

City of Springfield
Regular Meeting

MINUTES OF THE REGULAR MEETING OF
THE SPRINGFIELD CITY COUNCIL HELD
MONDAY APRIL 4, 2005

The City of Springfield council met in regular session in the Council Meeting Room, 225 Fifth Street, Springfield, Oregon, on Monday, April 4, 2005, at 7:03 p.m., with Mayor Leiken presiding.

ATTENDANCE

Present were Mayor Leiken and Councilors Lundberg, Fitch, Ballew, Ralston, Woodrow and Pishioneri. Also present were City Manager Mike Kelly, Assistant City Manager Cynthia Pappas, City Attorney Joe Leahy, City Recorder Amy Sowa and members of the staff.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Leiken.

SPRINGFIELD UPBEAT

1. Youth Day of Caring.

Police Chief Jerry Smith introduced Cassandra Harper, senior at Springfield High School. Cassandra described the many activities planned for the Springfield Youth Day of Caring scheduled for April 22. She explained the background of the Springfield Youth Day of Caring and how it had grown since it's creation in 1997. Expenses and the need for adult help were also increasing. Cassandra encouraged the Mayor and council to look over the forms that were distributed to them regarding the Springfield Youth Day of Caring. She displayed the t-shirts the students and adult helpers wear during the Day of Caring. She discussed the many that have helped the program.

CONSENT CALENDAR

IT WAS MOVED BY COUNCILOR WOODROW WITH A SECOND BY COUNCILOR LUNDBERG TO APPROVE THE CONSENT CALENDAR WITH ITEM 4.A. REMOVED. THE MOTION PASSED WITH A VOTE OF 6 FOR AND 0 AGAINST.

1. Claims

2. Minutes

- a. February 22, 2005 – Special Regular Meeting
- b. March 7, 2005 – Regular Meeting

3. Resolutions

- a. RESOLUTION NO. 05-15 – A RESOLUTION TO ACCEPT PROJECT P20276 FROM GRANT'S LANDSCAPING SERVICES IN THE AMOUNT OF \$69,294.98.

- b. RESOLUTION NO. 05-16 – A RESOLUTION TO ACCEPT PERMIT PROJECT P30396, CONSTRUCTION OF STREETS, SEWER AND DRAINAGE IMPROVEMENTS IN JOHN’S WAY SUBDIVISION.
- c. RESOLUTION NO. 05-17 – A RESOLUTION TO AUTHORIZE THE CITY MANAGER TO ENTER INTO AN AMENDED CONTRACT WITH KPFF CONSULTING ENGINEERS IN THE AMOUNT OF \$29,554 FOR ENGINEERING SERVICES FOR THE DESIGN AND CONSTRUCTION MANAGEMENT OF THE STORM WATER SEWER IN THE MARTIN LUTHER KING, JR. PARKWAY.
- d. RESOLUTION NO. 05-18 – A RESOLUTION TO ACCEPT PERMIT PROJECT P30414 TEIGEN PUBLIC IMPROVEMENTS, 72ND STREET.

5. Other Routine Matters

ITEMS REMOVED FROM THE CONSENT CALENDAR

4. Ordinances

- a. ORDINANCE NO. 6122 – AN ORDINANCE CREATING AN OUTDOOR CAFÉ PERMIT, ESTABLISHING STANDARDS FOR THE GRANTING OF SUCH PERMIT, AUTHORIZING THE CITY MANAGER TO ISSUE PERMITS, ADDING SECTION 7.900 THROUGH 7.908 TO THE SPRINGFIELD MUNICIPAL CODE AND ESTABLISHING AN EFFECTIVE DATE.

IT WAS MOVED BY COUNCILOR WOODROW WITH A SECOND BY COUNCILOR FITCH TO APPROVE ITEM 4.A. FROM THE CONSENT CALENDAR. THE MOTION PASSED WITH A VOTE OF 5 IN FAVOR AND 0 AGAINST (1 ABSTENTION – LUNDBERG).

PUBLIC HEARINGS - Please limit comments to 3 minutes. Request to speak cards are available at both entrances. Please present cards to City Recorder. Speakers may not yield their time to others.

- 1. Ordinance Amending Chapter 2 of the Springfield Municipal Code Concerning Real Property Compensation.

ORDINANCE NO. 6126 – AN ORDINANCE CONCERNING REAL PROPERTY COMPENSATION AMENDING SECTION 2.920 “DEFINITIONS” (1) “APPRAISAL”, SECTION 2.920 “EXEMPT LAND USE REGULATION” (4)(B), SECTION 2.930 “DEMAND APPLICATION”, SECTION 2.940 “APPLICATION REVIEW CRITERIA” (2), SECTION 2.942 “INITIAL NOTICE OF DEMAND AND RECOMMENDATION BY CITY MANAGER”, SECTION 2.950 “CONDITIONS OF APPROVAL, REVOCATION OF DECISION, GOVERNMENT AND ADMINISTRATION”, AND SECTION 2.953 “CITY COUNCIL DECISION EFFECT” OF CHAPTER 2 “GOVERNMENT AND ADMINISTRATION” OF THE SPRINGFIELD MUNICIPAL CODE, DECLARING AN EMERGENCY AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Planning Manager Greg Mott presented the staff report on this item. As an element to the Real Property Compensation process, the council directed staff to routinely update the ordinance to reflect changes in the law, the interpretation of the law, and to incorporate efficiencies into the process derived from first-hand experience. The amendments in Attachment 1 represent the first of these updates.

On March 14, 2005, the council reviewed at Work Session the amendments in Attachment 1, together with the State Attorney General's opinion regarding blanket waivers and transferability of waivers. The amendments include: a definition of appraisal that does not require MAI certification; drinking water protection as an exempt land use regulation; requirement of a copy of land use regulations in place at the time the claimant acquired the property; provisions for public meeting notice including how and when to provide written testimony; and a provision that council action regarding modification or removal of a regulation is transferable to the extent required by Ballot Measure 37. At the conclusion of the Work Session, council directed staff to submit these amendments for public hearing on April 4, 2005, with an additional amendment clarifying benefits that may accrue to a family or business partner who performs the real property appraisal as part of the claim for compensation.

Mr. Mott said some minor wordsmithing changes had been made to the ordinance. He referred to the changes made and explained those changes. They were housekeeping changes or related to the ripple affect the proposed changes would have on the language that existed in the text elsewhere. He explained the changes in sections 4, 5, 6(e), 7 (3), 8 (4), 9 (5)(6)(7) as noted in the proposed ordinance. To date, the courts had not heard case and the legislature had not acted upon this.

Mayor Leiken opened the public hearing.

No one appeared to speak.

Mayor Leiken closed the public hearing.

Councilor Woodrow thanked staff for their diligence.

Mayor Leiken appreciated staff for keeping it simple and uncomplicated.

IT WAS MOVED BY COUNCILOR WOODROW WITH A SECOND BY COUNCILOR LUNDBERG TO ADOPT ORDINANCE NO. 6126. THE MOTION PASSED WITH A VOTE OF 6 FOR AND 0 AGAINST.

BUSINESS FROM THE AUDIENCE - Limited to 20 minutes. Please limit comments to 3 minutes. Request to Speak cards are available at both entrances. Please present cards to City Recorder. Speakers may not yield their time to others.

1. Wil Hoff, President of Neighborhood Watch Board of Directors, 658 South 57th Street, Space #46, Springfield, OR Mr. Hoff had requested and was granted to speak for ten minutes during tonight's Business from the Audience. Mr. Hoff said he wanted to bring the Mayor and council up-to-date on the Neighborhood Watch Program. Neighborhood Watch was

started in Springfield in 1982 and was established as a 501(c)(3) non-profit organization. He said today fifty-one Neighborhood Watch Groups existed in Springfield. Each consists of a community, a block or a complete neighborhood. In all, there are 1400+ members, which make up about ten percent of Springfield's population. A member could be a household, a single person or a family group. Each group should have regular meetings for sharing local information and training. These groups are a real help to the police as they are the eyes and ears of the community. He gave an example of how the neighborhood group had helped in his own community when a drug house was operating in their neighborhood. Through the efforts of the neighbors in Neighborhood Watch, the owner of the drug house moved away. He explained that the job of the Board of Directors was to provide leadership and training so the members could spot suspicious activity. Neighborhood Watch was homeowners' insurance that really worked. They trained on crime prevention including burglary, arson, robbery and identity theft. They brought in professional crime prevention persons to conduct training seminars to teach the members. Other things they offered included home inspection, upgrading of locks, lighting, motion lights, alarm systems, and training on how to keep valuables secure. Neighborhood Watch posted signs and decals to show the neighborhood was watching. Neighborhood Watch had made grant applications to two organizations to help with expenses. He said a few weeks ago he attended a HomeLand Security conference in Salem. HomeLand Security would depend on Neighborhood Watch. He described what was done during World War II regarding block wardens that alerted the police to danger. This was similar and dependent on Neighborhood Watch to do what was necessary. HomeLand Security was concerned about any type of disaster that could occur and wanted Neighborhood Watch members to be ready to be the first responders in local situations. First responders were those that were in the area, and may be ahead of Police and Firefighters. Mr. Hoff thanked council for the extra time and asked that they call if they had questions. He submitted some of the Neighborhood Watch newsletters for council to review.

2. Fred Simmons, 312 S. 52nd Place, Springfield, OR Mr. Simmons said he was told there would be a resolution proposed that the council would dedicate a portion or all of the Utility Tax to jail operations. He said the findings, the ordinance, the ballot title and referral had been done and for council to say they would bind future councils and Budget Committees to that was a bit of a stretch. He said the facts spoke for themselves and the ordinance and ballot title were already written. Such a resolution would not change the facts.
3. Dan Egan, 850 North 6th Street, Springfield, OR Mr. Egan said he was the Executive Director of the Springfield Chamber of Commerce. He referred to the editorial written by Chamber President Corkey Gourley which urged council to link the funds from the Utility Tax made more strongly. He said it was hard for a Chamber to come out in favor of a tax, but they supported the jail and now the jail must be funded. The Utility Tax was a way to take care of that problem. No one wanted to pay more taxes. Those that were committing crimes would not want to see the funding found for the jail. He said the Chamber takes it seriously when advocating for a tax, but they understood that with the bonding issues imposed by the state, the burden would be placed on Springfield taxpayers one way or another. Any kind of resolution that council could do to let the voters know that was the intent of the funds would help with the Utility Tax.
4. Ernest Tyndall, 670 North 34th Street, Springfield, OR Mr. Tyndall said he wanted to know if the City Council had made a decision on whether or not to accept Mr. Mott's proposal to rezone Adam's Platt.

Mr. Kelly said Mr. Tyndall had been before council at previous council meetings asking for consideration for rezoning the property where he and his neighbors lived. He noted the choices that had been presented to council at meetings and in memorandums by Planning Manager Greg Mott. The choices dealt with Oregon land use law and what could be done regarding refinement plan changes, changes in zoning and cost to the citizens or the city. He said he could have Mr. Mott come forward to explain those options. Mr. Tyndall was looking for some direction. He knew the options, but felt that proceeding on their own would not be feasible for the property owners because of the costs. Mr. Tyndall had asked council to consider paying for all or part of the fees.

Mr. Mott came forward to explain the options. He said Mr. Tyndall and several of his neighbors had homes on properties that were both planned and zoned light industrial. In order to reconcile that difference, they would need to terminate their residential use and put in industrial use, or the zoning and the plan designation would need to be changed to residential. The neighbors had no interest in remaining industrial, but would like it changed to residential. The city had gathered observation and data collection. Mr. Mott referred to a map from a past Communication Packet regarding these properties and noting other properties that were zoned as such. He noted, however, that this street was the only one in Springfield that was strictly residential. He explained the configuration of Mr. Tyndall's street. The zoning was something from the past. He explained the planning process. The tendency in the past was to let it be and hope it would correct itself. That had not occurred in this case. The council had initiated this type of change in the past. The amount of work left to do was substantially less than if nothing had been done to this point. Some of the information had already been gathered and much of the upfront costs had come and gone. The normal fee would be about \$8000 for the group processed as a single action.

Councilor Ralston said he was supportive of a property owner using the property to the best advantage. He discussed why the property owner would want this change. Since there would be some benefit to the owner, he would approve having the city split the cost with the property owners.

Mayor Leiken asked how many neighborhoods in Springfield were in this situation that might approach the city about splitting the cost of rezoning.

Mr. Mott said the city had not been approached by anyone in a similar circumstance. There had been people who had come in to develop their property with a plan zone conflict.

Councilor Woodrow said the last time this came forward he made a motion that the city split the cost with the owners. That motion died for the lack of a second. He would agree to make that motion again if council were willing to vote on that, with the stipulation that it would be done for these property owners because they had residential units on campus industrial property. He did not want to set precedent of others who wanted to change their zoning because they can't sell their house.

Councilor Lundberg confirmed the cost would be a total of \$8000 which would be split between property owners. For the four lots, that would be about \$2000 each. She asked Mr. Tyndall if the purpose for the rezone was to allow them to sell their property.

Mr. Tyndall explained that if any of the owners had a fire that damaged over fifty percent of their home, they would not be covered by their insurance. He explained the issue with other property owners. Mr. Tyndall had owned the property for three or four years, but should not have been able to get a loan because of the zoning. The bank made an error when issuing a loan and he was not aware of the zoning issue when he purchased the property. Others had owned their property for a number of years. These properties were a neighborhood and should be classified as a neighborhood. He said when Councilor Woodrow made the original motion to split the costs, council asked for more information before making a decision.

Councilor Ralston said he did not recall that original motion, but recalled asking for additional information.

Councilor Ballew said the city needed to do what was right for 50,000 people, not just for four family units. She said it was important to define who would pay and who would be benefiting. Council had the responsibility to represent the other 50,000 people and not to set a precedent.

Mr. Tyndall said he could put down his cost.

Councilor Lundberg said she would err on the side of splitting the cost at some percentage, because it was not a matter that was the fault of the property owner. She would opt for some type of percentage because of a number of changes had occurred in this area. She did not know if fifty percent would be appropriate, however.

Councilor Pishioneri said council wanted to do the right thing and it seemed easy to resolve this by changing the zoning to conform. He asked if this would cause others to come forward with the same request. He was fine with helping out these neighbors, but thought it was important to look long term.

Councilor Ralston said council would deal with these issues one at a time. Staff had indicated that no one else had approached the city regarding a similar request. His position was to do the reasonable thing by the property owner.

Mr. Mott said with the plan zone conflict the city had an obligation to correct that. He said the council was not obliged by law to make the same decision on subsequent property owners with the same request. It would not be a question of unequal treatment, as each situation would be different. It would be difficult to imagine an identical circumstance to this situation.

Councilor Fitch said her first thought was not to have the city pay any of the costs. She said she now was willing to listen to this and for the sake of moving it along, would agree that if all four would agree to pay fifty percent of the total costs, subject to a quick timeline, council could approve payment of the other fifty percent. If only one property owner accepted this offer, it would not be valid.

IT WAS MOVED BY COUNCILOR FITCH WITH A SECOND BY COUNCILOR RALSTON TO HAVE THE CITY PAY FIFTY PERCENT OF THE TOTAL COSTS OF THE REZONE PERMIT FEES OF \$8000 IF THE FOUR PROPERTY OWNERS AGREED TO ACCEPT THE OFFER WITHIN THIRTY DAYS TO PAY THE OTHER FIFTY PERCENT. THIS OFFER IS ONLY GOOD FOR THIS PARTICULAR CASE AND ONLY IF ALL FOUR PROPERTY OWNERS APPLY. THE MOTION PASSED WITH A VOTE OF 6 FOR AND 0 AGAINST.

Mr. Kelly said because ordinance and procedures did not allow council to waive or discount fees, if the motion passed, the city would pay the additional \$4000. The total \$8000 would be paid: \$4000 by the city and \$4000 by the property owners.

5. David Rodriguez, 87984 Heather Drive, Springfield, OR. Mr. Rodriguez referred to an issue that he brought to council twenty years ago regarding the drift boat as the city emblem. He said the city council at that time dug in as deeply as this City Council had regarding RiverBend. He said he brought the driftboat to the voters through an initiative and the voters chose to have it as the city logo. He said two Friday's ago, he had come to the Public Works Department to look through a file regarding RiverBend and Baldy View Lane. He had earmarked some files that he wanted copied. He said one of those documents, an interdepartmental memo which referenced three feet of fill at the entrance of the flood channel, was removed and disappeared. He said he was ashamed of Springfield. He said council had the opportunity to analyze the risk of channel migration, but did not direct staff to look into this risk. He said that would be considered gross negligence on the part of the council should the channel realign. He discussed Councilor Ralston's votes against this project in the past and the vote of support he made tonight. Mr. Rodriguez said the fill at the mouth of that channel could likely impact the entire flood plain analysis. If that was illicit fill, the flood plain analysis would be invalid. He explained why. He discussed the Sony fill and said there was no permit. He said he wished council would have asked staff to look into this issue. Because they didn't, it didn't show due diligence on council's part.
6. Curtiss Greer, 357 55th Street, Springfield, OR. Mr. Greer said he felt that the council trying to mislead the people into thinking the Utility Tax could be diverted to one thing was a bad move. He said council should look at other sources of revenue to solve the jail operations issue.

COUNCIL RESPONSE

CORRESPONDENCE AND PETITIONS

1. Correspondence from Wil Hoff, President of the Springfield Neighborhood Watch, 344 North A, Springfield, OR Requesting Additional Time to Speak Before Council.
2. Correspondence from Christopher D. Horton, 1085 Calvin Street, Eugene, OR Regarding the Soup Kitchen and the American Legion Hall.
3. Correspondence from Judith E. Harold, Youth Services Manager, Springfield Library, 225 Fifth Street, Springfield, OR Regarding the Early Literacy Program Offered at Springfield High School's Young Parent Class.

IT WAS MOVED BY COUNCILOR WOODROW WITH A SECOND BY COUNCILOR LUNDBERG TO ACCEPT THE CORRESPONDENCE FOR FILING. THE MOTION PASSED WITH A VOTE OF 6 FOR AND 0 AGAINST.

BIDS

ORDINANCES

BUSINESS FROM THE CITY COUNCIL

1. Committee Appointments

a. Arts Commission Appointment

Librarian Barbara Thompson presented the staff report on this item. The Arts Commission has one vacancy on its board. Member Sandra Dominguez has moved from Springfield and has therefore resigned from the commission. Her term would expire Dec. 31, 2007. Rosalee Baker has applied for the position.

The council reviewed Rosalee Baker's application during the March 21 work session.

The Arts Commission recommends that Rosalee Baker be appointed to the commission, with a term to expire December 31, 2007.

The Arts Commission reviewed her application. Ms. Baker was unable to attend the commission's regular March meeting, but did meet with a delegated group of members on March 17.

Ms. Baker, now retired, taught music in the Springfield school district for several years. The commission believes that Ms. Baker's connections with the school district and involvement with the music community will be of special benefit to the Springfield community. The commission believes she is well qualified to be appointed to the Arts Commission.

Ms. Baker meets the residence requirement that members have a business or reside within the 97477, 97478, or 97482 zip code areas.

IT WAS MOVED BY COUNCILOR WOODROW WITH A SECOND BY COUNCILOR LUNDBERG TO APPOINT ROSALEE BAKER TO THE ARTS COMMISSION WITH A TERM TO EXPIRE DECEMBER 31, 2007. THE MOTION PASSED WITH A VOTE OF 6 FOR AND 0 AGAINST.

2. Business from Council.

a. Committee Reports

1. Councilor Ballew said she met with Curtiss Greer and Fred Simmons regarding sanitary sewer rates. They didn't come to agreement, but did discuss that the difference between Springfield and Eugene is that Springfield uses rates to finance some capital projects that Eugene may use SDC's for. It is a long range policy that could be considered in the future.
2. Councilor Ralston said on a humorous note, he received the lyrics to Kumbaya from a citizen.
3. Mayor Leiken said he attended a press conference on bio-diesel at Rexius Forest By-Products. He said Springfield had been a leader in environmental issues. He was pleased with our Public Works Department as they have bought diesel vehicles that

could be powered by bio-diesel. Rexius had been doing this for a full year. He gave accolades to Marcy Parker in the Public Works Maintenance Department for her role in this project. He noted that Royal Caribbean would power their generators using bio-diesel when they built their facility in Springfield.

Councilor Ralston noted that LRAPA had been a leader in the use of bio-diesel.

4. Councilor Lundberg said the Community Development Advisory Committee (CDAC) met last week and there was also a meeting with Colonial Drive neighbors. She said the neighbors were still very unhappy about not receiving a soundwall on the other side of Beltline opposite of Patrician. Transportation Manager Nick Arnis would bring this forward in a work session to discuss the issue with council. The CDAC had many requests for funding. The committee completed the work and would bring it to council soon.
5. Councilor Woodrow said several weeks ago he made a motion to direct the use of the Utility Tax funds to Public Safety and Jail. He made an amendment to that motion. He referred to Mr. Simmons comments and acknowledged that this council could not commit future councils to anything, but once something was in place it would be difficult to change.

IT WAS MOVED BY COUNCILOR WOODROW WITH A SECOND BY COUNCILOR RALSTON TO DEDICATE THE UTILITY TAX REVENUE TO JAIL OPERATIONS. (*Voting results below)

Councilor Ballew said the Utility Tax was to assist the General Fund. There needed to be enough financing to support the city and the jail would be a new expenditure. There was enough difficulty trying to deal with the financing issues the city faced now. She said she would not support this dedication.

Councilor Lundberg said the ballot measure stated that this was on the ballot for General Services. It would be misleading to tie something down when it was not on the ballot. The ballot stated it was for General Services and that was why it went to referendum to give voters the chance to decide. She said she would not support dedicating these funds. She agreed with Councilor Ballew that there was a budget to balance now and the jail was a separate function. She acknowledged that the council asked the voters to approve a ballot measure that stated the jail would not be built until funding was found for the jail operations. She said no matter how supportive she was in trying to address the city's needs regarding the jail, there were other ways to come up with the funding. She said the city needed to look at ways to balance the budget now and to fund the jail. She said it would send the wrong message to the community because it was not a united front among councilors.

Councilor Fitch said she would support the motion. Council put out to the voters the opportunity to state whether or not they wanted the city to build a jail along with the rest of the public safety facility. In a compromised move, it was part of the measure that the city would not build the jail without funding for operations. She felt the funding source had been found through the Utility Tax. There would always be challenges with the revenue for the General Fund, but this could be a way to identify

the source to fund the operations so the jail could be built. Future councilors could change this decision, but right now if a majority of the councils agreed, the funds would go to the operation of the jail during this cycle.

Councilor Ralston referred to Greg Shaver's comments about using the Utility Tax for funding for the jail and the difference it would make in how his family would vote. Councilor Ralston said the jail was something the citizens felt strongly about and if council wanted to show faith to the voters that council would go forward with a way to fund the jail, this motion would be important. If the funds were not dedicated, they would be gone by the time the jail was ready to be built. He said that although he had said in the past that he would not support the Utility Tax, under these circumstances he would change his mind.

*** THE MOTION PASSED WITH A VOTE OF 4 FOR AND 2 AGAINST
(BALLEW AND LUNDBERG)**

BUSINESS FROM THE CITY MANAGER

BUSINESS FROM THE CITY ATTORNEY

ADJOURNMENT

The meeting was adjourned at 8:10 p.m.

Minutes Recorder Amy Sowa

Sidney W. Leiken
Mayor

Attest:

City Recorder