



Harrisburg City Council Work Session (Non-quorum) Minutes September 27, 2017

The Harrisburg City Council met on this date at City Hall, located at 120 Smith St., at the hour of 6:32pm in a work session. (Directly following the HRA Meeting). Presiding was Mayor Robert Duncan. Also present were as follows:

- John Loshbaugh
- Adam Keaton
- Robert Boese
- Sarah Puls (Participant via conference call for the HRA Meeting, and signing off right at the beginning of this meeting.)
- City Administrator Brian Latta
- City Recorder/Asst. City Administrator Michele Eldridge
- PW Director Chuck Scholz

Absent this evening were Councilors Kimberly Downey, Mike Caughey, and Sarah Puls (except at the very beginning of this meeting). Please note that due to a lack of quorum, there was not a full meeting being held.

Concerned Citizens in the Audience:

- Marcia DeLanoy was present to hand out information in relation to the water bond. (Please see Addendum No. 1) She and her daughter, Aleesha, were working tirelessly as part of the Fix Our Water Campaign. They were working on a brochure, and the flyer to hand out. She explained what they were working on, and what some of the next steps were for the campaign. They were doing this for Mike Caughey, since he was on a cruise at the beginning of the campaign.
- Keaton wanted to make sure that they included contact information on the materials, including the email, a phone number, and the Facebook page.
- Donna Duncan suggested that they include the measure number as well.
- Latta said that was Bond Measure 22-169. He read aloud the question, and statement as it will appear in the manual.
- Marcia said that the brochures will go to businesses, because they don't take up much room. She's still working on that one.
- Mayor Duncan said that Keaton was going to do a presentation at the Harrisburg Christian Church on Sunday, Oct 8, 2017. We will be adding a town hall in the future.

The matter of Discussing Stanley Street Issues

Staff Report: Latta said that most of the neighbors along Stanley Street were here this evening; they received the same packet of materials that Council has. Back in the 1960's, the City put in Stanley Street, and they didn't fully put it in the right-of-way. They put it both inside a portion of the right-of-way and on the property to the north on the corner of Stanley and 7th St. Tonight, Council is not being asked to make any decisions. This is a work session to review the information and to hear from the citizens on what they are feeling about this situation. Council will formally take this up at the October 11th meeting. He wanted to point out the assessors map doesn't always have accurate information; the deeds and legal descriptions are what counts. The 15' you see for Stanley St. is ok; it's the width for the right-of-way. However, the width showing on tax lot 300 is 184.30', and it's actually 154.30'. 30' of that is the right-of-way for N. 7th St. The number you see for the depth of the tax lot 300 is 90; but it's actually 82.50'. If you read the deeds, you'll see that out of the 154.30', that 7.5' is reserved for the alley way, and 30' is set for N. 7th St. Tax lot 800 shows as 82.5' in width, but in actuality, it's 75'. On the west end of Stanley St., it says that it's 20' wide. That's inaccurate. It's actually 12.5' down to the solid line, which was dedicated with the Simmon Garden's Subdivision, and 7.5' at the dashed line that is part of tax lot 600.

The owners of tax lot 300 had their property surveyed, which confirmed the location of the stakes. Through that survey work, we found that the road was actually built on a small portion of tax lot 300. The red line showing on pg. 5 is paved roadway that is on that property. Then, not only do we have the issues with the paved right-of-way being in an incorrect place, we also have the street placed at an angle. So at the southwest corner of their lot, the right-of-way is 7.5' on their property, and the southeast corner right-of-way is 4' onto their property. The south side right-of-way on Stanley should be 3' further to the south from where the pavement ends, and runs about 100' back to where you can see the white fence.

Staff has 3 solutions to offer. The 1st is to relocate the paved driveway to inside the existing right-of-way. That would require that we saw cut the paving, and tear out the road located on private property, and we would pave the southern side 3', resulting in a 15' wide paved street. That is not wide enough for two-way traffic; therefore we can change it to allow for traffic to enter from N. 7th St., but traffic heading east on Stanley would not be able to use that same opening to access N. 7th St. It also doesn't allow parking in that area.

The 2nd option is to expand the right-of-way to include the existing paved roadway. There are two ways in which the City can acquire property. We can approach the owner with a fair market offer; and let them know that we would like to purchase the property, recognizing the that street is built there; or we can also obtain the property by doing an adverse possession claim; which is a legal taking of the property. It is presumed public property, because Stanley Street has been there like this from the 60's. That's not a friendly option, but we do want to mention it. In that scenario, we would create a variable width but no less than 15' wide drive with access off of N. 7th St that would be an alley. Again, there would be no parking.

The 3rd option is to expand the right-of-way to include the existing paved roadway and to widen the roadway to the South Edge of the right-of-way. In this option, we would obtain the property on the north side of Stanley Street, which would include the existing paved roadway, and we would also slide the paved surface to the south edge of the right-of-way to expand the

existing paved surface. That would result in a 20' wide roadway, two ways traffic the entire way; but it wouldn't allow parking on the street.

Staff doesn't have a recommendation; although we feel this needs to be fixed. We invited the public to come out and talk about it. Legally, the property owner of tax lot 300 is able to use their property, and that limits the roadway to 12'. 12' is not enough. We have problems with larger trucks, dump trucks, and garbage trucks. Right now, they have to back up all the way on Stanley to reach the properties to the east. We will invite the owners back in October, when we decide how we want to handle this.

- Keaton said that he lives near there, but didn't think about the access from N. 7th St. That would apply with options 2 or 3, correct? If we weren't going to utilize the existing roadway on tax lot 300.
- Latta told him that's option 1; to relocate the road. Yes, we would saw cut the pavement, tear it out, and would pave the 3' on the south side to have a 15' wide roadway.
- Keaton asked if the 12' roadway would have problems with fire access.
- Latta said that the narrow portion is only between tax lots 300 and 800. Fire apparatus can approach those lots via 7th St., and the other properties can be accessed via N. 6th St. However, the City's minimum road width is 15'; he didn't think we would allow 12'.
- Mayor Duncan said that we've dealt with this kind of stuff before; somebody in the past has made a mistake, and we have to pick up the pieces. He personally hates adverse possession. He would think we could work some things out with the owner of tax lot 300. Is that owner here?
- Lacey LaDuke, who is the owner of tax lot 300, at 485 N. 7th St., said that she would prefer to talk later.
- Teresa Howard, of 470 N. 6th St., would like to hear what the owner has in mind because we don't know what their plans are.
- Mayor Duncan stated that before we begin, he wants to make certain that everyone knows that we won't be airing grievances at this meeting. He won't permit foul language. We are here as citizen volunteers, along with you, trying to solve a problem. He will not put up with petty grievances being aired. If anyone wants to talk, he invites it, within those guidelines.
- Teresa Howard said that her issue is that her home sets longwise on Stanley and N. 6th. Her front door is on 6th St., but her garage access is on Stanley. It looks like you (the City) want to create a one way off of N. 7th St., where you can enter only from 7th St. That won't work for her. She needs convenient access for her garage.
- Latta apologized, and said it would only be one way at the section that abuts tax lot 300. The rest of Stanley would be 2-way.
- Howard said it concerns her that if there was an emergency, that the fire department would have to go the long way around for her property, or for the properties in the middle of the block. Those couple of minutes could be life and death for someone, and that's not fair to any of them. Her opinion is that people have lived in that home for years, and the street has been like this from the 50's and 60's. She doesn't want to have the City pay for that property, because to her; that property is grandfathered in. It would be out of all the taxpayers' pockets to pay for that street; she doesn't feel that's right. She is

opposed to the one way direction on the east end of Stanley, and against having to pay for the right-of-way that's on tax lot 300.

- Bob Woods, of 465 N. 7th St., said that his family has owned that property since 1954. (Tax lot 800). Stanley was an alley way when we moved there, and bought the place. In 1964, according to a pamphlet they got from the City, Gillette offered to the City 7.5' on the south side of that street. He doesn't see why we need to change, because as long as the street has been there, there have been no accidents, and trucks were able to access that. He doesn't see why the City can't leave the street alone the way it is, without spending more taxpayer money, for something that the City actually owns anyway. He doesn't know if there is a recorded deed, or a verbal agreement with Mr. Gillette, but he's a good friend, and he can bring him in the future to explain why he did that. He did it for the street.
- Boese said that on the map, where it's showing tax lot 300, that 7.5' is what he is talking about?
- Woods said yes. Where they are building the fence, is supposed to be 7.5' from the end of the property line. That should be owned by the City anyway.
- Latta said that there was some confusion on this. The City does own 7.5' that was given to us from Gillette. We also have 7.5' that is from your property. They went over 7.5' from where the City owns the roadway.
- Woods didn't think that was the case.
- Latta told him that he's not a surveyor, so he's not going to go in-depth into that.
- Woods added that the City also has a water line going down there, on the edge of that 7.5' on the south side of their (tax lot 300) property.
- Latta thanked him for that comment, because he forgot to mention this earlier. You can see the cut in the road in the pictures, where there is different colored asphalt. On the east side of the road, that cut appears to be completely on the 15' the City owns. But when you get to the west side of the property, its right on top of the asphalt cut. If the City doesn't acquire the additional right-of-way, then the City should obtain an easement for the water line for where it does cross.
- Woods added that his property line is 75'. He's paved his 75' for personal parking. The Woods didn't give the City the 7.5' on their property; it was just there. Whenever the so-called street was dedicated, it was called an alley, and now it's a street. On the 3.5 on the north side of his property line, he wouldn't care if the City paved it, because it will take care of all of his surface water. He has to keep the ditch cleaned out, and every winter, it drains to the east end, but there's no place for it to go. He doesn't really care what the City does, as long as it's done right.
- Shawn Wick, of 656 Stanley Lane (tax lot 801), said that he is just worried about parking. He's a renter, and he's limited for where he can park. He's wondering how the changes would affect him. He understands what you are saying, but he hopes we can keep this a street. Everybody is together on that, and it matters to all of us. He asked how he would find out what the City would decide, and was told to check in with the PW Director, Chuck Scholz.
- Lacey LaDuke, the owner of tax lot 300, at 485 N. 7th, said that she owns the home with Chris, who was also present. They are building a fence. Generally speaking, they've

been using the part of the property that is ours, which is paved. While they are building the fence, they have materials there, like dirt, fence poles, and other materials. They purchased the property, are paying taxes on it, and they want to utilize their property. Their preferences are to have the pavement cut out, and have the road widened to your specifications where it's supposed to be. She talked to the fire department just the other night, and they told her that the night before last, that they can still make it down the road. So can delivery trucks, and trash trucks. People are used to the way it was, but what if it's not right? She wants to see a solution that works for everyone, which doesn't have her purchasing and paying a mortgage that includes a road. We had the property surveyed, otherwise, we wouldn't have known about this. The fact that it hadn't been surveyed since the 60's was interesting. She would have thought that someone would have done that.

- Boese said he understands then, that they would prefer if we did what?
- LaDuke said that the discussion was about cutting off the pavement on her private property. She thinks it was option 1. She doesn't mind if other people drive on it. She knows right now, with the fence construction, that it's a mess. Her preference is we paint a white line, note it's a private line, and people can drive on it. That would be ok.
- Mayor Duncan asked if the water line was one of those being replaced if the bond goes through.
- Scholz told him no; that pipe is PVC.
- Howard wanted to add that what she wants is still unresolved. She understands it's on private property. Will you guys have to go back and fix it later?
- Mayor Duncan said that this is an informative meeting. This issue has been there for over 50 years. The City made a mistake in 1964. Do we just ignore that? If it was your 7.5', would you feel the same way? He knows if it was his, he would feel differently. The City just went through that with another piece of property; we didn't know it was on a wrong parcel, and we paid dearly for that mistake. We didn't have anything to do with that. He hates adverse possession; it bugs the heck out of him. It's a matter of fairness, and trying to rectify something that was done over 50 years ago.
- Latta said that to answer that directly, the City wouldn't do anything right now. It's their private property, and they have the right to utilize it unless it's against one of our ordinances. In the short term, we wouldn't do anything. In the long term, if we acquired it, we would fix it. Right now, the City won't put public improvements on private property.
- LaDuke asked out of curiosity, did the City survey the water line before placing it there?
- Latta said that it's an assumption, but it's most likely that the road was there, so they put the water line there.
- Chris, who also lives at the same property, said that someone knowingly moved a marker on his property. He wasn't happy with that.
- Latta said it's not uncommon. People are supposed to keep survey markers there, but the markers you see don't always monument property corners. This one did. You are right; we can talk about mistakes in the past all night long. We do survey our projects today, but it was obviously not done back then.
- Howard said that she's been here for over 10 years. Does that mean that she should have her property line surveyed? Could hers be incorrect?

- Chris said that he had a survey done because he wanted to build a fence, but couldn't find the property line, or the survey markers.
- Latta noted that the surveyors office, and assessor's office, are in the same building, but they are different departments. There is inaccuracy on the assessor's maps. A Survey map is harder to access; you'd need to go to the county for that. Survey maps are accurate, and your deeds are accurate. He told them that you should always look at your title report, and deed, because those give a legal description of your property. He told Howard that if you want to spend the money to find out where your property markers are, then you could have your property surveyed. When it comes to this situation, he does have confidence that the City put the roadway on Stanley in the wrong location.

Several of the property owners in the audience remarked that they would prefer option no. 3. They also wanted to know when the Council would be discussing this again. Latta told them that we've heard from the public, so we'll now bring this back to Council on October 11th. He told the public to put that date on your calendar. Mayor Duncan thanked everyone for coming.

At the hour of 7:41pm, the work session was recessed. The work session resumed at approximately 7:44pm.

Others:

- Mayor Duncan welcomed Sarah Isom to the Council as our Youth Advisor. He thanked her for taking this opportunity to join us, and to give us your opinions. He did note that it seems to be always a Youth Advisor's first meeting that we are always hearing something somewhat controversial. The rest of the year, we generally don't have anything else like this! Bruce Cleeton started this program, and he's very grateful for it. The people who have done this have done some amazing things with their lives, and have positively affected their communities.

Planning Commission – Procedural Question for Council

- Latta wanted to get guidance from the Council on a situation involving Diamond Hill Paintball. The Planning Commission met last week, and approved three different projects. He handed out a copy of the Public Events Ordinance to the Council to look at. (Please see Addendum No.2). The land that Diamond Hill Paintball (DHP) leases is owned by the Harrisburg Fire/Rescue District. In 2012, the Planning Commission decided to not require DHP to install public improvements, such as gutters, sidewalks, and curbs, or a parking lot, because they would just be ripped out when the bond passes, and the fire department builds a new station. That land use approval expired in 2015. The owner asked for an extension; which we approved. That expired on December 25, 2016. In February of this year, he revoked the land use approval for DHP, but allowed them to continue to operate contingent on getting a decision on a new land use application. The Planning Commission did approve the DHP. The conditions included that she needed to construct a sidewalk, pave the driveway, and parking lot, and other things, and that they would all need to be complete before occupancy. The applicant was given no wiggle room on this, because the situation with the fire district no

longer applied. She operated a tournament last weekend, in violation of her land use approval; we now have an enforcement action on her operation of the business.

She specifically asked if there was any way for her to operate DHP; and specifically asked if there was a special permit she might get to operate. He explained to her what a Public Event permit was. She hasn't yet applied for this, but he did tell her that if we allow it, she would need a different event permit for each weekend she operates. She plans on applying for a permit in October, and one in November. He's not sure if we should allow a public event permit to apply for a use, when we have a public land use approval. So, should he deny it, or allow it? He went over Harrisburg Municipal Code (HMC), 9.52.010, the statement of purpose. This states that public events must meet minimum standards in order to protect the peace, health, safety and welfare of individuals attending the events, and that they also can't create unreasonable problems for neighbors of the community at large. A fee is charged for a public event permit, and the use she has proposed does seem to meet the definitions of a public event, which are also spelled out in 9.52.020. HMC 9.52.040 does spell out the exceptions to the requirement of a public event permit. This includes an event that is in or occupies a permanent structure and facilities, when they have been approved for such activities through the land use approval of the City.

Her land use request has been approved through the land use process of the City. Technically, she doesn't need a public event permit, but can she do that, because she can't meet the conditions of approval yet? He talked to the City attorney about this, and he said it depends on what Council decides. The City Administrator can make a decision that DHP is not in compliance with our land use regulations. The attorney said that you can make findings that they aren't in compliance, including any type of conditions. You could say that they will be in compliance when they satisfy the conditions of approval, and you could make it defensive as well, to approve the permit noting that DHP will comply with the conditions, but that is a slippery slope to climb. The ordinance has no limits to the times someone can apply for the permit. The fear is that someone has a land use approval with conditions that they can't satisfy, so they could conceivably be applying for this permit for every month they are operating; which means that they are ignoring those conditions. Do we want to be flexible, and maybe have conditions that state the she has land use approval, and we won't approve it for more than two months of the date of the current permit? He doesn't want to allow someone to be able to do this forever and ever. On the other hand, we can say that you need to satisfy the land use code; which is pretty clear.

Loshbaugh didn't like the idea of requiring sidewalks for this property, because there aren't any within a half mile of the place. Keaton noted however, that there are sidewalks on nearby streets. It is open field north of the property. Latta pointed out that the property directly north was just approved for a land use partition. They are being given an option to install the improvements, or to apply for a remonstrance. Council discussed sidewalks, and the larger commercial property. Loshbaugh couldn't see requiring the improvements when they could get ripped up later because of construction, but Mayor Duncan noted that we can pass it down the line, but then we are stuck again, because the next owner might state that they don't have to do it, because the land use

before didn't have to do it. He asked Latta if the fact that she is leasing the land an issue? Latta told him it's a moot point. The Planning Commission decision is made. They are requiring her to install sidewalks. He asked again, should we allow a public event permit to apply to this use or not.

Loshbaugh thought that we should allow it. The people who come in for this are probably buying from our stores and restaurants. Mayor Duncan knows that typically there are ten to twenty cars there. Loshbaugh expressed some concern about cars driving across the curb, but Latta told him that they do have a curb cut they are supposed to be using. He noted that there are 18 or 19 conditions of approval. Mayor Duncan said it's frustrating sometimes with our conditions of approval, if they aren't disregarded, or can be totally ignored. Subway wanted to come in, and we made them comply with the historic district requirements. They said they couldn't afford it, and delayed the project. However, four years down the line, we got a really nice building, because we stuck to our guns. We want to see her business be successful, but we also need her to do what's required.

Keaton was concerned about the Planning Commission and City Council being on the same page. It might make it interesting if the Planning Commission says one thing, and City Council says another. He would like to back up the Planning Commission, but he doesn't know how much that this has come up to the City Council level. Does the owner have a history of ignoring our requirements, or are they trying to comply with the requirements? Is she actively pursuing the funds she needs to do this, or is it that she just can't afford it? Latta said he didn't know what she's done. He knows what hasn't been done. We gave her flexibility on her original conditions of approval from 2012. She didn't do the improvements then, and that made sense based on those circumstances. But with the fire district bond, and their decision to not use that property, she had all of 2016 available to work on her improvements. She didn't communicate with us at all, until he told her that her extension had expired. She wanted another extension, but we only allow one. She then reapplied for the land use for DHP. He notified her in February of this year, that they hadn't submitted enough information to proceed. Finally in July, he sent her notice that she has to complete the application in August, or this is void. She got some of what he needed, but not all of it. We needed drainage and lighting plans, etc.; and that does seem to be a pattern. As of the 180th day of submittal, Oregon law allows the property owner to tell him that they provided everything that he needs; which is what they did. That's why he continued, and that's why they have so many conditions. She hasn't told him if she's trying to get financing, or what she's working on with the fire district.

Keaton said then that she's been there for a while, and there are no improvements anywhere on the site. As far as a public event application, we could make findings that she needs to be in compliance. If she isn't looking to be in compliance anytime soon, then it makes for an easy interpretation. You've had time to make the improvements, and you haven't done it. The paintball course is pretty cool; he's heard about it from other people. Loshbaugh agreed with Keaton, and said that we need to have a stipulation that they rock the entire front section of the property at least 6" deep, if they are going to operate in the fall and winter. They need to not track mud onto

our streets. Latta said that we can do that with a public event permit. If City Council feels it ok for her to operate the business with this permit, his condition would be that it's not allowed past a certain amount of time. We give her a timeframe in which she must comply. A land use approval is only good for one year; He would be in favor of issuing an event permit, but only if it's for a short period of time. He doesn't want to let it continue on forever.

Loshbaugh agreed on the conditions that she must meet, but he doesn't agree with sidewalks. At some point in time, someone will purchase that property from the fire department. Latta said that actually, she wants to be the one to do that. Boese said that we've been down this road more than one time. He wants to be flexible with situations like this, but it sounds really similar to what we are dealing with now on Burton St. He would like her to say that she's getting more done structurally, instead of us saying you have another six months. As Keaton said, the Planning Commission gave her conditions, but you can read into it in different ways. Latta thought we needed to revisit the code, to make it clearer. Boese said that he's enjoyed games there, but he's on the same page as the Planning Commission. We shouldn't be above them making a land use decision, and then we say hey, we can allow that. It sounds she's said that she would do it in the past, and we were flexible, and then got burned for it. He would say no to allow public events right now. He wants to take the Planning Commission decision, and make it real. There needs to be a line drawn, and we need to not be going back and forth the whole time. He understands the sidewalk thing, but the Planning Commission has already made the decision, because it was in the conditions of approval.

Council didn't mind a 3 month limit for a public event, but they also admitted that they want DHP to be in compliance. Latta said that he wanted teeth in the public event if we allow it. He could give her a window to time to complete improvements. By Friday of this week then, he'll make a decision on this. He'll either say no, or he'll say ok, and give her conditions, like rocking the front of the property. He would definitely not allow more than 3 months. Mayor Duncan added that he loves businesses in town, and wants to allow it, but if she can't be successful enough to have a business in this town, it's different. You've got to have a business plan, and you have to meet the parameters set by the Planning Commission. If you go to a bank for financing, and they say sorry, and you don't have a rich uncle or something, then it's not really a viable business. Latta noted that the Planning Commission was concerned about that as well. They felt like we put her out of business, but they also felt that we can't treat them differently from any other business or builder that comes into town. Scholz felt that once they violated their conditions, and had their permit revoked, that they shouldn't be eligible for a permit. Latta said that it doesn't state that in the code. She knew when she walked away from the meeting that she wasn't supposed to operate. She said that she would operate, and we told her that if you do, you'll be in violation. He felt that we've had a good discussion about this, and it gives him direction, and helps him to make a decision on this.

Pedestrian Crossing

- Boese asked where the City was on the pedestrian crosswalk on 3rd St.

- Latta said that we just got \$2.6 million for the HRA, to design Smith St. We are going to put a crossing there at 3rd St. with the flashing beacons. ODOT prefers to not allow turn lanes with that type of a crossing, and we don't want to turn remove the turn lane.
- Mayor Duncan noted that was because those styles of crossings generally have islands for pedestrians to wait on.
- Scholz said that we will have an argument from ODOT, so be prepared. Our engineer has met with ODOT, and he's expressed that we don't want an island, nor do we want to cut off the turn lane.

Veterans and League of Oregon Cities (LOC)

- Eldridge asked City Council if any of them had been in the armed forces. The LOC was doing articles on veterans in November, and asked specifically if we had any serving on the City Council, or in other areas of the City, including employees.
- Loshbaugh said that he was a veteran; he thought that Caughey was probably one too.

Railroad Issues

- Latta wanted to let Council know that we were following up with the railroad, and proceeding down the road of continuing talks between our attorneys'. We had that all surveyed, and ready to go, but they didn't want to work with us. We have filed complaints with ODOT Rail too. The railroad didn't meet our standards, or ODOT's standards. They broke a water line, and a communication line, so they aren't following design standards. All Public Works types of projects require engineered drawings. If they had them, they didn't share them with us. There are all sorts of things they did incorrectly. We will likely have executive sessions in the future. There was also still concern about their rails.
- Boese asked if they needed to have a right-of-way permit to work in there.
- Latta told him that franchises are not required to have to obtain a right-of-way permit. He'd like to have us redo that in future franchise agreements.

Boese asked if they needed permits to close off roads as well, and Scholz said it was required for them to have a traffic control plan. What they told us was that they wanted to close off the entire road, and we sort of denied it. They had to have access across at Macy St. Latta added that the franchise agreement ends in 2020; we will ensure that the new agreement has more rights and benefits. This is one of the worse agreements he's ever seen. BNSF (Burlington Northern-Santa Fe) owns the line, but PNWR (Portland & Western Railroad); a Genesee & Wyoming company operates the line. We are going after PNWR, but we'll also be sending information to BNSF. We told them that they can't change the grade of the road. We have good reasons for being concerned about the work that was done. Boese asked if we brought that to their attention when they were working on it, and Scholz told him that they had. There are problems with their asphalt and areas where they made repairs. Mayor Duncan asked him if he thought it would sink, and Scholz told him yes. They did the same type of job as before; with a lot of haste, and without a lot of care. Loshbaugh added that you can see where the tracks are going down, and are pushing the asphalt down again. You can also see where it's not perfectly flat, where the tires are rubbing on the asphalt.

Poplar Tree Plantation/Insurance

- Keaton asked how the timber harvesting was going.
- Scholz told him that Lane Forest Products is finished, and we' have a pile to burn. We'll plant in the front section in the spring. Unfortunately, local companies stopped taking wood chips, so we had to start hauling them to Gresham instead. He thought after our costs that we still lost about \$20,000.
- Latta said that our insurance company will give us approximately \$139,000 to \$140,000 or so for the losses.
- Scholz said that we spent another \$23,000 to \$24,000 on replacing the tubing, from where the trees fell down. We have a lot of tubing out there, and still need a lot more to be replaced. We are going through all the insurance money fairly quickly. He thinks we are proceeding with it effectively and efficiently.

With no further business to discuss, the City Council adjourned at the hour of 8:33pm.

Mayor

City Recorder

HARRISBURG WATER BOND

- Most people in Harrisburg know that our city water tastes bad, smells bad and looks bad. It is safe by government standards but that doesn't mean we like the water.
- There is new technology available. A new 30 year bond is approximately \$7.5 million vs. the previous \$15 million bond. We can FIX OUR WATER.
- It will take about 4 years from final engineering to completion. This includes replacement of the worst and oldest water mains in town.
- The impact to homeowners will be \$1.50 per \$1,000 of assessed value. That is the taxable value of your house not the current market value.
- This project will increase ONLY the water usage of the monthly utility bill not the sewer or storm water fee. The average household will only pay \$12-\$15.00 per month. This will not begin until completion of the project.
- Passage of the bond reduces expensive home treatment systems, premature replacement of washing machines, dish washers and water heaters. No more filling or delivering of bottled water. Reduce these costs and there is hardly any out of pocket costs.
- Any questions, see us at: fixourwater2017@gmail.com

Chapter 9.52 PUBLIC EVENTS

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9.52.010 Statement of purpose.

To ensure that public events, as defined in this chapter, held within the City of Harrisburg meet minimum standards in order to protect the peace, health, safety, and welfare of individuals attending the events and do not create unreasonable problems for neighbors or the community at large. [Ord. 888 § 10, 2010.]

9.52.020 Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, the following words and phrases are defined as follows:

“Adequate” means that the requirement:

- a. Accommodates the event attendance for the event times;
- b. Meets the standards required for that level of assembly; and
- c. Is reasonable based upon the location and nature of the public event.

"Applicant" means a person who has applied for a public event permit from the City.

"City" means the City of Harrisburg.

"City Administrator" means the City Administrator of the City or his/her designee.

"City Council" means the City Council of the City.

"Decision maker" means the person making a decision to approve or deny a permit for a public event. The decision maker is the City Administrator for the initial decision on an application and the City Council if an appeal is filed.

"Facility" or "facilities" means a structure, pipeline, roadway, power pole or wire or other similar instrumentality, whether temporary or permanent, that is constructed or assembled for the purpose of the public event. "Facilities" includes tents, shelters, or other structures or features that are installed or erected in support of a public event.

"Organizer" includes any person who holds, stages, sponsors, organizes, advertises, promotes or allows a public event. The word includes the applicant for a permit and any agent designated by the organizer but does not include the City.

"Person" means any individual or group of individuals, corporation, partnership, or organization. The singular form includes the plural.

~~"Public event" means any activity where~~

~~a. Persons are permitted or invited to attend and where a fee is charged; or~~

b. A voluntary contribution is paid or solicited for the privilege of attending; or

c. Any money is raised or items are sold to defray the expenses of such events, unless exempted under this chapter; or

d. It is an event which is required to obtain a permit from Linn County pursuant to the Linn County Outdoor Assembly Peace, Health, Safety, and Welfare Code, found in Linn County Code Chapter 580.

"Reviewing authorities" means any government official designated by the City Council to review an application for a permit to conduct a public event and making comments including recommendations thereon. Reviewing authorities include but are not limited to the City Administrator, the Public Works Director, the Chief of Harrisburg Fire and Rescue, and the Linn County Sheriff or his/her designee. [Ord. 935 § 1, 2015; Ord. 888 § 2.0, 2010.]

9.52.030 Permit required.

Unless otherwise excepted by this chapter, an organizer wanting to hold or conduct a public event must demonstrate compliance with the peace, health, safety, and welfare

criteria of this chapter by applying for and obtaining a permit for each public event. [Ord. 888 § 3.010, 2010.]

9.52.040 Permit exceptions.

It is the responsibility of the event organizer to determine if the sponsored event qualifies for any of the following exceptions to obtaining an event permit. This chapter shall not apply to:

1. Any assembly or event likely involving less than 100 participants or attendees and that will conclude on the same calendar day that it begins.
2. Any public school or school district, or educational or training event sponsored or directed by a State-sanctioned educational institution.

3. Any event primarily that is in or occupies a permanent structure and facilities when such structure and facilities have been:

- a. Designed for that activity; and
- b. Designed to accommodate, in a manner consistent with this chapter, the number of people in attendance or reasonably expected to be in attendance at that activity; or

c. Approved for such activities through the land use process of the City.

4. Any assembly under the auspices of or approved by any local, state or federal governmental entity or agency, or allowed under the free speech provisions of the Oregon Constitution or United States Constitution.

5. Any assembly regulated by Linn County as an outdoor assembly under Chapter 580 of the Linn County Code. [Ord. 906 § 1, 2012; Ord. 888 § 3.020, 2010.]

9.52.050 Permit application fee.

1. In addition to any other fees authorized in this code, there shall be an application fee in the amount set by resolution of the City Council and limited to an amount calculated to reimburse the City for its reasonable, actual, and necessary costs in receiving, processing and reviewing applications for permits to conduct a public event.

2. The application fee shall be paid upon filing the application with the city. The application fee is nonrefundable. [Ord. 888 § 3.030, 2010.]

9.52.060 Permit – Insurance.

1. If the decision maker determines that the public event creates a significant potential for injury to persons or property, the applicant shall furnish evidence of liability insurance.

2. If the organizer does not file proof of the noncancellable insurance that meets the requirements of this subsection at least 10 days before the first day of the event, the City

Administrator may void a permit for the public event and so notify the organizer at the address provided in the application. [Ord. 888 § 3.040, 2010.]

9.52.070 Written application.

1. **Filing Timeline.** Unless the time for filing is otherwise set by the decision maker, the organizer of a public event shall file or cause to be filed with the City a written application accompanied by the application fee at least 30 days prior to the first day upon which such a public event is to be or may be held. Applications submitted less than 30 days prior to an event will be accepted by the City only if the decision maker determines that the permit can be processed in time for the event, based upon the completeness of the application, the nature of the event and notices that may be required to neighboring property owners or tenants.

2. **Application Form.** An application shall be made on forms provided or approved by the City and shall include:

a. The name, address, and 24-hour telephone number of the applicant, the organizer, and the contact person. If the applicant is a business or association, the names and residences of the person(s) responsible for the event.

b. Address and description of the property on which the proposed public event will be conducted.

c. The date(s) and event times of the proposed public event.

d. The names, addresses and other identifying information as may be required by the City of other persons principally involved in the event. For purposes of this chapter, "persons principally involved in the event" means:

(1) Owners;

(2) Managers;

(3) Producers; and

(4) Others as may be requested by the City.

e. The nature of such proposed public event, including but not limited to information regarding all factors not otherwise covered in the application that involve:

(1) Noise that will come from the public event that may impact neighboring properties, including information on any amplified sound;

(2) Whether or not dust may be an issue;

(3) Provisions for dealing with trash containment and disposal; and

(4) Other information relative to the impact the event may have on health and safety issues, or the convenience of neighbors near the event or the general public.

f. An event site plan designating, at a minimum, a traffic plan including emergency access routes, proposed parking areas, setbacks from adjoining properties, location and quantity of proposed sanitary facilities, source(s) of potable water, and any proposed overnight camping areas.

g. An estimate of the total number of persons attending and participating in the event.

h. Plans for signage.

3. In the event that any of the persons principally involved in the activity or event should change, either prior to the approval of the permit or after approval, it shall be the continuing obligation of the organizer or permittee to communicate the change to the City. [Ord. 888 § 4.010, 2010.]

9.52.080 Preapplication conference.

1. The City may require that a preapplication conference take place before the application is deemed complete by the City. The preapplication conference, if required, shall take place within 10 working days of receipt of the application by the City.

2. The City Administrator shall provide notice of any preapplication conference to the reviewing authorities who will be invited to participate in the preapplication conference along with the applicant. [Ord. 888 § 4.020, 2010.]

9.52.090 Staff review and comments.

1. Following filing, the application shall be reviewed by the reviewing authorities for completeness. Each reviewing authority shall review the application and determine whether the application contains sufficient information to show that the applicant can comply with the requirements of this chapter.

2. The reviewing authorities may make written comments including recommendations and proposed conditions.

3. The reviewing authorities shall limit the scope of their review of the application to the standards and criteria set forth in this code and shall not consider, except as allowed by the Constitution of the State of Oregon and the Constitution of the United States, the content of any alleged speech related to the public event for which a permit is sought.

4. Upon receipt of the complete application, the City Administrator shall mail a notice to property owners within 300 feet of the planned location for the proposed public event. The notices shall be sent to the property owner addresses as shown on the property tax records of the Linn County assessor's office. The City Administrator shall not render a

final decision on the application until property owners have had at least 10 days from the date of the mailing to comment in writing on the proposal. The notice shall inform property owners of pertinent information from which they can determine the possible impacts of the proposed event, including, but not limited to:

- a. The name of the applicant;
- b. The name and nature of the proposed event;
- c. The location of the proposed event;
- d. The date(s) and time(s) of the proposed event;
- e. The right of the property owner to comment on the proposed event; and
- f. The name and address of the person to comment to, as well as the deadline to submit comments. [Ord. 888 § 4.030, 2010.]

9.52.100 Decision making, approval process and criteria.

1. Unless the applicant consents to a later date, a final decision shall be made no later than 45 days after a complete application has been filed with the City.

2. An application for a public event permit shall be reviewed and a decision made thereon by the City Administrator.

3. Decision Making Procedures.

- a. The City Administrator shall consider and apply the provisions of this chapter during review and shall assure that the required conditions of approval are or will be met prior to issuing a permit.
- b. The City Administrator may impose on each permit approved any conditions the City Administrator deems appropriate and any conditions recommended by the reviewing authorities. This may include a condition, for example, that the applicant, organizer and/or property owner provide the City with a hold harmless agreement.
- c. The City Administrator may consider any history of noncompliance of a particular organizer with the minimum health, safety, peace, and welfare criteria of this chapter when imposing conditions on the permit.
- d. The review shall not be used to provide opportunities to deny the lawful assembly of persons for reasons unrelated to these requirements.
- e. The City Administrator shall approve the application upon demonstrated compliance with the rules and regulations set forth in this chapter.

~~The City Administrator shall deny the application if:~~

(1) The applicant is unable to demonstrate compliance with or the ability to comply with the rules and regulations set forth in this chapter; ~~or~~

~~(2) The City Administrator is unable to make any of the findings of fact required herein, including a finding that they will be in compliance with applicable land use regulations.~~

4. The City Administrator shall provide written notice of the decision to the applicant. [Ord. 888 § 4.040, 2010.]

9.52.110 Permit revocation.

Upon determination by the City Administrator of noncompliance with the terms of a permit or upon the failure of the permittee to abide by provisions of law or other conditions contained in this chapter, the City Administrator may revoke the permit. [Ord. 888 § 5.010, 2010.]

9.52.120 Appeal.

1. Any party may appeal a final decision of the City Administrator on a public event application to the City Council by providing written notice to the City Administrator no later than 10 days after the mailing of the notice of decision.

2. A hearing on appeal shall be conducted de novo. Notice of the hearing shall be given to the appellant and to all participating parties, either orally or in writing, at least 10 days prior to the City Council hearing.

3. Except as provided for the appeal of a land use decision by Oregon law, the decision of the City Council shall be final. [Ord. 888 § 6.010, 2010.]

9.52.130 Penalty.

Failure to comply with the rules and regulations of this chapter is punishable by a fine of not to exceed \$1,000 per day of violation. [Ord. 888 § 7.010, 2010.]

