

MINUTES

Eugene City Council
Council Chamber—Eugene City Hall
777 Pearl Street—Eugene, Oregon

August 9, 2010
7:30 p.m.

COUNCILORS PRESENT: Mike Clark, Betty Taylor, Jennifer Solomon, Andrea Ortiz, George Poling, Chris Pryor, Alan Zelenka, George Brown, members.

Her Honor Mayor Kitty Piercy called the regular meeting of the Eugene City Council to order.

1. PUBLIC FORUM

Mayor Piercy reviewed the rules of the Public Forum.

Adam Bernstein, owner of Adam's Sustainable Table, said he supported the City's efforts to improve downtown, particularly around Kesey Square and along Broadway. He said he was a long-time staunch supporter of civil rights but he believed the downtown exclusion ordinance had led to improvements downtown and the community should continue to give the City and the police and community every opportunity possible to make more positive changes downtown. Before the institution of the exclusion zone and other changes made downtown by the City, he had periodically had people running through his restaurant to get away from a deal gone wrong or something bad. He hoped the council extended the ordinance.

Drix, a resident living on High Street, reported on the West University Neighborhood's gathering in conjunction with National Night Out, saying the event was "very cool." He said he and the Oregon Duck started out the event with banter and mime and then a tour bus containing the Mayor and council stopped by. He thought it was a good reward for all the work that was done. He said "community is what we are if we are all together." Drix believed the council was doing a great job downtown and he enjoyed the Center Court development. He spoke of other downtown amenities, in particular the Dinning Room run by Food for Lane County, and encouraged people to visit the facility. He wished all a good summer.

Mary Leighton, representing the Network Charter School, asked the council to extend the downtown exclusion zone. She said the exclusion zone had a good effect but she needed to know it was not enforced unfairly and she thought the data being collected by the Police Department would help to demonstrate that. She said "thanks" to the council for saying "yes" to the storefront art project, which made all empty spaces look better. She also thanked the council for creating a cooperative atmosphere downtown.

Jared Mason Gere, Eugene Area Chamber of Commerce and Downtown Eugene, Inc., 1400 Willamette Street, expressed support for the downtown exclusion ordinance due to the importance of the downtown core to the area's economy. He suggested the issue was not so much the zone itself but how the council made its decisions. He suggested that after a two-year trial, it would be a shame not to extend the ordinance for another two months to ensure the council had adequate data on which to base its analysis of the ordinance. He urged the council to extend the ordinance and allow staff to return with the additional data.

Kimberly Gladen, West Broadway, thanked the council for many of the improvements that helped make downtown a better place. She asked the council to extend the downtown exclusion ordinance. Ms. Gladden believed it had reduced homeless-on-homeless violence. She said that when stressed individuals were pushed together, that created problems, and the addition of a criminal element was a danger to those people as well as a disadvantage to business. The imposition of the ordinance had improved conditions downtown. She suggested that more safety for all residents, including youth, homeless, and mentally ill, was a good thing. She thought the ordinance had been good for downtown and thought the data would demonstrate that. Ms. Gladden suggested that the ordinance could be changed if it was not enforced properly.

Betty Snowden supported extending the ordinance and giving the department the time it needed to complete its reporting. She shared her own family's experience with trying to run a business downtown and the physical and mental violence and harassment that her family faced on a daily basis. She had found it interesting her family never received a telephone call from the ACLU about its experience and the violations of rights that it had endured. She said the exclusion ordinance finally had an impact on repeat offenders.

Ms. Snowden said the issues involved were not about youth or appearance; they were about public safety, and about people's ability to conduct business downtown without fear, walk the streets, and feel safe. She said her family could see the improvement that resulted from the exclusion ordinance.

Cassandra Snowden, PO Box 5166, Eugene, said before the establishment of the ordinance, her family was subjected to racial harassment, which happened less frequently since the ordinance was put in place. She believed her family should have the right to feel safe on a daily basis. She believed the ordinance was necessary to address the problem of repeat offenders. She said it did not matter if someone was wearing a business suit, if they broke the law and victimized others, they deserved consequences.

Sue Vandmeyer, Director of Energy Village, an organization dedicated to community growth through collaboration, advocated for the establishment of a center for homeless youth downtown. She envisioned a "one-stop shop" with services and a safe environment for service providers. She spoke of her efforts to put together such a facility. Ms. Vandmeyer also discussed Energy Village's intent to establish an information center downtown.

Mayor Piercy closed the Public Forum and thanked those who spoke. She noted her support for extending the downtown exclusion ordinance while awaiting the Police Commission's review of the ordinance.

Councilor Clark thanked those who testified and discussed their experience with the downtown exclusion zone. He believed the council should extend the zone long enough to review the data.

2. CONSENT CALENDAR

A. Approval of City Council Minutes

- June 23, 2010, Council Meeting
- June 28, 2010, Work Session
- July 26, 2010, Work Session

B. Approval of Tentative Working Agenda

Councilor Clark, seconded by Councilor Taylor, moved to approve the Consent Calendar as presented. Roll call vote; the motion passed unanimously, 8:0.

**3. ACTION:
Judicial Evaluation**

Mayor Piercy opened the public hearing.

City Manager Ruiz said the Eugene Code required a formal citizen review of the judge's performance, and the public hearing was part of the process.

Carol Berg-Caldwell, 2510 Augusta Street, concurred with the council's positive assessment of Judge Wayne Allen. She spoke of her observations of the court, which were generally very encouraging, and commended Municipal Court staff as well.

Majeska Seese Green, 5th Avenue and Van Buren Street, agreed with the assessment of Ms. Caldwell. She appreciated how informative Judge Allen was with all in the courtroom and how carefully he chose his words.

Mayor Piercy closed the public hearing.

**4. ACTION:
Presiding Judge Reappointment**

Mayor Piercy called for action on the reappointment of the presiding judge.

Councilor Clark, seconded by Councilor Taylor, moved to reappoint Wayne Allen as the presiding judge.

Mayor Piercy noted the extensive council work session on the topic. She thanked the judge for his good work on behalf of the City.

Roll call vote; the motion passed unanimously, 8:0.

**5. ACTION:
TransPlan and Metro Plan Amendments to Planning Period that Reflect Previously
Adopted Coordinated Population Forecasts and Removal of Completed Projects**

Councilor Clark, seconded by Councilor Taylor, moved to adopt Council Bill 5030, included as Attachment A, amending TransPlan and the Metro Plan as set forth in exhibits A and B of that ordinance, based on the findings of consistency set forth in Exhibit C of that ordinance .

Senior Transportation Planner Kurt Yeiter was present to answer questions.

Councilor Zelenka referred the council to amendments to the motion he had prepared for the item. He wanted to modify the plan to ensure it reflected actions that already occurred, such as removal of the West Eugene Parkway from the Regional Transportation Plan (RTP)

Councilor Zelenka, seconded by Councilor Ortiz, moved to amend the ordinance to:

1. Revise Section 6 to state: "Notwithstanding the provisions of the Eugene Charter of 2002, Sections 1- of this ordinance shall not become effective until the Lane Board of County Commissioners and the Springfield City Council have taken action identical to the action taken by the City of Eugene in sections 1-3 of this ordinance."
2. Add a new Section 7 to state: "The heading on Chapter 3, page 7 of TransPlan is hereby amended to add a footnote that states: 'While transportation projects related to the West Eugene Parkway remain on the project lists, the Metropolitan Policy Committee has eliminated all funding related to the West Eugene Parkway from the Metropolitan Transportation Improvement Program and the State Transportation Improvement Program and has deleted all West Eugene Parkway transportation projects from the federally required Regional Transportation Plan. Thus, no West Eugene Parkway transportation project can be relied upon as a planned transportation facility under the State Transportation Planning Rule.'"
3. Add a new Section 8 to state: "Pursuant to Eugene Code 9.7730(2) and Lane Code 12.225(1)(b), notwithstanding the provisions of the Eugene Charter, Section 7 of this ordinance shall not become effective until the Lane Board of County Commissioners has taken action identical to the action taken by the City of Eugene in Section 7 of this ordinance."

Councilor Clark recognized that the West Eugene Parkway project was dead, but it still had a placeholder status in planning documents for legal reasons. He asked if passage of the motion would place into question a property owner's ability to apply for a change of zone. Councilor Clark referred to the last section of the amendment and asked if it hampered the ability of the council to change zones and effectively prove compliance with transportation goals. City Attorney Jerome said because the facility was not going to be built, any developments that generated traffic in west Eugene could not rely on the West Eugene Parkway to accommodate that traffic. The text offered by Councilor Zelenka would clarify that to the reader of the TransPlan document. She anticipated that the project would be removed from TransPlan next year.

Councilor Pryor supported adding item 2 as a clarifying footnote was a good idea and determined from City Attorney Jerome that if the motion was adopted, it further clarified the adopting jurisdictions and ensured that even if Lane County did not adopt the footnote, it still went forward.

Roll call vote; the amendment to the motion passed, 8:0.

Roll call vote; the motion passed, 8:0.

6. ACTION:
Recommendation on Proposal to Name New Willamette/I-5 Bridge the "Whilamut Passage Bridge"

Councilor Clark, seconded by Councilor Taylor, moved to support the Citizen Planning Committee recommendation and direct staff to prepare a letter to the Oregon Department of Transportation endorsing the name "Whilamut Passage Bridge."

Councilor Zelenka commended the idea as honoring the Kalapuya Indian tribe and thanked David Sonnichsen of the Whilamut Citizen Planning Committee for forwarding the idea.

Councilor Clark asked staff to clarify what the bridge signage would cost. City Manager Ruiz said it would be \$960.

Councilor Clark noted that his great-great grandmother was a member of Montana's Blackfoot Tribe, and this was the first time he had been able to participate in such an event. He felt honored to do so.

Roll call vote; the motion passed unanimously, 8:0.

7. ACTION:

An Ordinance Concerning Downtown Public Safety Zones; Amending Ordinance No. 20419 to Extend the Sunset Date and Deadline for Providing a Recommendation Regarding Continued Enforcement of the Ordinance; and Providing an Immediate Effective Date

Councilor Clark, seconded by Councilor Taylor, moved to adopt Council Bill 5033, the proposed ordinance concerning amending Ordinance No. 20419 by extending the sunset date and deadline for providing a recommendation regarding continued enforcement of the ordinance.

Councilor Ortiz hoped the Police Commission could demonstrate what the data showed and that she got what she needed to continue to support the ordinance. She said the City had thrown everything at downtown but the kitchen sink. She was more than willing to do what she could to support downtown, but she had heartburn over the issue as a result of the testimony she heard and the input she received. She looked forward to seeing the data.

Councilor Taylor said she opposed excluding anyone from downtown. People have to be somewhere and if they commit crimes there were other remedies. She had not voted for the ordinance and there was no way she would vote for it now. Downtown was better for people to be than other places and the more people downtown, the better it was for downtown. Councilor Taylor said she had been impressed with the testimony of the ACLU. She acknowledged it was a difficult situation for her because she liked and admired many people testifying in favor of the ordinance. She just disagreed with them about the ordinance.

Councilor Clark hoped the council extended the ordinance to give the Police Commission time to examine the data. He reminded the community that the Police Commission meetings always included a Public Forum opportunity.

Councilor Brown recalled that the ordinance was established for a two-year period and the ordinance had reached its sunset date. He said it was time for the ordinance to expire. The Police Commission was aware that the ordinance was due to expire and although he acknowledged the commission was busy, he thought it could have formed a subcommittee to review the topic.

Councilor Brown said the raw statistics the council received from Judge Wayne Allen indicated there were 11 pre-trial exclusions. He had a hard time with that statistic. He thought the new jail beds and police downtown would help conditions downtown. Councilor Brown did not support the ordinance and preferred to let it sunset while further analysis occurred. Then the council could reinstate it. He believed it was of questionable legality but those being charged had no money to challenge it.

Councilor Zelenka had not initially supported the exclusion zone and was skeptical about it. However, he would support extending the ordinance pending receipt of the commission's review.

Speaking to Councilor Brown's comments, Councilor Zelenka pointed out the commission could only do so much work in the time given and the council had asked it to review the taser policy, which took considerable commission time and energy. He considered the extension a procedural rather than a substantive issue. He wanted to know who was excluded for what, and for how long. He was also curious to know how one discerned the difference between the effect of the exclusion zone and the other things going on. He was also concerned about the constitutionality of the ordinance and noted that he had asked that Judge Allen be contacted for his input.

Councilor Clark welcomed any recommendations from Judge Allen. He pointed out that the penalty involved was a civil penalty that mimicked, and was similar to, an anti-stalking order or restraining order, to keep people who might potentially hurt someone from that person. He thought that was an appropriate way to consider the zone.

Councilor Brown said he was a downtown business owner who was well aware of the problems that downtown experienced. He was sympathetic to the idea behind the exclusion ordinance and knew exactly where people were coming from. He had many of the same experiences. He just did not think the ordinance was the right approach. He had deep-seated concerns about the loss of civil rights, but reiterated he understood the intent behind the ordinance.

Mayor Piercy said the council was not voting on the merits of the zone but rather to extend the time the ordinance was in effect. She hoped the report the council heard provided better direction in regard to the due process issue.

Roll call vote; the motion passed, 6:2; Councilor Taylor and Councilor Brown voting no.

Mayor Piercy adjourned the meeting of the City Council and convened a meeting of the Urban Renewal Agency (URA).

8. ACTION:
Urban Renewal Commitment of Riverfront Research Resolution 5011 Adopting a Supplemental Budget; Making Appropriations for the City of Eugene for the Fiscal Year Beginning July 1, 2009, and Ending June 30, 2010

Councilor Clark, seconded by Councilor Taylor, moved to direct the Agency Director to commit to the use of Riverfront Urban Renewal District funds as the match for the TIGER II grant application and include the matching funds on the next supplemental budget after and if the grant is approved.

Councilor Ortiz wanted to ensure that the improvements to Highway 99 were on the list for United Fund funding efforts. Mr. Inerfeld said that staff intended to put it on the list as requested. He indicated that staff found the project was not the right fit for TIGER II funding. Councilor Ortiz thought it was important to act while ODOT was working on the road.

Mr. Inerfeld responded to questions from Councilor Brown clarifying the details of the project to be funded with the grant.

Councilor Brown indicated he was unable to support the expenditure, preferring to keep the money in the district for a district-specific project. He suggested the City could use the money on a new city hall on the Eugene Water & Electric Board (EWEB) property, for example.

Councilor Zelenka supported the project, pointing out that planning was necessary before the infrastructure investment, and the funding set the stage for further work.

Mayor Piercy said the proposal was another step in a plan that the council had in motion and the National Environmental Policy Act (NEPA) process was essential before the project could move forward. She also noted that the project was one of the types of projects envisioned in the Livable Cities legislation passed by Congress the previous week.

Councilor Taylor did not generally support the diversion of General Fund money to urban renewal but since the money was already there and the project seemed worthwhile, she would support it.

Councilor Brown said that the Challenge Grant funds were already taken care of. If he thought the use of urban renewal was necessary for the housing element of the project, he would support it, but the money was going for matching dollars for the TIGER II grant. For that reason, he opposed it. He would not oppose land-banking for low-income housing.

Councilor Clark noted the high priority the council placed on the Beltline project and asked if the TIGER II grants could be used to realize that project in a quicker fashion. Mr. Inerfeld said the grant program was geared toward mixed-use development and multi-modal transportation, and the Beltline project had not seemed like the right fit. The City had requested federal funding for the Beltline project.

Councilor Clark asked if the timeline for the two projects would be very different. Mr. Inerfeld said that it depended on the receipt of funding. The City needed to work with the Oregon Department of Transportation to find more money for the NEPA process for Beltline but he thought the challenge would be getting the facility plan approved.

Roll call vote; the motion passed, 7:1; Councilor Brown voting no.

Mayor Piercy adjourned the meeting of the URA and reconvened the meeting of the City Council.

9. WORK SESSION: Police Auditor Evaluation Process

The council was joined by Human Resources Director Alana Holmes, who reviewed the options before the council for evaluating Police Auditor Mark Gissiner.

Councilor Clark liked the criteria from the previous evaluation as a starting point. He wanted to see the community stakeholder feedback first. He wanted to keep the criteria rankings for this year's evaluation, but wanted to move toward the four point metric used in the City Manager's evaluation to more mechanically and fairly evaluate the auditor. He asked if the panel could be done this year. Ms. Holmes said yes, and said there were other sources for feedback that also made sense.

Councilor Pryor agreed with the remarks of Councilor Clark and thought incorporating some of the changes to the City Manager's performance would be beneficial. He would move to a four-point appraisal system this year as he found the metrics system challenging to use and there were other tools the City Council could employ.

Ms. Holmes said staff could look into that with the understanding the Civilian Review Board had already done its rating using the existing ranking system. She said the council could either be aware of that or the CRB could be asked to redo its rating. Councilor Pryor did not think that mattered. He said he would be comfortable using both. The use of one did not preclude the shift to a four-point system.

Councilor Zelenka also liked the process the council used to evaluate the City Manager and had struggled with the expectations metric. He preferred the four-point scale mentioned by Councilor Clark and agreed with Councilor Pryor about doing it this year. He said if the CRB agreed to change, that was great.

Mayor Piercy determined from Ms. Holmes that she envisioned an evaluation process similar to that used for the City Manager and it was possible to make the shifts requested by councilors Clark, Pryor, and Zelenka. Ms. Holmes said she would structure the appropriate tool for the council's use. Mayor Piercy said it was important to have a shared understanding between the council and auditor of expectations.

Councilor Poling also liked the evaluation process used for the City Manager but he hesitated to ask the CRB to redo its evaluations. He said the system might be flawed but was not totally bad, so he thought the council should proceed as planned this year and make changes next year.

Councilor Brown thought the expectations system was okay because one could add one's own comments. He suggested that the council proceed with the existing system and those that were interested could use the numerical approach as well. The system could be changed next year.

Councilor Brown asked who would be on the citizen panel. Ms. Holmes suggested it could include the Police Chief, representatives of the Eugene Police Employees Association, and a member of the Police Commission.

Councilor Clark found the four-part metric important to pre-tie to compensation.

Councilor Clark, seconded by Councilor Taylor, moved to adopt the current performance criteria for the Police Auditor with a self-evaluation to be completed by the Police Auditor, and include the community panel evaluation and to move forward with goal setting to parallel the City Manager process.

Councilor Taylor supported keeping the current format for this year. She did not think there was enough time for a community panel and suggested a work session be scheduled.

Councilor Taylor, seconded by Councilor Poling, moved to amend the motion by deleting all text past "Police Auditor."

Councilor Pryor said while he had preferences, in the interest of time, he would choose getting the performance evaluation done with the expectation that the council would revise the process next time.

Councilor Ortiz supported the initial motion and suggested a letter be sent to interested parties to request input rather than attempting to convene a representative meeting in a short time.

Ms. Holmes suggested that the City could employ Survey Monkey to solicit input in a timely way.

Councilor Clark did not support the amendment and asked the council to consider the original motion because he had attempted to split the difference. His intent was to get broad-based community input.

Roll call vote on the amendment: the vote on the motion was a 4:4 tie; Councilor Taylor, Councilor Solomon, Councilor Poling, and Councilor Brown voting yes; Councilor Clark, Councilor Zelenka, Councilor Ortiz, and Councilor Pryor voting no. Mayor Piercy cast a vote against the motion and it failed on final vote of 5:4.

Councilor Zelenka moved to amend the motion to include the four-point scale. The motion died for lack of a second.

Councilor Taylor wanted input from those who made complaints to the Police Auditor. She did not think there was time to do so, however, so would vote against the motion.

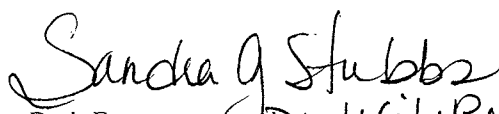
Councilor Ortiz determined that Councilor Clark did not object to the Survey Monkey suggestion offered by Ms. Holmes.

Ms. Holmes said she would send a list of contact groups to the council for review. Following that, she would create and distribute the survey.

Roll call vote; the motion passed, 6:2; Councilor Taylor and Councilor Poling voting no.

Mayor Piercy adjourned the meeting at 9:10 p.m.

Respectfully submitted,


Beth Forrest,
City Recorder

(Recorded by Kimberly Young)