

MINUTES  
Warrenton City Commission  
Regular Meeting – June 25, 2019  
6:00 p.m.  
Warrenton City Hall - Commission Chambers  
225 S. Main  
Warrenton, OR 97146

Mayor Balensifer called the meeting to order at 6:05 p.m., and led the public in the Pledge of Allegiance.

Commissioners Present: Mayor Henry Balensifer, Rick Newton, Tom Dyer, Pam Ackley, and Mark Baldwin

Staff Present: City Manager Linda Engbretson, City Attorney Spencer Parsons, Community Development Director Kevin Cronin, Finance Director April Clark, Public Works Director Collin Stelzig, Public Works Operations Manager Kyle Sharpsteen, Police Chief Mathew Workman, Fire Chief Tim Demers, Library Site Manager Nettie-Lee Calog, Library Aide Laura Lattig, and City Recorder Dawne Shaw

Mayor Balensifer noted an amendment to the agenda to move Commissioner Reports to right before the Good of the Order; there were no objections.

CONSENT CALENDAR

- A. City Commission Work Session Minutes- 1.23.19
- B. Fire Department Activity Report
- C. Police Department Activity Report
- D. Finance Department Activity Report
- E. Parks Advisory Board Minutes - 01.14.19
- F. Parks Advisory Board Minutes - 02.11.19
- G. Parks Advisory Board Minutes - 04.08.19
- H. Community and Economic Development Department Fiscal Year 2019-2020

**Commissioner Ackley made the motion to approve the consent calendar as presented. Motion was seconded and passed unanimously.**

**Baldwin – aye; Newton – aye; Balensifer – aye; Ackley – aye; Dyer - aye**

Mayor Balensifer presented a plaque to retiring Senior Police Officer, Len Mossman, and also presented Mrs. Mossman with flowers. He thanked Officer Mossman for his twenty one years of dedicated service.

Mayor Balensifer recessed the regular meeting at 6:08 to conduct the URA meeting. He reconvened the Regular Meeting at 6:10 p.m.

City Manager, Linda Engbretson, requested to add an agenda item; a License Agreement for Tres Bros food truck. There were no objections; it will be added to the agenda as item 7-H.

PUBLIC COMMENT – None

PUBLIC HEARING

Mayor Balensifer opened the Public Hearing on Resolution No. 2547; A Resolution Declaring the City of Warrenton's Election to Receive State Revenues for Fiscal Year 2019-2020. Formalities followed and no conflicts of interest were reported. City Recorder, Dawne Shaw, presented her staff report. She noted State Revenue Sharing Law ORS 221.770 requires cities to pass an ordinance or resolution each year stating they want to receive State Revenue Sharing Funds. She noted the estimated revenues as outlined in the agenda packet. She continued to state the attached resolution meets state requirements and declares the City's election to receive State Revenues for the 2019-2020 Fiscal Year. Mayor Balensifer asked for Public Comment. No one spoke in favor or in opposition. There being no further comments, Mayor Balensifer closed the public hearing.

**Commissioner Ackley made the motion to adopt Resolution No. 2547; A Resolution Declaring the City of Warrenton's Election to Receive State Revenues for Fiscal Year 2019-2020. Motion was seconded and passed unanimously.**

**Baldwin – aye; Newton – aye; Balensifer – aye; Ackley – aye; Dyer - aye**

Mayor Balensifer opened the Public Hearing on Resolution No. 2545; Adopting the City of Warrenton FY 2019-2020 Budget as approved by the Warrenton Budget Committee and levying taxes for municipal purposes of the City of Warrenton for the fiscal year commencing July 1, 2019 and ending June 30, 2020. Formalities followed and no conflicts of interest were reported. City Manager, Linda Engbretson, presented her staff report on the proposed budget, and outlined figures as presented in the agenda packet. She noted the city wide budget is proposed at a total sum of \$36,478,753.00. The total General Fund Services, which is property tax, only includes: municipal, administration, finance, Commission, community development, police, fire, park contingency, and transfers. She continued to state the general fund property tax support budget fund is \$4,932,529.00; all other funds are self-funded through user rates and other fees, and receive no property tax support. Mayor Balensifer asked Ms. Engbretson to state for the record what the difference between our increased Property Tax Revenues and our PERS liability that increased this year. Ms. Engbretson stated she believes PERS Impact Liability that affected the General Fund were more than what we received in Property Tax Revenue. City wide was approximately \$150,000.00, and \$50,000.00 of that was a direct impact to the General Fund; taxes were just around \$45,000.00 in Property Taxes. Mayor Balensifer clarified that was the increase in property taxes we received from all the new growth. Ms. Engbretson confirmed. Mayor Balensifer asked for public comment. No one spoke in favor or in opposition. There being no further comments, Mayor Balensifer closed the public hearing.

**Commissioner Ackley made the motion to adopt Resolution No. 2545; Adopting the 2019-2020 Budget as Approved, Submitted and Acted Upon by the Levying Board and Budget**

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**Committee of the City of Warrenton, Making Appropriations and Levying Taxes for Municipal Purposes of the City of Warrenton for the Fiscal Year Commencing July 1, 2019 and ending June 30, 2020. Motion was seconded and passed unanimously.**

**Baldwin – aye; Newton – aye; Balensifer – aye; Ackley – aye; Dyer - aye**

Mayor Balensifer opened the Public Hearing on the Clear Lake Subdivision-Variance and Wetland Hardship Variance Appeals. Formalities followed. Commissioner Newton noted a conflict of interest, stating he is working with Gil Gramson to buy a piece of property, and will recuse himself. Mayor Balensifer disclosed that he had folks from the Smith Lake Association attend Mayor's Coffee, he has heard from individuals concerned about wetland issues, and has also heard that applicant Rod Gramson was going to appeal the issue. He continued to state that he was in contact with individuals from Smith Lake. City Attorney, Spencer Parsons, asked for clarification on the contacts and asked if they were general in nature. Mayor Balensifer stated yes, except for the Smith Lake information which was submitted to the City Commission as a whole. Mr. Parsons clarified that the packet was for the entire Commission. Mayor Balensifer confirmed, noting that the Smith Lake Information is not currently in the record, but it is in the packet. A member of the audience questioned Commissioner Ackley as being impartial, considering she is in real estate and has a current house listing in Smith Lake. Commissioner Ackley stated she had no idea there was an appeal going on when she listed the house last week. Mr. Parsons stated Commissioner Ackley will need to state whether or not having a listing or potential listing somewhere in the vicinity is going to affect her ability to render an impartial decision. Commissioner Ackley stated absolutely not. Mayor Balensifer discussed de novo and asked if the Commission would like to motion to hold the hearing de novo. Mayor Balensifer stated he thinks that Commission should hold a de Novo because it opens the Smith Lake Information and anything else that people want to enter into the record. He also stated he thinks it's a cleaner processes, and asked Mr. Parsons his thoughts on the matter. Mr. Parsons stated that from a procedural stand point he doesn't see any reason why the Commission can't do that; it would avert any potential claims that somebody's ability to participate has been denied.

**Commissioner Dyer made the motion to hold the hearing de novo. The motion was seconded and passed unanimously.**

**Baldwin – aye; Balensifer – aye; Ackley – aye; Dyer - aye**

Community Development Director, Kevin Cronin, presented his staff report, and noted there are two appeals pertaining to the Clear Lake subdivision. He stated on April 25, 2019, the Planning Commission approved subdivision variance and wetland hardship variance applications for a 15 lot single family development, north of the terminus of SW Kalmia Avenue; this was approved with 14 conditions of approval. Mr. Cronin noted the deadline is August 14 and reviewed the conditions point by point, as outlined in the agenda memo. Mayor Balensifer discussed the parks requirement and the inadequacy of the roadway. He stated the roadway is pretty insufficient in many regards. He asked what the city staff thought process was in regards to the street. Mr. Cronin clarified that the existing stretch of road on Kalmia is currently narrow, so for consistency sake, they wanted to keep the two stretches fairly similar. He stated it's also a dead end into a cul-de-sac; giving argument for a narrower roadway. He continued to state that

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according to the new TSP standards it does meet the requirements. Mayor Balensifer discussed the wetland hardship; he stated the hardship was in part created by the applicant. The conversation briefly continued. Mr. Cronin addressed Mr. Rod Grandsons' appeal points. He stated he finds the appeal points baseless and in summary rejects them in total. Commissioner Dyer asked what the Fire Chief's position is in regards to the road. Fire Chief Demers noted they addressed the condition in the staff report and they deemed it as acceptable.

Mr. Skip Urling spoke on behalf of the applicant. He first stated that they would like to withdraw their appeal on condition number 4. He discussed the fence (wall) and reviewed the municipal code 16.124.050(A) providing copies for the Commission. Mr. Urling stated they are okay with the landscaping plan and using the mitigation plan that would be approved by the Department of State Lands (DSL). He then discussed the street that would be extended out to Ridge Road; they are agreeable to preserving the fifty foot right away, but they do not feel that anything more than emergency access is needed at this point in time. He discussed the wetland issues; stating that the fifteen units was not to avoid additional conditions concerning the parks requirement. It was the R10 lot size requirement; 15 units was a stretch to begin with.

The project civil engineer, Mr. Hoovestol, spoke on behalf of the applicant. He noted items to enter into the record: Exhibit 1 - Smith Lake Impact Letter, 3 additional plans/drawing, and Exhibit 2- Concept Road Plans. He stated in short, their main concern is causing Smith Lake to back up. He stated from an engineering perspective he does not see that happening. He discussed the access road. He then discussed the wildlife fence and that it should be a decision by the individual property owners and explained why.

Terry Ferguson, project superintendent for Sandridge Construction, spoke on behalf of the applicant. He stated he spoke to current residents about the secondary access road and many of them don't want it, it will create more traffic into the subdivision. He spoke about the allegations made regarding filling wetlands without a permit. Mayor Balensifer noted the notice of action from Dan Carey, Department of State Lands, pertaining to a wetland issue; he asked if Mr. Ferguson could speak to that relating to the development. Mr. Ferguson stated he does not recall anything of that nature. He addressed the park requirement that was brought up earlier in the meeting. He stated he came to City Hall to turn in a design for a park, and Mr. Gramson was going to pay for it. He presented it to the parks advisory board, and the advisory board stated they did not want the park because they did not want to maintain it. He continued to state that we did offer them a park and they didn't want it and turned him down. Mr. Cronin discussed the history on the grading and stated he believes it is still an active case and does not know what the next steps are at this point in time.

Mayor Balensifer asked for public comments in favor of the subdivision. Terry Miller spoke in favor of the subdivision. He noted he thinks this is a good development and there is a real need for housing developments. The existing development has turned out very nice, and in his opinion it is a model development. He continued to state thinks providing more homes in our community to this standard is a plus and believes all the conditions/requirements have been met and that the applicant is not trying to take any short cuts.

Eric Hoovestol gave comments in favor of the subdivision. He explained that the way he understood the road width concerns was when they submitted their application the new

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Transportation Plan had not yet been adopted requiring the thirty six feet. He also stated he is anticipating concerns surrounding the wetland issues and wanted to note that they are only filling approximately .33 of an acre and have been working directly with the Department of State Lands to follow all their requirements and they are also following City Code.

Mayor Balensifer asked Mr. Parsons for process clarification. Mr. Parsons noted it would be best as one single process.

Jeffrey Kleinman, representing the appellant, distributed a memorandum (Exhibit 3) outlining Mr. Rod Gramson's appeal. He noted the property the subdivision is to be built on was never partitioned from the parent parcel. It was only conveyed by deed in 2017, concluding it is not a legal lot or unit of land that can be subdivided at this point. He stated in his opinion the applicant should start over from the beginning and do this correctly. He further discussed the requested variance for the cul-de-sac, he cited municipal code 16.272.020(A) and explained how he believes it applies to the subdivision. He explained municipal code 16.272.020 and 16.156.080(A) pertaining to the appeal as outlined in the memorandum. He stated that contrary to some assurances that were made on the record that the Department of State Lands has not approved the grading or filling of the property. He referenced an enforcement letter dated December 10, 2018 and attached a copy as Exhibit C. Mayor Balensifer requested the record reflect that this was already in the record. Mr. Kleinman continued to discuss the wetlands stating he also included a wetland boundary map which shows that there are ways the applicant can develop without the hardship variance. He stated that if DSL doesn't approve all these things the applicant has to start over and reconfigure the development; with that in mind we would argue that it is improper to defer compliance to a later review by DSL. He stated bearing in mind the applicant has the burden of proof, the soil and ground water analysis of this site was carried out by a consultant called GEO Engineers and also by the primary project consultant, Firwood Design Group. When you look into their reports they are not the same site; one is significantly different than one another, thus he does not believe the applicant has made his burden of proof. He further discussed the road access and street connection. Commissioner Ackley asked for clarification on the lot number being discussed. She stated there is no survey she can see on county records pertaining to lot 1302.

The appellant, Mr. Rod Gramson, spoke in opposition. He stated there should be full access to Ridge Road. The costs are not the responsibility of the City or anyone else, it should be at the cost of the developer. He stated if they put a gravel road in that's just more maintenance for the city.

Mr. Caplinger also spoke on behalf of the appellant. He noted in regards to Commissioner Ackley's prior question to lot 1302; he has worked for the County for a number of years and he is certain that is just a tax lot. He explained his firsthand experience working for the County. He reviewed item D (page 3), noting the wetland hardship variance in his notice. He stated the city's locally significant wetland area extends over most of this property and that's what triggers the wetland hardship variance. You can't talk about conditioning the secondary access road which is going to cross almost exclusively across significant wetland and that would also require a wetland hardship variance which cannot be deferred to the future much like the DSL approval. Commissioner Ackley asked for clarification regarding the process to transfer a piece of property it was her thought that it has to have a legal description to have made the other lot. Mr. Caplinger

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noted there is a legal description in the deed, but the deed is not the instrument that makes the conveyance legal. Mayor Balensifer asked Mr. Caplinger for the most salient point to him. Mr. Caplinger stated they are all equally important because for each one a finding has to be made, but the most salient is the issue of wetland variance itself. Wetland Variance has multiple criteria and standards that go with it and in his opinion none of them have been met.

Mayor Balensifer asked for public comments in opposition of the subdivision. Mr. Lynn Miller spoke in opposition of the development. He stated he has lived on Smith Lake for about 35 years. He explained his experience with the water issues in Smith Lake and stated the water issue will get worse with this development.

Ms. Kyle Walker, representing the Smith Lake Improvement Group, spoke in opposition. She stated this development will set a precedent in how land use process will be used in the future and how law and decisions are manipulated to impact Smith Lake Water Shed and the locally significant wetland drainage system from which it originates. She discussed their findings on the developer's history of wetland violations included in the packet. She noted the factual inaccuracies that were presented to the Planning Commission, including the impact study done by Firwood. When she spoke to Firwood Design on the drainage system and how it affects the lake, the consultant said "it wasn't based on any report data or findings." And that it was common sense downstream not based on data. She noted that she discovered this is an illegal unit of land and the county has nothing. Kyle Walker's submission will be entered into the record as Exhibit 4. Mayor Balensifer noted he is not ready to decide on this matter tonight there is a lot of information to digest. There being no further comments, the applicant rebutted.

Mr. Skip Urling noted Mr. Gil Gramson reminded him there was a lot line adjustment 2 years ago. Mr. Parsons noted a point of order – a lot line adjustment is not a mechanism to create a new lot. It is to move adjoining property lines. Mayor Balensifer asked for clarification on the lot line adjustment. Mr. Parsons stated the number of questions that have been raised regarding whether or not a subdivision or partition was successfully completed or there was a lot line adjustment is going to need some investigation by staff and to report back to the Commission on that. If there was a lot line adjustment successfully completed, his initial thoughts would be that someone would have uncovered that as part of their records search. Commissioner Ackley and Baldwin both agreed. Mr. Urling continued discussing the road length/variances. He clarified on the DSL issue and jurisdiction.

Mr. Hoovestall stating in regard to the status of the lot, stating it could easily be made a condition of approval. He stated in response to previous comments on the wetland hardship variance and it not being buildable. He wanted to note for the record they spent a lot of time and money to minimize the wetland impact, but still have a feasible subdivision. Minimizing the wetland fill was a priority. He also noted the drawings showing the proposed access road were already included in his submission. He stated they have not filed for the wetlands mitigation plan there are other steps to take first because they need to know exact numbers of wetlands and other very particular information prior, so there was no ill intent, they just went with the City process first so they could get the details pin pointed first before submitting the mitigation plan. Mayor Balensifer closed the public hearing.

Commissioner Dyer noted he is not comfortable making a decision tonight and stated we need time to review all the information. He would like to have someone knowledgeable review it all. Commissioner Ackley stated based on all the information received she would like to have more

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time for deliberate and due diligence. Mr. Cronin stated we have until the August 14<sup>th</sup> deadline. Mayor Balensifer stated he wants the full packet with all the information a week prior to the next meeting to give ample amount of time to review everything.

**Commissioner Ackley made the motion to continue the hearing and appeals on the July 23 meeting to be held at 6pm at the City Hall Commission chambers, with staff providing all information at least one week in advance. The motion was seconded and passed unanimously.**

**Baldwin – aye; Balensifer – aye; Ackley – aye; Dyer - aye**

At 7:52 p.m. Mayor Balensifer recessed the meeting for five minutes. Mayor Balensifer reconvened the meeting at 7:59 p.m. He noted for the record that the record is closed for the Clear Lake subdivision, with the existing record.

#### BUSINESS ITEMS

Library Site Manager, Nettie-Lee Calog, introduced (Children's Services) Library Aide Laura Lattig. Ms. Lattig noted she started in March and applied for the Ezra Jack Keats Grant. She gave details about the purpose of the grant and outlined the three phases. Mayor Balensifer asked if there is room to develop duck boxes or kestrel boxes. Ms. Lattig confirmed; brief discussion continued. Commissioner Ackley asked if the grant was for \$500.00. Ms. Lattig confirmed.

**Commissioner Ackley made the motion to accept the awarding of the Ezra Jack Keats Grant. Motion was seconded and passed unanimously.**

**Baldwin – aye; Newton – aye; Balensifer – aye; Ackley – aye; Dyer - aye**

**Commissioner Baldwin made the motion to adopt the 2020-2025 Capital Improvement Program as presented. Motion was seconded and passed unanimously.**

**Baldwin – aye; Newton – aye; Balensifer – aye; Ackley – aye; Dyer - aye**

Mayor Balensifer suggested to waive the staff reports on items C-F considering they are second readings and they are already familiar with the resolutions. There were no objections

**Commissioner Baldwin made the motion to conduct the second reading by title only of Resolution No. 2546; Adopting and Setting Rental Rates and Fees for the Warrenton Community Center effective July 1, 2019. Motion was seconded and passed unanimously.**

**Baldwin – aye; Newton – aye; Balensifer – aye; Ackley – aye; Dyer – aye**

**Commissioner Dyer made the motion to adopt Resolution No. 2541 as amended; Adopting and Setting New Rates for Residential Recycling Services Establishing the First of the Month after Completion of the Wind Latch Installation Program City-wide, as the**

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**Effective Date, and repealing all Resolutions in Conflict. Motion was seconded and passed unanimously.**

**Baldwin – aye; Newton – aye; Balensifer – aye; Ackley – aye; Dyer – aye**

**Commissioner Baldwin made the motion to adopt Resolution No. 2543; Adopting Sanitary Sewer Department Rates and Fees, Establishing July 1, 2019 as the Effective Date and Repealing Any Other Resolution in Conflict. Motion was seconded and passed unanimously. Motion was seconded and passed unanimously.**

**Baldwin – aye; Newton – aye; Balensifer – aye; Ackley – aye; Dyer - aye**

**Commissioner Ackley made the motion to adopt Resolution No. 2542; Adopting Water Department Rates and Fees, Establishing July 1, 2019 as the Effective Date and Repealing Any Other Resolution in Conflict. Motion was seconded and passed unanimously.**

**Baldwin – aye; Newton – aye; Balensifer – aye; Ackley – aye; Dyer - aye**

City Manager Linda Engbretson discussed the Memorandum of Agreement between Clatsop County and the City of Warrenton for participation on the Clatsop County Unified Mass Notification System. She explained the notification system.

**Commissioner Newton made the motion to authorize the City Manager’s signature on the Memorandum of Agreement between the County of Clatsop and the City of Warrenton Regarding Participation in the Clatsop County Unified Mass Notification System. Motion was seconded and passed unanimously.**

**Baldwin – aye; Newton – aye; Balensifer – aye; Ackley – aye; Dyer - aye**

City Manager, Linda Engbretson, discussed the License Agreement for the food cart. Ms. Clark clarified the county could charge us taxes for the whole property under the current lease agreement. Ms. Engbretson explained the process of changing the lease to clarify the agreement. A brief discussion continued. Mr. Parsons clarified the reasoning behind the language in the agreement.

**Commissioner Ackley made the motion to authorize staff to enter into a License Agreement with Tres Bros food truck. Motion was seconded and passed unanimously.**

**Baldwin – aye; Newton – aye; Balensifer – aye; Ackley – aye; Dyer - aye**

#### DISCUSSION ITEMS

Mr. Cronin discussed the Homestay Lodging Report; he stated they recently sent out notices to those not in compliance and we have 100% compliance with people who have submitted applications. He recognized Ms. Clark for her hard work. He noted staff does need some direction on how to address future applications. A brief discussion followed. Ms. Engbretson

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noted from a staffs perspective and through processing the applications that it has taken some work because there isn't a policy in the code. Mr. Cronin clarified there is nothing in the code that addresses vacation rentals however his interpretation of the code is if it is not in the code - it is prohibited. Commissioner Baldwin noted his concerns. Mayor Balensifer stated that we need to develop this policy and come back with a full list of issues that need to be addressed and adopt it in one fell swoop. The discussion continued. Ms. Engbretson asked for direction tonight on what to do in the meantime with new listings and suggested a work session to get a formal policy. A brief conversation continued. Mayor Balensifer commended Mr. Cronin on his efforts on nuisance work. He agreed to code enforcement at the current time, complaint driven only, and thinks it's time to start moving into more policy code issues. I think we also need an economic strategy that would be adapted to our culture and people, maybe even a Charrette process. Mayor Balensifer asked Mr. Cronin what he thinks this City needs based upon the goals of the Commission and what is it that you want to be doing? Mr. Cronin stated the top three on his mind in the next six months would be figure out the homestay issue, work on the Spur 104, and get the housing code amendments through. Those are all fresh things that would give resolution to the community. The conversation continued. Commission was in consensus on Mr. Cronin's work plan.

#### COMMISSIONER REPORTS/GOOD OF THE ORDER

Commissioner Newton noted Thursday market was a success; Ms. Sweet would like to find a vendor for face painting. He noted other ideas for the market. He noted the over 90 day marina accounts. He spoke about the library kids' program success and noted the CREST report.

Commissioner Dyer noted he is glad to be back.

Mayor Balensifer stated he has made public on his FB page his disappointment in the process of the HB2020 and the fact that people have to leave in order to feel that they are heard. He continued to discuss the issues and impacts of the bill and the process for which it's being handled.

Commissioner Baldwin mirrored everything Mayor Balensifer said. He stated his opinion and noted the affects it will have on his business and assets, and how it would affect our home prices and the community. He gave his opinion on climate change.

Commissioner Dyer noted he was really disappointed in the senator using the police as a political tool. Mayor Balensifer continued voicing his opinion on the bill.

There being no further business, Mayor Balensifer adjourned the regular meeting at 9:06 p.m., and announced they will now meet in executive session under ORS 192.660(2)(i); *to review and evaluate the employment-related performance of the chief executive officer of any public body, a public officer, employee or staff member who does not request an open hearing*. He stated the Commission is not expected to return to regular session to take action on any item considered in the executive session.

Respectfully submitted by Lindsay Duarte, Deputy City Recorder

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APPROVED:

  
Henry A. Balensifer III, Mayor

ATTEST:

  
Dawne Shaw, City Recorder