



SCIO CITY COUNCIL ELECTRONIC MEETING MINUTES
MONDAY August 24, 2020

COUNCIL PRESENT: Mayor Chadd Weaver, Councilors Karen Eckhart, Joey Ferguson, Tom Gray, Tom Meyer, Debbie Nuber, and John Whalen were all present via video.

STAFF PRESENT: City Manager Ginger Allen, Assistant City Attorney Jeffrey Clayson and Administrative Assistant Cathy Martin were present via video.

AUDIENCE MEMBERS: Ruby Sandberg, Heather Crawford, Hazel Hayes, Dean Schrunk, Pat Schrunk, Nadji Vogel, Lorraine Blatter, and Richard Androes were present via video.

CALL TO ORDER: Mayor Weaver called the Regular Session of the Scio City Council to order at 6:05 P.M., followed by the flag salute.

ROLL CALL: Roll call was taken with all members present.

APPROVAL OF CONSENT AGENDA: Mayor Weaver asked for comments. There were none.

Councilor Eckhart moved, Councilor Meyer seconded, to approve the Consent Agenda as presented. A hand and verbal vote was taken. Motion passed 6/0

REGULAR SESSION:

- 1. Ordinance No. 614, An Ordinance Amending the Scio Comprehensive Plan Map and Scio Zoning Map to Re-designate and Rezone a 0.92-acre Parcel in Block 8, Lots 1 Through 8, South Addition to Scio in Scio, Oregon – Presented by Ginger Allen, City Manager**

Ginger Allen stated that the city charter requires that Land Use Ordinances be read at two different meetings this Ordinance was read for the first time by title only. Ms. Allen read the ordinance by title only for the second reading.

Councilor Nuber moved to approve the second reading of Ordinance No. 614, seconded by Councilor Ferguson. A hand and verbal vote was taken and the motion passed with a vote of 6/0.

- 2. Update on Basketball Hoops in City Streets – Presented by Mayor Weaver**

Mayor Weaver reported that he went down to the location with another council member. They had a discussion with a couple of residents that live in the Thomas Creek sub-division where the hoops in question are located. The following ordinance violations were identified:

- Basketball hoops located on a number of streets in Thomas Creek Sub-division
- A set of hoops were identified on Filbert Street, across the street from each other, creating a full court
- Basketball court lines painted on Filbert Street

Mayor Weaver stated that the city cannot let this continue. It does not look good and it is not safe. He does not want the basketball hoops removed completely. Spoke with staff regarding liability. There are people willing to do fundraising to be able to install a basketball court in the city park. The city needs to have this cleaned up. Limit to one basketball hoop per household. He asked for discussion as to the placement of the basketball hoops.

Allen stated that a PowerPoint presentation of the pictures that Mayor Weaver sent had been prepared. Martin shared the presentation with the audience members so that they could see the current situation. The slides show that a make shift basketball court spanned the total width of Filbert Street and a court has been spray painted which needs to be removed, weights have been placed on the hoops which encroach upon the sidewalk area and impedes foot traffic. The painting of public property is considered defacing of public property and should be cleaned up. Mayor Weaver asked about relocating the basketball hoops to the dead end street (SW 3rd Avenue). City Staff and City Manager, Allen does not see this as an option given the fact that the city would just be relocating the same problem. In addition, fencing of adjacent properties and the city's lift station makes this unfavorable. Staff will not be available to retrieve basketballs that would make their way into the lift station.

Councilor Whalen stated that it is not unusual for someone to come to his door to retrieve balls that have gone over the fence. This is a regular occurrence.

Councilor Eckhart stated that she had driven out to the area earlier in the day and counted 18 hoops on the sidewalk or in the street within a few short blocks.

Ms. Allen stated that the city does have a liability when things are allowed to inhabit a city street. City Attorney Jeffery Clayson was asked to speak to the city regarding the liability issues. Mr. Clayson stated that anytime someone is doing something on a city street there is a potential liability for the city. He stated that he has looked into what other cities in the area do in regards to this situation. Some cities require permits; some require that if a driveway meets some minimal standards, such as size and slope then the hoops are required to be located within the driveway. Some cities have enacted time and place restrictions. Other cities restrict number of hoops that can be located on the street. Permits have a liability waiver in them they provide immunity for the city for any liability that may stem from any accidents that may occur. He stated that there are many options that the city can impose.

Councilor Ferguson asked for an example of what the city might be liable for if a permit was not issued. Clayson stated that some cities limit placement so that

they are not located within so many feet of manhole covers, mailboxes, damaged streets can also open up the city to liability. Some cities have ordinances that state if a homeowner has a portable basketball hoop they are waiving liability of the city. Ferguson stated that with everything that is going on in the world she has no interest in taking away physical activity and something for the kids to do. Ms. Ferguson stated that she did not think that they needed to dominate the entire street, and that the spray paint needs to be removed at the cost of the responsible party, to the city's satisfaction. She stated that she was in favor of implementing an ordinance stating that it would be the homeowner's responsibility or liability for hoops that are placed out there and for anything that occurs as a result of the hoop. Ferguson asked for clarification on the noise ordinance as to time. Ferguson asked about curfew as well.

Nuber stated that she thought that this was only going to be a temporary thing with the hoops.

Ms. Eckhart stated that one concern with that is COVID is not over. That even though the parks may be open, it does not take care of the problem.

Councilor Whalen stated that if it makes sense during COVID, then it makes sense post COVID. If it is a good rule, then it should be made a permanent rule.

Clayson stated that if it fits within a driveway then there is no reason that they cannot play within a driveway if the driveway is suitable as opposed to playing in the street. This waives city liability.

Lorraine Blatter, SW Filbert Street, property is located next to the area in question. She stated that she has probably the most encroachment occurring on her property. There is not any difference between COVID and No COVID for how much activity is at this particular basketball hoop. This has been an issue for the past three years. The activity increased when the second hoop was added. The encroachment was just as bad with one hoop other than the painting on the street. It fell over in bad weather, was busted up, they bought a new one, and now the broken one is located across the street. The amount of kids is the same; the issues are the same no matter if it is one hoop or two. Ms. Blatter stated that she had a couple of questions. 1) The park at the dead-end street – thought this would be a good place for a play structure.

Mayor Weaver asked for clarification if she was talking about the one at the end of the cul-de-sac. She was.

Ms. Allen spoke about the park funds that were allocated through the budget process. The current park funds were dedicated to the revitalization of the Covered Bridge Park, next year the funds could be dedicated to the Thomas Creek Park. We are also looking for grant opportunities. There are several improvements that need to be made.

Ms. Blatter stated that she was happy to hear this and that she and her husband would love to start a donation and fundraising effort to help with the Thomas Creek Park project. She stated that it would be nice to have a basketball area at the park. Ms. Blatter asked how it could be enforced, building a place for the kids to use doesn't mean they are going to use it and that they won't just continue to play outside their houses.

Mayor Weaver stated that this is the plan. When the park is built, there will still not be enough hoops for everyone to play. It will not solve the home court issue.

Ms. Blatter stated that she thought it was a good idea for the city to enact an ordinance of household responsibility and locating the hoops in driveways would make a massive difference. She stated that she is constantly worried about hitting someone when backing out of her own driveway, let alone at night when there is still a lot of kids out there.

Weaver stated that safety is the issue.

Councilor Nuber stated that she does not feel good about putting the hoops in the road and having kids darting in and out of traffic. She stated that personal hoops need to be on personal property.

Ms. Allen stated in the Scio Municipal Code *Chapter 22, Article VI. - Offenses Involving Public Peace and Order, Division 1. – Generally, Section 22-150. – Juvenile Curfew. (a)* It is unlawful for any minor under the age of 18 years to be in any public place between 10:00 p.m. and 4:00 a.m. Ms. Allen stated that regarding noise violations, the noise would have to be measured with a noise meter to determine if it violates the noise ordinance. Ms. Allen stated that she likes the suggestions of Mr. Clayson. That if you are going to have a basketball hoop in the street, then a release of liability would need to be signed and stop at a certain time. This doesn't have to be the same as the noise ordinance.

Ms. Blatter stated that individuals play at these hoops well after 10:00 pm and up until midnight on various days of the week.

Councilor Meyer stated that most of the driveways in the Thomas Creek Subdivision are sloped to the street. That having the hoops in the driveways with the slope the balls will still be going into the streets.

Councilor Nuber – still at their risk.

Councilor Gray asked if the participation in the games increased when the hoops were put on opposite sides of the street. Ms. Blatter stated that it is about the same.

Meyer stated that the play is no different than playing half court, in this location they just rotate side to side.

Ms. Blatter stated that this is not just kids. A lot of adults are out there playing.

Weaver stated that the full court has to be removed. It is a liability to the city if it is allowed to continue. He suggested that only one basket per family, and an ordinance needs to be developed to determine where they should be placed.

Meyer spoke about curfew and school resuming; this may bring them in sooner.

Whalen stated that the time really hasn't changed with it being summer. He stated that the council should also look at a time limit.

Allen encouraged that consideration be given to limit the number of hoops that can be placed in the area. Not every home should be allowed to have one. Parking spaces are eliminated with the placement of basketball hoops. She asked Mr. Clayson to do more research and obtain copies of the ordinances from other cities.

Mr. Clayson stated that the city has a lot of options in developing an ordinance to regulate basketball hoops in relation to health and safety. These can be time and day restrictions, number on a street, curfew, etc. Ms. Allen stated that another resource when developing the ordinance is that when the subdivision went in there were HOAs established and we may want to look at the rules that were originally established for that area.

Whalen asked for more information on the HOA.

Ms. Allen stated that she did some research on the HOA recently and discovered that the developer did record all of the documents that were required. The developer did file the Codes, Covenants and Restrictions with Linn County, along with the By-laws for the HOA, what hasn't been filed is the actual HOA association. For whatever reason it was not filed with Linn County. They never established a board of directors. Ms. Allen stated that since the work was already done on the CCR's, those provisions could be used as a resource for the ordinance development.

Ms. Blatter asked about developing the HOA. Ms. Allen stated that the homeowners would need to organize themselves. HOA's have to comply with the city ordinances.

Whalen stated that he is concerned with safety. If only one or two are causing the problem, those are the ones that need to be addressed. Liability issues should have a signed document.

Allen asked for direction for staff. Ferguson stated that the homeowners needed to be contacted ASAP to clean up the spray paint, on the street and sidewalk. Weaver stated that the broken hoop needs to be removed, limit to one basket. Whalen asked if a committee could be established.

Allen stated a letter would be sent to the property owner requesting that they clean up the paint, remove broken hoop, only one per household for time being. Weaver stated he would like a committee to be made to help draw up the ordinance.

Allen stated that an ad hoc committee could be established, appointed by the council. Allen asked Clayson to send a release statement that could be used by the city to have the homeowners that currently have basketball hoops sign.

Eckhart asked if the noise could also be put in the letter.

Richard Androes stated that the form that is signed also needs to include any houseguest.

Clayson stated the liability waiver would be for the property owner, it would waive the city of all liability, and the homeowner would be taking on all responsibility.

Allen recapped what the letter would address: remove paint to city satisfaction, limited to one basketball hoop to be placed near the own home, put in information regarding the noise ordinance information and the removal of red vehicle by city lift station.

Whalen asked about a time limit. Allen stated there would be a two to three week time frame to meet the requests.

Weaver asked about ordinance, should it include homemade ramps and items like that as well. Clayson stated that they can be combined.

Ms. Blatter volunteered to be on the committee. She stated she would also volunteer for the park committee.

The regular session was adjourned at 7:05 pm.

PUBLIC HEARING:

Vacation of City Owned Properties – Presented by Ginger Allen, City Manager

Ms. Allen stated that a public hearing was held on Monday, August 10, 2020 for the vacation of city owned properties. That hearing was held open to tonight's meeting. Ms. Allen opened the public hearing at 7:06 pm.

Ms. Allen reviewed the public hearing process, asked the audience if there were any objections to the notice and the jurisdiction of the City Council. There were none. She then reviewed exparte contact, conflicts of interest and bias with the council. Councilor Eckhart stated that she is one of the affected property owners and she was excused from the council. She may participate in the hearing as a citizen.

Ms. Allen stated that following the August 10, 2020 public hearing, letters were sent to all property owners adjacent to the 12 strips of land that are being considered for vacation. Since that meeting staff has addressed a number of questions from various adjacent property owners. At the time of the preparation of the staff report no adjacent property owner has expressed the desire to “not receive” their portion of the vacated property. Since that time Ms. Allen stated that she has since learned that a couple of property owners may be interested in deferring their rights to a particular strip.

Ms. Allen reviewed the steps that will take place after the close of the public hearing and decision by the council.

Ms. Allen stated that there are two strips in which the adjacent property owners have asked for modification to the division of the property. These strips are numbered 4 & 6 on the map attached to the staff memo dated August 24, 2020, the city will need to schedule meetings with these property owners to discuss the requested change in distribution.

Ms. Allen stated that since there have not been any requests to modify the distribution of any of the other strips, there is no need to have meetings with the property owners adjacent to them and the city can proceed forward as recommended by staff.

City Attorney Clayson stated that the property owners who want to divide the strips differently can do so. They must all agree to the redistribution in writing and then the strips can be divided in a different manner than originally proposed. They would be responsible for any additional fees such as survey costs or filing fees.

Ms. Allen reiterated that those property owners would be responsible for any additional fees. She stated that staff is prepared to move forward with the vacation of the property strips, with the exception of the two in question. Meetings will be arranged with the property owners and city’s legal counsel.

Ruby Sandberg, NW 3rd Avenue, asked if the city was going to vacate the property and there is no choice. Once the city vacates it would be up to private parties to re-file or re-survey.

Ms. Allen stated that during previous conversation held with Ms. Sandberg, she was consulting with the city’s legal advisor as to whether or not the city could help with the redistribution of the property without causing another survey. Mr. Clayson has informed the council tonight that the city can have meetings with the property owners and try to re-align as per request by property owners and try and save some surveying funds. If it does have to be re-surveyed then the new survey would be done at the cost of the property owners. We can then move forward and avoid going through two processes. This could save filing fees.

Ms. Sandberg stated that if all parties can agree to having lines redrawn it. Ms. Allen stated that Linn County does require survey drawings. It is better to do this than having the city vacate as proposed and then have the property owners file for a lot line adjustment and have to resurvey.

Allen asked if there were any questions from Council. There were none.

The public hearing was closed at 7:20 pm.

RECONVENE REGULAR SESSION:

Councilor Whalen moved to proceed with the vacation of properties, seconded by Councilor Meyer. A hand and verbal vote was taken and the motion passed with a vote of 5/0. Councilor Eckhart was excused from council during this process.

Allen reiterated that the next steps in vacation of the properties will include: working with legal counsel in preparing an ordinance and arranging meetings with the property owners adjacent to the two strips in question to re-delineate the strips.

CITY MANAGER REPORT: Allen added that she will be leaving on vacation following this meeting. She will work with staff to get the letter out on the basketball hoops. She stated that she is available by cell phone, and will send her contact information to the council via email. She will be returning on September 8th. Kostanty Knurowski will be Interim City Manager during her vacation.

CITY ATTORNEY'S REPORT: Presented by Jeffrey Clayson – None.

ITEMS FROM THE COUNCIL:

Nuber: Asked about the City Manager Contract, Weaver stated that he would have added to the next city council meeting. Ms. Allen stated that she will add an Executive Session to the September 14, 2020 Agenda.

BUSINESS FROM THE PUBLIC: There was none.

Weaver thanked everyone for being here.

The meeting was adjourned at 7:25 p.m.

The next regular meeting is scheduled for September 14, 2020 at 6:00 p.m.

Cathy Martin
Administrative Assistant