to provide the service in hopes that they would eventually enter into an agreement.

Councilor Peralta did not want to do anything to destabilize the relationship with the rural fire district. However in this calendar year he would like to see the numbers and have further discussion on this issue.

Councilor Garvin asked if there was a contract for rural EMS. Mr. Towery stated that it was part of their annual service area.

Councilor Garvin MOVED to adopt Resolution No. 2019-43; SECONDED by Councilor Geary. Motion PASSED unanimously.

9. RESOLUTIONS

- 9.a. Consider **Resolution No. 2019-44**: A Resolution adopting a supplemental budget for fiscal year 2018-2019 and making supplemental appropriations (*Related to Transient Lodging Tax Fund/ General Fund Non-Departmental*).

Finance Director Baragary stated that this resolution along with the next three were adjustments to the current fiscal year. They had estimated that there would be \$1.2 million in the Transient Lodging Tax revenue, but based on current receipts the revenue would be closer to \$1.3 million. With the City transferring 30% of the TLT revenue into the General Fund, because the revenue was higher, the transfer to the General Fund was higher than budgeted. The resolution increased the TLT fund by \$40,000 and then transferred out the \$40,000 to the General Fund. The General Fund would show a transfer in from the TLT and the extra \$40,000 would be put in contingency and would flow over into Fiscal Year 19-20.

Councilor Peralta asked if there was another resolution that needed to be done for the 70 percent that was disbursed to Visit McMinnville. Finance Director Baragary explained that the 70% of the TLT that went to Visit McMinnville was not due until July 31st. The money would not be transferred until the middle of August. There might be a need to make an adjustment in the next fiscal year.

Councilor Geary MOVED to adopt Resolution No. 2019-44; SECONDED by Councilor Stassens. Motion PASSED unanimously.

- 9.b. Consider **Resolution No. 2019-45**: A Resolution adopting a supplemental budget for fiscal year 2018-2019 and making supplemental appropriations (*Telecommunications Fund*).

Finance Director Baragary said they were increasing appropriations because the franchise fee revenues were more than what was expected. Because the revenues were more, the disbursement to McMinnville Community Media would be more as well.

Councilor Stassens MOVED to adopt Resolution No. 2019-45;
SECONDED by Councilor Peralta. Motion PASSED unanimously.

- 9.c. Consider **Resolution No. 2019-46**: A Resolution making budgetary transfers of appropriation authority for fiscal year 2018-2019 (*Ambulance Fund*).

Finance Director Baragary stated this resolution would move appropriations from contingency to another category. She explained that the City contracted with another vendor for ambulance billing. This had allowed the two ambulance billing staff time to work the existing accounts and identify those that were uncollectable and send them to collections.

Councilor Peralta asked about how much of the contingency in that fund had been drawn down. Ms. Baragary stated that it was \$229,000 before this transfer and this was an additional \$75,000. This was pushing forward what they would have been doing in the next fiscal year.

Councilor Stassens MOVED to adopt Resolution No. 2019-46;
SECONDED by Councilor Garvin. Motion PASSED unanimously.

- 9.d. Consider **Resolution No. 2019-47**: A Resolution making a budgetary transfer of appropriation authority for fiscal year 2018-2019 (*General Fund, Finance Department*).

Finance Director Baragary stated that this resolution moved contingency appropriation to the Finance Department. This was due to vacation payouts for two employees that was not anticipated when the budget was adopted. The first was for the Finance Director who technically retired at the end of May for PERS purposes. She had entered into an agreement with the City to continue her employment to the end of August. The second was for the Ambulance Billing Coordinator who also had a balance of vacation and comp time that would be paid out on her last paycheck in June.

Councilor Geary MOVED to adopt Resolution No. 2019-47; SECONDED by Councilor Stassens. Motion PASSED unanimously.

- 9.e. Consider **Resolution No. 2019-48**: A Resolution providing for certain increases to the combined Fire and EMS fee schedule that allows the Fire Department to recover costs for fire and EMS services allowed within City Ordinance and the International Fire Code as adopted by the State of Oregon.

EMS Operations Chief Hanifan stated that over the last few years there had been an increase in medical supplies, EMS supplies, and medication

expenses. They were proposing an increase of \$125 to AOS calls and for additional calls she suggested an increase of 2.5% CPI.

Fire Marshal McDermott stated there were fees shifting at the state level from building code to fire code. One was installation of fuel tanks. Another was a fee for inspection and permitting of hazardous materials operations. This would keep the City in line with true costs to provide these services.

Councilor Peralta MOVED to adopt Resolution No. 2019-48; SECONDED by Councilor Garvin. Motion PASSED unanimously.

- 9.f. Consider **Resolution No. 2019-49**: A Resolution adopting the budget for the fiscal year beginning July 1, 2019; making the appropriations; imposing the property taxes; and categorizing the property taxes.

Finance Director Baragary stated that this resolution was required by local budget law to adopt the 2019-20 budget. The resolution would not only allow the City to make appropriations, but to impose property taxes and categorize the taxes. The Council could make changes to the budget approved by the Budget Committee. There were a number of changes she was proposing. One was the reallocation of General Fund contingency appropriation to the General Fund Administration Department. At the June 11th Council meeting there were several options discussed for use of the Wastewater Franchise Fee revenue and the TLT revenue. Based on the discussion, staff had prepared two resolutions adopting the budget under two different scenarios. The first resolution took 50 percent of the unrestricted TLT revenue and allocated it to the Mayor and City Council's budget for Council spending and the other 50 percent would be dedicated to the General Fund Reserve. The second resolution took 67 percent of the TLT revenue and allocated it for Council spending and the remainder would be dedicated to the General Fund Reserve. The other changes to the budget were changes to the Park Development Fund and Airport Maintenance Fund as discussed earlier in this meeting, additional funds in the Planning Department for the Urban Growth Boundary expansion process, carryover for the Fire Department for some Capital Outlay projects, changes to the Park and Recreation Department for professional services, carryover for Park Maintenance, Street Fund, Transportation Fund, and Wastewater Fund projects, and carryover for the HR software module. Many of these were projects being carried over from the current fiscal year and were housekeeping type items. Normally there were not that many changes.

Councilor Stassens asked about the Street Fund's \$12,000 in materials and services for building repairs. Community Development Director Bisset stated that Parks Maintenance and Streets shared the Public Works Shop facility and there was a water line and HVAC repair that would not be finished by June 30 and would carry over into next year. It was the building that the Street Department was housed in as well as Parks Maintenance.

City Manager Towery explained that as a follow up to the discussion regarding using the TLT funds for affordable housing initiatives, there was broad agreement from all members of the Council on the following items:

- A connection between tourism and affordable housing, therefore justifying dedication of TLT revenue.
- A desire to maintain General Fund services that are currently supported by TLT revenue.
- An interest in committing resources to encourage a variety of affordable housing strategies.
- A recognition that recent actions by the City may require added resources.
- A strong preference to assist in stabilizing the General Fund Reserves.

Staff had put together scenarios showing dedication of the TLT funds at one-third, one-half, two-thirds, and 100 percent and the effect it would have on the ending fund balance. Staff only presented two of these scenarios to Council. One would dedicate \$190,000 to affordable housing initiatives and would result in a \$310,000 increase to the ending fund balance, and the other would dedicate \$250,000 to affordable housing initiatives and would result in a \$250,000 increase to the ending fund balance. It would be placed in contingency in the City Council's budget as there was no current project ready to go. To spend any of that money, staff would bring it to the Council for approval by resolution. The key point of direction was related to the amount of money that Council would like to dedicate to affordable housing.

Councilor Peralta asked about the expenditure side being split between the affordable housing portion and enforcement actions. City Manager Towery clarified the funds were in a single contingency account and the Council could direct the use of the funds for affordable housing or impacts of regulatory activity.

Councilor Garvin stated that he had a hard time moving past 50 percent as it would leave a gaping hole in department budgets. As tourism increased and TLT dollars increased, so did the burden of all the departments.

Councilor Stassens was in support of the 50 percent as well. She would be more comfortable looking at a specific project that they knew the funds would be going towards. She would like to see more clear directives on actual budgets for actual projects which would give them guidance on how much money was needed for real solutions.

Councilor Peralta thought that in year one there might be a lot of initial costs that they might not experience on an ongoing basis. He suggested for year one to do it at the 2/3 rate and then revisit it on an annual basis to reauthorize the expenditure. They could reduce the amount in year two. City Manager Towery stated this was only a one year spending plan. The new regulations might carry some additional costs, but a lot of staff time was being used on the current situation that they would not have to spend once the regulations were implemented. He thought they might be spending the same staff resources but in a different way and there might not be net increased costs to enforce the regulations. He stated that this was the spending plan for the year based on the best information they had. If there were a lot of affordable housing projects that came in, staff might look at other resources beyond this in the budget. They wanted to be responsive to needs as they occurred over the course of the year.

Councilor Stassens asked what the communication would be with regards to the spending of this fund. City Manager Towery replied because this was in the contingency fund in the City Council's budget, it would require a resolution approved by Council to spend the money.

Councilor Geary was still interested in further discussion on Transient Lodging Taxes. City Manager Towery stated that Visit McMinnville would be coming before Council in late summer or early fall to start that conversation.

Councilor Geary was more comfortable with the 50 percent but as time moved forward to revisit it.

Councilor Garvin was still in favor of the 50 percent. He did not want to have ordinances that could not be enforced, and if more was needed for enforcement he was willing to look into more funding.

Councilor Stassens was also in favor of the 50 percent.

Councilor Garvin MOVED to adopt Resolution No. 2019-49 with the 50 percent unrestricted TLT General Fund dollars, adopting the 2019-2020 budget in the total amount of \$114,225,082 for the fiscal year beginning July 1, 2019; to make the appropriations in the amount of \$75,900,335; to impose and categorize the City of McMinnville's permanent property tax rate of \$5.0200 per \$1,000 assessed value for general operations and \$3,716,108 for debt service; SECONDED by Councilor Geary. Motion PASSED unanimously.

Mayor Hill recessed the meeting at 8:59 pm and reconvened the meeting at 9:07 pm.

10. ORDINANCES

- 10.a. Consider first reading with possible second reading of **Ordinance No. 5073**: An Ordinance amending McMinnville Municipal Code chapter 9.42 relating to the designation of the Downtown Exclusion Zone within the City of McMinnville, establishing boundaries, procedures, charges and penalties therein, and removing the sunset clause

Police Chief Scales stated this ordinance would amend the code as it related to exclusion zones. In 2016 staff had worked on forming an exclusion zone downtown that would be enforced through the court. There was a sunset of three years on that zone, which meant it would sunset this year and be unenforceable. He asked that this be amended to remove the sunset clause and keep the ordinance on the books. There was no additional staff cost to this ordinance. He thought it was an effective enforcement tool for the City. Also the term "violation" would be deleted from the language as violations were not crimes and did not place people on probation.

No Councilor present requested that the Ordinance be read in full.

City Attorney Koch read by title only Ordinance No. 5073, amending McMinnville Municipal Code chapter 9.42 relating to the designation of the Downtown Exclusion Zone within the City of McMinnville, establishing boundaries, procedures, charges and penalties therein, and removing the sunset clause.

Councilor Geary asked if there was discussion of an expansion of the exclusion zone.

Police Chief Scales stated no. He thought that with the other ordinances that would be going into effect it was not needed. In 2016 this was kept to a finite area that included the business areas downtown.

Councilor Geary thought it could be an additional tool elsewhere for problems and issues that had grown and manifested.

City Attorney Koch stated that there were exclusion policies for the park system and for the parking garage. If they wanted to expand it to a certain area, they would need a thoughtful dialogue about what the characteristics were of that area and the behaviors they were trying to address.

Councilor Geary MOVED to pass Ordinance No. 5073 to a second reading; SECONDED by Councilor Stassens. Motion PASSED unanimously.

City Attorney Koch read by title only for a second time Ordinance No. 5073.

Councilor Garvin MOVED to approve Ordinance No. 5073 amending McMinnville Municipal Code chapter 9.42 relating to the designation of the Downtown Exclusion Zone within the City of McMinnville, establishing boundaries, procedures, charges and penalties therein, and removing the sunset clause; SECONDED by Councilor Peralta. Ordinance No. 5073 PASSED unanimously by roll-call vote.

- 10.b. Consider first reading with possible second reading of Ordinance No. 5065: An Ordinance amending Planned Development Ordinance No. 4722 to remove approximately 11.47 acres from the boundary of the Oak Ridge Planned Development Overlay District.
- 10.c. Consider first reading with possible second reading of Ordinance No. 5069: An Ordinance amending the Oak Ridge Meadows Planned Development adopted by Ordinance 4822 to add property to the boundary of the existing Oak Ridge Meadows Planned Development Overlay District; allow for lot size averaging; allow for modified setbacks; allow for some lots with side lot lines oriented other than at right angles to the street upon which the lots face; allow for some lots to exceed the recommended lot depth to width ratio; allow some block lengths to exceed the recommended maximum block length standard; allow for the designation of an approximately 0.85-acre active private neighborhood park; and, allow for dedication of an approximately 5.6-acre public open-space greenway dedication along Baker Creek.

10.d. Consider first reading with possible second reading of Ordinance No. 5070: An Ordinance approving a tentative subdivision for a 108 Lot, Phased Single-Family detached residential development at R441701300/R440700602.

No Councilor present requested that the Ordinances be read in full.

City Attorney Koch read by title only Ordinances No. 5065, 5069, and 5070.

Planning Director Richards stated that these were three different land use applications for one project. They were quasi-judicial land use proceedings which meant they were looking at them against current code. It was not a legislative process. The Planning Staff reviewed the applications to make sure that they were meeting the criteria of the code and it was the Council's decision to approve or deny the project based on the code. She explained how the process itself was highly regulated. Per MMC, Section 17.72.130(C)(6), once the Planning Commission made a decision to recommend a land-use decision to the City Council, the Council shall:

- A. Based on the material in the record and the findings adopted by the Commission and transmitted to the City Council, adopt an ordinance effecting the proposed change; or
- B. Call for a public hearing on the proposal subject to the notice requirements stated in Section 17.72.120 (D-F).

Staff would summarize the material in the record and the findings adopted by the Planning Commission and transmitted to the City Council, and then the Council could decide if they wanted to call for a public hearing. Per ORS 227.178, the City of McMinnville needed to render a decision on these three land-use decisions within 120 days unless the applicant requested an extension. The applicant had requested an extension to August 13, 2019 extending the processing time to 201 days. This was done to ensure timeliness in terms of decision-making. The soonest a public hearing could be held would be on July 23, 2019. If the public hearing was held then the decision with second reading of the ordinance would be on August 13, 2019.

Associate Planner Fleckenstein presented information on the project. The Oak Ridge Planned Development was adopted by Ordinance No. 4722 in 2000. Phase 4 of the Planned Development approved 30 lots. The Oak Ridge Meadows Planned Development was adopted by Ordinance No. 4822 in 2005. This Planned Development approved 99 lots. He then reviewed the existing development versus the proposed development. The

number of residential lots in the existing plan would be 129, but in the proposed plan would be 108. There would still be preservation of primary wetlands and some development impacting the wetland. The proposed plan would include a public greenway, open space, and parks and would protect the environmentally sensitive features of slopes, trees, and riparian corridor.

Associate Planner Fleckenstein said the first application was a request to remove 11.47 acres of undeveloped, unplatted property from the Oak Ridge Planned Development. The second application was to request that the 11.47 acres be added to the Oak Ridge Meadows Planned Development, to request additional zoning departures, and require additional amenities. The third application was for approval of a 108 lot single family residential subdivision with public and private open space amenities. He displayed the site location north of Baker Creek Road and south of Baker Creek and the FEMA Firm panels that were updated in 2010. The Flood Area Zone was defined in Chapter 17.48 of the McMinnville Municipal Code.

- Determined by 1% Annual Chance Floodplain (100 year) found on site along the banks of Baker Creek. Development was not allowed.
- The 0.2% Annual Chance Floodplain (500 year) found on southeastern portion of site was not regulated.

Regarding site location and context, east of the undeveloped land owned by Stafford Land Company was Baker Creek North with 280 dwelling units. North of the current developing land was Baker Creek East & West with 278 total dwelling units. The 2010 Transportation System Plan considered full buildout of land based on the density allowed and the street network was designed to accommodate the traffic.

Associate Planner Fleckenstein stated that wetlands were found on the 11.47 acre parcel. There were 3.09 total acres of wetlands, 1.06 acres were impacted and 2.03 acres were untouched. McMinnville relied on state and federal agencies for wetland regulation. This was done by the Department of State Lands and Army Corps of Engineers.

For the Oak Ridge Planned Development amendment, Ordinance No. 5065, PDA 3-18, it was currently zoned R-2 PD (Single-family Residential, Planned Development). It was created through Ordinance No. 4722 in 2000 and zoned 30.2 acres R-2 PD. It was an approved development plan for 107 lots. Minor PDAs reallocated the 107 lots from 3 phases to 4 phases and the 4th phase (30 lots) remained undeveloped/unplatted. He showed the approved site plan for these lots. The request was to remove the 11.47 acres of the undeveloped property

from the Oak Ridge PD. The parcel would remain in the base R-2 zone until re-zoned.

The review criteria for a Planned Development Amendment was found in Section 17.74.070 as follows:

1. Special physical conditions or objectives warrant a departure from the standard regulation requirements.
2. Resulting development will not be inconsistent with the Comprehensive Plan.
3. The development shall be designed to provide access to and services to adjoining parcels.
4. The plan can be completed within a reasonable period of time.
5. Streets are adequate to support the anticipated traffic, and the development will not overload the streets outside the planned area.
6. Proposed utility and drainage facilities are adequate for the population densities and type of development proposed.
7. Noise, air, and water pollutants caused by the development do not have an adverse effect on the area or City.

In summary, the Planning Commission found PDA 3-18 met the review criteria and voted 9-0 to recommend approval of the Planned Development Amendment with conditions outlined in Decision Document.

For the next Planned Development Amendment, Ordinance 5069, PDA 4-18 was for Oak Ridge Meadows PD which was created through Ordinance No. 4822 in 2005. The request was to add the adjacent undeveloped 11.47 acre parcel to this PD for a total area of 35.47 acres. The request included zoning departures and required amenities. The zoning departures included amending the average lot size from 7,500 sf to 7,770 sf. This was an average lot size, not a minimum. It also included amending the side yard setbacks to 5 feet, allowing side lot lines, creating a maximum block length of 2,305 feet with a maximum 800 feet between pedestrian ways, allowing the maximum lot depth to width ratio of 2.75:1, providing a minimum 0.85 acre private active neighborhood park, dedicating a minimum 5.6 acre public greenway, and wetland preservation and viewing areas. The original Oak Ridge Meadows Planned Development approval did not include any open space amenities. A similar subdivision could be proposed under the current planned development standards. He then showed the proposed subdivision plan.

The purpose of a planned development included:

- provide greater flexibility and greater freedom of design
- encourage a variety in the development pattern of the community
- encourage mixed uses
- encourage developers to use a creative approach and apply new technology
- preserve significant man-made and natural features
- facilitate a desirable aesthetic and efficient use of open space
- create public and private common open spaces

Associate Planner Fleckenstein reviewed the approval criteria. The first was: There are special physical conditions or objectives of a development which the proposal will satisfy to warrant a departure from the standard regulation requirements. He thought the special physical conditions would include the unique site topographical and natural features. The special objective was to bring adjacent undeveloped parcels together in one planned development to achieve pacing intended by original PD and subdivision approvals and to provide additional open space amenities. The second criterion was the resulting development will not be inconsistent with the Comprehensive Plan objectives of the area. Staff thought the application met the following relevant Comprehensive Plan policies:

Natural Resources (Chapter II): Land, Water

Housing and Residential Development (Chapter V): Planned Development, Residential Design

Transportation (Chapter VI): Streets, Traffic, Pedestrian

Community Facilities (Chapter VII): Parks, Utilities, Police & Fire

Citizen Involvement (Chapter X)

The next criterion was the development shall be designed so as to provide for adequate access to and efficient provision of services to adjoining parcels. The SE extension of Pinehurst Drive provided future access to land inside the Urban Growth Boundary and provided maintenance access to existing sewer service. The SW extension of Pinehurst Drive provided future access to the anticipated Baker Creek North development and temporary emergency access easement. The next criterion was the plan can be completed within a reasonable period of time. The applicant indicated that development would begin immediately following permitting. It was an estimated 5 year plan with Phase 1 done in 2 years and Phase 2 done in the 3 subsequent years. The next criterion was the streets are adequate to support the anticipated traffic, and the development will not overload the streets outside the planned area.

- 2010 TSP planned for full development within existing zoning.

- The Traffic Impact Analysis anticipated the density of the proposed development increased ADT of Pinot Noir Drive to its designed limit of 1200 vehicle trips. There was a Condition of approval that capped the dwelling units to 108 units until a second access on Shadden Drive was developed.
- Baker Creek Road improvements planned.

The next criterion was proposed utility and drainage facilities are adequate for the population densities and type of development proposed. There were adequate levels of utilities and drainage facilities that could serve the site including:

- Sanitary Sewer
- Storm Sewer & Drainage Facilities
- Municipal Water
- Power

The last criterion was noise, air, and water pollutants caused by the development do not have an adverse effect upon surrounding areas, public utilities, or the city as a whole.

- Noise, air, and water pollutants are not expected to be caused by residential development.
- 2.03 acres of wetland preserved and protected and will continue to provide ecological and water quality functions.

The Planning Commission found PDA 4-18, with conditions, met the review criteria and voted 8-1 to recommend approval of the Planned Development Amendment with Conditions outlined in the Decision Document.

The last application was for the tentative subdivision, Ordinance 5070, S 3-18. The request was for a 108 lot single-family residential subdivision on 35.47 acres.

The proposed SF Residential Subdivision included:

- 108 lots
- 7,770 sf average lot size
- Min: 4,950 sf
- Max: 14,315 sf
- 54 lots < 7,000 sf

- Open Space Provided
- 0.85 acre private park
- 5.6 acre public greenway
- 2.03 acres preserved wetland with viewing areas

The subdivision was conditioned on approval of the Planned Development Amendments. The maximum block length established by PDA 4-18, if approved was 2,305 feet with pedestrian/bike ways at 800 feet maximum. The review criteria from Chapter 17.53 included Land Division Standards for approval of Streets and Ways. The criteria for streets were:

- Layout and design of streets responds to unique topographic conditions on site
- Avoid steep slopes
- Provide access to lots while minimizing impact on wetland
- Existing principal streets to be extended
- Pinot Noir Drive – local street
- Existing terminus of Pinot Noir to be widened to 28'
- Pinehurst Drive – local street
- Provides future access to adjacent parcels
- All proposed streets to meet City standards for:
- Width, Alignment, Grade
- Existing principal streets to be extended
- Pinot Noir Drive – local street
- Existing terminus of Pinot Noir to be widened to 28'
- Pinehurst Drive – local street
- Provides future access to adjacent parcels
- All proposed streets to meet City standards for:
- Width, Alignment, Grade
- Proposed Cul-de-Sac meets City standards.
- Length: approximately 200 ft

- Lots served: 7
- Sidewalks and park strips provided on all streets.

The criteria for easements were:

- Public Utility Easements provided along all ROWs
- Existing drainage facility adjacent to wetland serving Oak Ridge development and Oak Ridge Meadows remains in easement

The criteria for pedestrian ways were:

- Meets requirements of PDA 4-18 (800 ft. max between ways) with condition

The criteria for Lots were:

- Conform to zoning requirements of PDA 4-18
- Size and shape of lots are appropriate for proposed use, respond to topographic conditions of site
- Street access provided to each proposed lot per City standards

In summary, the Planning Commission found S 3-18, with conditions, met the review criteria. The planning Commission voted 7-2 to recommend approval of Tentative Subdivision with Conditions outlined in the Decision Document.

Planning Director Richards shared that there were:

- 51 written testimonies submitted to the Planning Dept.
- 29 people/organizations.
- Additional oral testimony at public hearings.
- The testimony was largely oppositional.

Planning Director Richards explained that there was a lot of testimony received that Pinot Noir Drive could not handle increased traffic. She stated that the 2010 McMinnville Transportation System Plan (TSP) standard for local roads was that they were designed for 1,200 Average Daily Trips (ADT). The 108 lots would bring the street up to 1,200 average daily trips. The recommended condition was to cap the development at 108 dwelling units.

There was also testimony stating that the development should be limited to previous limits found in the existing Planned Development, which was 76 lots.

- Previous limit placed limits on number of homes allowed prior to the construction of a second emergency vehicle access into Oak Ridge Meadows.
- Current proposal provides emergency vehicle access via easement across a neighboring property.
- Building permits limited based on TIA/street network capacity.

There was testimony that Pinehurst Drive should not extend to the SE to the Toth property when it was known that Les Toth would not develop the land. The Toth property was currently outside City Limits, but inside the Urban Growth Boundary, and the expectation was the land would urbanize.

There was also testimony that the northern terminus of Pinot Noir Drive was only 21 feet wide and could not accommodate the proposed development. They planned to widen Pinot Noir Drive north of Blake Street to 28 feet within the existing public right-of-way in the development proposal.

There was testimony that the development would harm the floodplain. The Flood Area Zone protected the regulatory floodplain by limiting development. The regulatory floodplain established by the 2010 Flood Insurance Rate Maps per MMC 17.48.010. The Comprehensive Plan also had a policy that there would be dedicated greenway park preserves and protected floodplains and riparian corridors. These lands were protected by keeping it in public management. She then discussed the “Goal Post” rule where a land use application was reviewed under the current code they could not change the rules as they were going through the public process.

Everything in the floodplain zone would be dedicated to the City for a public greenway project and part of the wetland would be preserved.

There was also testimony received that McMinnville was reliant on outdated FEMA maps and was in need of updating and revision. The Friends of Baker Creek submitted a Baker Creek Hydrologic Analysis. The analysis indicated that the Baker Creek watershed was not well represented by effective SFHA mapping for the 1% annual chance floodplain area. The buildout conditions downstream were that the peak flow increased by .2% and the water service elevation increased .01 feet. It was not something that the hydrologist felt was a concern.

The FEMA Flood maps that were adopted in 2010 were done after a three year modernization process. The hydraulic report provided by the Friends suggested that the floodplain could have expanded more than what was

represented on the FEMA maps and was impactful to five lots in the proposed subdivision. The discussion was how to mitigate risk within the goal post rule. The analysis did not demonstrate that there would be downstream flooding, however there was concern about structural flooding on those five lots. They could not change the floodplain zone as part of this process. However, they could require a process that affirmed the Base Flood Elevations and required development of the first floor to be above the BFE as allowed by both the state and federal regulations. The applicant proposed an alternative subdivision layout to accommodate possible expansion of the floodplain. It removed the five potentially impacted lots and replaced them with smaller lots elsewhere in the subdivision. The Planning Commission suggested a condition of approval to establish a process on Lots 34, 35, 41, 42, and 43 (identified as potential impact in Baker Creek Hydrology Report). This would mean the applicant would submit an engineering certification stating the proposed development on these lots would not impact the pre-project base floodway and base flood elevations. The City had also applied for grants to amend the FEMA floodplain maps, but had been turned down. They had also been in discussions with FEMA on how to update the maps, which would take five to ten years. They could do a project specific review, which was a six to twelve month process.

There was a lot of testimony on the wetlands. The testimony suggested that the proposed development impacted 11.47 acres of wetlands, however she confirmed it was only a little over three acres of the 11.47 acres that were wetlands. The City did not have a wetland management plan and the City had always referred to state and federal regulations to review wetlands. There was testimony that McMinnville should not allow any development that impacted wetlands. McMinnville deferred all wetland permitting and mitigation to the Oregon Department of State Lands (DSL). Historically McMinnville had many housing developments that had mitigated wetlands that had been permitted by DSL. This had been done in Baker Creek East, Cottonwood First Addition, Crestbrook First Addition, Hillside, West Hills, and Brookside Addition.

Testimony was also received regarding concerns over the preservation of trees on the site. There were significant isolated, preservable native oak trees on Lots 1 and 54 that were located outside of the building envelopes for those lots. There was a Condition of Approval that required Planning Director approval of any tree over 9" DBH before it was removed. There was another Condition that allowed flexibility to adjust setbacks to preserve other isolated, preservable trees.

One person testified about the loss of 21 dwelling units with the new proposed plan. This was an R-2 zone and not meant to be high density. The R-2 also protected the wetland area from higher density. It had been 14 years since the Planned Development was approved and since that time there had been a lot more tree growth which they were trying to preserve.

Planning Director Richards said there were three ordinances that represented the three independent quasi-judicial land-use decisions. The Planning Commission conducted two nights of public hearings. The applicant testimony was 90 minutes (45 minutes on each night, presentation and rebuttal.) There was also 163 minutes of public testimony received (75 minutes on the first night and 88 minutes on the second night – limited to 3 minutes each). The Council could approve the ordinances or call for a public hearing to be held on July 23, 2019.

City Attorney Koch asked Council to declare any potential or actual conflict of interest. There was none. City Attorney Koch asked for any declarations of bias. There was none. City Attorney Koch asked if there were any ex parte contacts to declare.

Councilor Garvin received a call today by Rick Weidner encouraging urban infill which included this subdivision. He also received several emails that he would forward to staff.

Councilor Peralta saw a notice that was posted on City Hall. He also received several emails and a couple people from the community had mentioned the project in his presence, but the conversations did not go in depth.

Councilor Geary stated that he received the same emails as everyone else and received the same call by Rick Weidner.

Councilor Stassens received the emails but did not open them.

Mayor Hill received the same emails.

City Attorney Koch asked that the emails be forwarded to the Planning staff.

Councilor Peralta asked about Department of State Lands who stated in 1999 the wetlands mitigation failed. Associate Planner Fleckenstein explained that as part of the original approval to create the fourth phase of the Oak Ridge Development, it went through the Department of State Lands permitting process for impact to the wetlands. Pinehurst Drive did impact the wetlands and mitigation was required on site. Not all of the wetland mitigation took because of the various conditions on the site. As

a result mitigation was being recommended off site through a mitigation bank.

Planning Director Richards stated they had applied for a removal fill permit to move forward with the development project, and they did not implement it all of the way because of the recession and that mitigation failed. They were required to do another delineation report which would need to be approved by the Division of State Lands before any permits were issued. Because the wetland mitigation didn't take the first time, the wetland mitigation that would be applied for was a mitigation bank. It would improve another wetland in the same watershed and was a remedy allowed by the Division of State Lands.

Councilor Peralta asked about the policies for traffic flow.

Planning Director Richards stated the network was designed to work with each other and local residential streets took traffic to the collectors and arterials. The City had an adopted standard that development could occur to a point where it was generating a certain number of average daily trips on the local streets. Applicants also had to show the connectivity of the street network to continue the network into other lands adjacent to it for the land to develop. Two other streets dead ended at the Toth property with the purpose that they would eventually connect to the street network so the Toth property could be developed.

Councilor Peralta asked about the short term safety mitigation, which was a dirt/gravel road for emergency access on Shadden. Planning Director Richards responded for public safety there needed to be two accesses to a neighborhood. There was not a City policy regarding the number of access points to serve a neighborhood.

Councilor Peralta asked about the dirt road on Shadden and why it couldn't be developed as a public street. Planning Director Richards responded that if the concern was the increased traffic on Pinot Noir Drive, local residential streets were designed to accommodate 1,200 average daily trips. If they made a finding that wasn't the case, that would become a new rule for all developments. If the concern was they needed two access points for all neighborhoods, that would also be a new policy. They did not have the nexus to tell this developer that they had to build a road to local street standards on another person's private property to be able to build their development.

Councilor Peralta said Policy 188.00 provided an opportunity for citizen involvement in all phases of the planning process. He would be in favor of holding a public hearing.

Councilor Garvin asked what the current number of daily trips was for this area. He also asked if Baker Creek Road at Pinot Noir would be improved to prevent cars from backing up. Associate Planner Fleckenstein explained that the number of daily trips was 200. Planning Director Richards said the network was being improved as Baker Creek was intended to be a three lane street with a dedicated turning lane.

Community Development Director Bisset stated that it was a foundational element of the Transportation Plan that corridors would become busier as the City grew. They had set level of service standards that developments had to meet, and this application met those standards.

City Attorney Koch stated they would have to include in the findings what was the acceptable level of additional traffic before they would require secondary access.

Councilor Stassens asked about the 108 dwelling units and how it would play out in practice if there was Accessory Dwelling Units. Planning Director Richards stated that the condition was to only allow 108 dwelling units. Last year the State Legislature passed a law that all cities needed to allow Accessory Dwelling Units on all single family residential lots. They were not assigning those as a dwelling unit, and how that would play into generating traffic impact, she did not know. They were going to identify ADUs as a dwelling unit until it was tested. If HB 2001 passed, up to four units could be developed on single family lots. They wanted to ensure in terms of traffic impact that they were mitigating related to how many families were generating trips rather than how many lots there were.

Councilor Stassens noted that there was not local control over what happened on wetlands, but they deferred to the state. Did all cities do that? Planning Director Richards said Salem had their own regulations. Communities the size of McMinnville did not typically have their own wetland inventory and there were not any staff members to understand and manage the impacts of development on wetlands. The City of Monmouth was the only one that had their own local wetland inventory program that she knew of. With McMinnville's current Planning staff, they did not have enough staff to bring in that kind of program. The policy question was did they allow wetlands to be mitigated for development or not. If it was allowed, who decided how much and where and who would analyze the standards. Currently the City deferred that to the state.

Councilor Geary asked if the Wetland Viewing Area with a bench was also the fire truck turning area. Associate Planner Fleckenstein said that it was in the same area, but the bench was not in the turning area.

Councilor Geary clarified all the nearby streets were local streets. He asked if there were other designated bike paths outside the park. Planning Director Richards stated that there was a multiuse bark chip bike/ped path. The developer would dedicate the land to the City and construct the amenity and they would maintain it until 2032.

Councilor Geary asked about the Planned Development policies. Planning Director Richards stated that the burden of proof for whether the applications met the criteria was on the applicant. With regard to a variety of housing types, staff had that discussion with the applicant. Planned Developments were meant to have a variety of lot sizes. For this application, there were smaller lots on Pinehurst Drive. The variety of lot sizes would also generate a variety of housing prices. Because of the topography, things like duplexes and townhomes did not work on this site. There was a variance for the squared off intersections due to topography issues on the site.

Councilor Stassens asked about staff's opinion of the supplemental findings provided by the applicant. Planning Director Richards stated that the code was clear that what was brought to the City Council was what was presented to the Planning Commission. Staff had presented the decision document that the Planning Commission had recommended to the Council and presented the supplemental findings as part of the record.

City Attorney Koch stated that the supplemental findings were not intended to provide any new evidence, testimony, or argument. They were only to address matters that had been raised after the original findings document was prepared. It was not uncommon practice that the applicant had an opportunity to provide draft findings for consideration by the decision making body that addressed issues. Because of the timing of the packet, staff had not had time to review the applicant's materials. The Council could adopt the findings, not adopt the findings, or amend the findings.

Planning Director Richards said the conclusionary findings in the decision document were prepared by the applicant as their burden of proof. By state law they had to allow conditions of approval to get a development project to satisfy criteria when possible.

There was consensus that a public hearing should be held on these applications. Staff would schedule a public hearing for July 23 at 7:00 p.m.

10.e.

Consider first reading with possible second reading of **Ordinance No. 5072**: An Ordinance amending an existing planned development overlay

district to add multiple family residential as an allowable use in the Planned Development Overlay District.

No Councilor present requested that the Ordinance be read in full.

City Attorney Koch read by title only Ordinance No. 5072 amending an existing planned development overlay district to add multiple family residential as an allowable use in the Planned Development Overlay District.

Planning Director Richards said this was a Planned Development Amendment on SE Norton Lane. The zoning was C-3 PD (General Commercial Planned Development).

- It had a Planned Development in it from 1999 - Ordinance 4709 which Zoned the site C-3 PD, placed development conditions and limitations on use of site. No specific development plan approved – condition of approval requiring site plan approval prior to development.
- 2006 - Ordinance 4863
- Amended Ord. 4709 to allow senior condominiums, senior apartments, and assisted living facilities

The request today was to amend Ordinance 4709, as amended by Ordinance 4863, to allow multiple family residential dwellings as an allowable use on the subject site. All other provisions of Ordinance 4709 would remain in effect, including:

Future site and master plan review by Planning Commission prior to development (Conditions #2 and 3)

Landscaping requirements (Condition #4)

Utility improvements (Conditions #5 - 10)

Other uses would still be allowed (Condition #15)

Street improvements (Conditions #18 and 20)

She discussed Section 17.74.070 – Planned Development Amendment Review Criteria. There was an existing Housing Needs Analysis that was adopted in 2001 that identified a deficit of higher density residential land to support multiple family uses. Planning staff was comfortable with allowing this request to move forward. The applicant was looking at developing 110 – 115 apartment units. They were currently developing the apartment complex off of Evans. This site was on the transit route and was within neighborhood and general commercial areas. It was in an area with other multiple family developments. One concern was that it didn't have access to a park. She recommended a new Condition of Approval be put

on the development to require that if multiple family development was put on this land that an area equal to 10 percent of the site would be set aside for usable open space. A traffic impact analysis had been done which showed the local street network would be able to accommodate the number of trips from this development. All of the utilities were in place to support the development.

They had received written testimony from the Housing Land Advocates and Fair Housing Council of Oregon where they referenced that the staff report did not include findings for Statewide Goal 10 and the City's Buildable Lands Inventory and Housing Needs Analysis. This was submitted for all housing developments and she thought the application met their goals of affordable housing. There was one item of testimony in support of the application. Staff and the Planning Commission recommended approval with the conditions outlined in the decision document.

Councilor Geary asked about the 10% dedication for a park. Planning Director Richards said Planned Developments allowed them to look at needs and develop Conditions of Approval relative to those needs. She had chosen 10% after looking at what other communities were doing in terms of their requirements for multiple family developments.

Mayor Hill noted that a public hearing could be held on this application. Planning Director Richards stated that the only public testimony received was from Mark Davis and only one person came to the neighborhood meeting who was also in favor of the application. She would have to get approval from the applicant to extend the deadline if they wanted to hold a public hearing.

Councilor Geary MOVED to pass Ordinance No. 5072 to a second reading; SECONDED by Councilor Stassens. Motion PASSED unanimously.

City Attorney Koch read by title only for a second time Ordinance No. 5072.

Councilor Garvin said moving forward he would like to have a public hearing on all Planned Development Amendments.

There was consensus to hold a future work session on that idea.

Councilor Stassens MOVED to approve Ordinance No. 5072 amending an existing planned development overlay district to add multiple family residential as an allowable use in the Planned Development Overlay District; SECONDED by Councilor Peralta. Motion PASSED unanimously by roll-call vote.

11. ADJOURN: The meeting adjourned at 11:31 p.m.

s/s Melissa Bisset

Melissa Bisset, City Recorder