
**City of Florence
City Council Minutes
February 1, 2010**

CALL TO ORDER - ROLL CALL - PLEDGE OF ALLEGIANCE

Council President Nola Xavier opened the regular council meeting at 7:00 p.m. with the pledge of allegiance. Other members present included Council Vice President Alan Burns, and Councilors Suzanne Roberts and Dave Franzen. Mayor Brubaker was absent and excused. Staff in attendance included City Manager Robert Willoughby, Assistant City Manager Jacque Morgan, Community Development Director Sandra Belson, Public Works Director Mike Miller, Finance Director David Armstrong, Senior Planner Wendy Farley, Assistant Planner Michelle Pezley and City Recorder Pat Heinze.

APPROVAL OF AGENDA

Council President Xavier asked if there were any changes to the agenda, hearing none, the agenda was approved as published.

PUBLIC COMMENTS

Council President Xavier explained the purpose of this portion of the meeting and offered an opportunity for members of the audience to address the council regarding any matter not already on the agenda for that evening. With no one coming forward, she moved forward with the Public Hearings.

PUBLIC HEARINGS

PUBLIC HEARING ON THE INITIATION OF THE VACATION OF GALLAGHER'S BLOCK 57 ALLEY ADJACENT TO HWY 126 RIGHT-OF-WAY

A. Consider initiation of the vacation of Gallagher's Block 57 adjacent to Hwy 126 Right-of-Way

Council President Xavier said this was a public hearing but before she opened the hearing, staff would give a report and then the councilors could ask questions.

AP Pezley said the city received an application for an alley vacation which was located north of Florence Yamaha which is located at 2130 and 2160 Hwy 126. She said the alley is used to provide access from Hwy 126 to Costa's two properties. She said the alley was required to be paved as a condition of approval for access permits. She said the requirements from both the city's code and Oregon Revised Statutes require that the applicant provide 2/3 of affected property owners consent. She entered into the record a letter from Don Saxon who opposes the alley vacation, Attachment F, which the council received prior to the beginning of the meeting.

Councilor Roberts asked to have tax lot 700 pointed out on the aerial; which she believed was Mr. Saxon's lot. AP Pezley replied that Mr. Saxon's property

consisted of 30 acres which was in the tidelands behind Pacific Avenue. When Councilor Roberts asked where the creek was located on the map; AP Pezley replied it was not shown on the map.

Councilor Roberts asked for confirmation that TL 700 was in back of the buildings and asked if it was the ingress and egress of the property that was being contested. AP Pezley said that Mr. Saxon had stated that he used the alley to gain access to his property. Councilor Roberts asked if one could go directly through Upas. AP Pezley said when she made her site visit there was a trailer that was blocking the access onto Upas. CM Willoughby asked if the trailers were removed, would there be direct access onto Upas; AP Pezley replied yes. When Council President Xavier asked if there was a driveway there; AP Pezley said there was no permanent access.

CM Willoughby said he thought there was right-of-way where Upas hits Hwy 126 but that was not an improved access and might require an access permit from ODOT to use it. AP Pezley said that was correct, and the city would have to provide for that. AP Pezley added that public works did not project future use of this alley for utilities.

Councilor Burns asked about access to Mr. Saxon's property and if the trailers were removed could that be used to get to the Saxon property; AP Pezley replied, yes. It was determined that the alley was paved but Upas Street was not; it was sand and at the time of the site visit trailers were parked there. Councilor Burns confirmed with staff that no one was requesting vacation of the street, just the alley in front of tax lots 6100 and 6101. He also confirmed that one could use the alley to get to Upas Street behind TL 6101. Staff referred to Exhibit B where it showed that one could walk through there, as there was nothing blocking that area.

Council President Xavier opened the public hearing and asked if there was anyone who wanted to speak in favor of this application.

Rob Ward - 83580 Sauter Drive: Mr. Ward said he was the agent for Mr. Costa; and told the council that Mr. Costa could not attend the meeting that evening. Mr. Ward entered pictures into the record and stated that when he took picture B he was standing on the north side of Hwy 126, looking down Upas Street and noted that the trailers that had been parked there had been removed. He referred to Upas Street and said it goes down the east side of the Costa's property. Pacific Avenue goes across the south side of the property and is a 60' buffer between the property owned by the Costas and what is owned by those to the south, Mr. Saxon and others. He said Upas Street turns to sand before it gets to Mr. Saxon's property. He referred to Exhibit B in the staff report and said the picture was looking east and one set of cones marked the north end of the 20' alley and the other set marked the south boundary of the alley.

Mr. Ward said the photo that he took standing on Hwy 126 looking south is looking just past the end of the pavement; the alley is paved to about where the Upas Street right-of-way starts. He said when they started the vacation

process they were required to have 100% of the adjoining property owners consent and that the only adjoining property owner was Mr. Costa on both sides. He said the Yamaha dealership sits on one piece of property and the trailer sales sits on the other piece.

Mr. Ward said about 6 months ago, Mr. Costa purchased a sliver of surplus property from Lane County. He said technically ODOT was an adjoining land owner, therefore, they contacted ODOT and ODOT had submitted an email into the record stating that they had no problem with the alley being vacated, they stated that they had no need for the right-of-way.

He said they received affirmative responses from all the affected property owners: Oil Can Henry's; Port of Siuslaw and ODOT, except Mr. Saxon, and they had not received a response from him.

Mr. Ward said the original purpose of alleys was to provide access to the middle lots, not only for vehicles but for public utilities as well. He said when ODOT came through the middle of the block with the right of way; it took away the rationale for needing the alley. He said he read in Mr. Saxon's letter where he questions ODOT access; he was not sure if Mr. Saxon had ODOT access at this time. He said he had not reviewed the accesses, and he didn't know if they were public accesses or related to the businesses. He said if they were related to the businesses that didn't mean that the public would have access through there. He said Mr. Saxon has access down Upas Street which is the public right-of-way that accesses onto Hwy 126; he hoped the council would support the vacation of the alley.

Council President Xavier asked if Pacific Avenue was also sand and not paved; Mr. Ward replied that was correct, it was undeveloped.

Council President Xavier asked for comments from anyone opposed to the vacation.

Don Saxon - 05719 North Fork Siuslaw Rd: Mr. Saxon said there was a lot of difference between effected owners and affected owners and that the other businesses such as Oil Can Henrys were not affected by cost.

He read his letter into the record objecting to the vacation of the alley. He pointed out that he had legal access to Upas Street by way of the alley, but that Upas Street had been blocked by trailers and other items by the businesses and if the alley was to be vacated there would be many obstacles and costs for him so he could enter off of Hwy 126. He listed the fees he would have to pay.

1. Fees and permits from the city
2. Improvement costs from the city
3. Improvements costs for paving the approach off of Hwy 126

He said even if he paid these fees there would be no guarantee from the city or Mr. Costa that the street would not end up blocked with trailers and parked cars. He suggested that if Mr. Costa needs all the parking he should move one of his businesses off of this property so he could provide the space he needed. He said if Mr. Costa wanted to pay for the approach to Upas Street

and get all the permits, he would think differently of it. He said the alley was a legal access for him to get onto Upas Street and he wanted it kept open.

Councilor Roberts asked if Mr. Saxon had ever reported the parked vehicles on the street. Mr. Saxon said he shouldn't have to report that to anyone and that there was a compliance officer that was supposed to be checking on these things. Councilor Roberts said some things just don't get reported; and once it's called to the city's attention, we take care of it.

Councilor Burns and Mr. Saxon discussed the possibility of developing Upas Street and Mr. Saxon said that at this point he did not need to get to his property all the time, so there was no need to develop the street, he could use the alley for access. Councilor Burns and Mr. Saxon discussed the access to Hwy 126 and Mr. Saxon stated that it was not a legal approach until one had paid for and received permits from ODOT.

CDD Belson said she thought that Mr. Saxon had a good point; and staff had not asked ODOT directly about the access onto the alley. She said in 1971 it appears as though ODOT granted access permits to the businesses, even though the access was onto a public alley. She thought there was a point that needed clarification and staff would follow that up with ODOT. She said Mr. Saxon was also correct that there is no legal permitted access onto Upas Street from Hwy 126 and as AP Pezley said in her staff report that was an access permit that the city would need to obtain from ODOT.

Councilor Roberts asked if at the present time Upas Street was not authorized by ODOT to have an access to Hwy 126; staff replied, correct. CDD Belson said that ODOT was trying to take care of a lot of paperwork and for every access onto a highway, including public streets, they wanted to get permits on paper granting that access and they do not have one in their files for Upas Street.

CM Willoughby said he thought this was a little complicated and it was true that the public right of way of Upas is the legal access to Mr. Saxon's lot from the stand point of property law; one cannot create lots that don't have legal access. He said the issue may not be so much the access but whether or not Mr. Saxon has the right to use that legal access or whether he needs to first get permission from ODOT in the form of a permit to use that legal access. He said he didn't know what ODOT would do if he only occasionally visits his property, or moving equipment once a year in and out of there; that was something ODOT would have to answer. CM Willoughby said he thought Mr. Saxon had legal access to his lot.

CDD Belson said there were other ways that Mr. Saxon could get there; legally, maybe not physically. She said one could access through Tamarack Street; there is a legal access off of Hwy 126 and that leads to Pacific Avenue and you could get to his property that way. She said practically that is probably not a good access point.

Councilor Franzen said the property in question belongs to the city, right or wrong. Mr. Saxon said it belongs to the city.

When Councilor Burns asked for clarification about the 1971 deed to Hwy 126 staff replied that was not clarified, but they would contact ODOT.

Councilor Burns said he didn't have a problem with moving forward, he said years ago the building on the property used to be a dairy and wondered if those owners had legal access off of Hwy 126. He stated his concern about the "sliver" piece of property that Mr. Costa recently purchased from the county and it appeared to him that it cut into the driveway of the trailer shop. Councilor Burns asked if a portion on the northern part of the alley is part of that property "sliver."

AP Pezley said if you stand where the property pin is between the two properties of Mr. Costa's that access is right in the middle. Councilor Burns asked if that was part of the sliver TL 6400 and if it was part of TL 6400 then it was a private access from one property into the alley. AP Pezley said that Mr. Ward was nodding his head, in the affirmative.

Mr. Ward said the sliver actually almost comes down to the pin and the alley, it is public right of way on the west side and on the east side this is private property owned by Mr. Costa. He said that it is probably true that a portion of the access does cross the property that Mr. Costa just recently acquired. He said as was pointed out, there is Tamarack Street that has access to Pacific Ave. along with Upas Street. He said there was no reason for this alley not to be back on the tax rolls to benefit the public. He said no one is being cut off and Mr. Saxon's property by deed is tidelands. He said Mr. Saxon has access to the tidelands in a couple of different areas.

Council President Xavier asked for anyone to speak on this issue; with no one coming forward she closed the public hearing at 7:42 p.m.

INITIATION OF THE VACATION REQUEST

Consider authorizing the initiation of a vacation for Gallagher's Block 57 alley adjacent to Hwy 126 right of way,

Councilor Burns moved to forward the petition to the Planning Commission for approval.

Councilor Roberts asked to add to the motion, that when this gets before the Planning Commission there were several questions this evening that she didn't feel were answered and she was sure that staff would provide the answers for the Planning Commission. She asked for clarification that because it was a vacation would it ultimately come back to the city council. Staff replied yes. Councilor Roberts then seconded the motion.

Councilor Franzen said at a previous meeting he had said that we need to be consistently consistent and we all agreed. He said no matter who it was, we said we wouldn't vacate anymore city property period; he said here we are not too long after that meeting and we're talking about vacating property, which is inconsistent with what we said. He referred to the minutes in the staff report

on page 15, where it says, "Councilor Franzen said he supported the suggestion of the city manager that the city not give up anymore rights of way and not allow anyone to block rights of way." He said regardless of the reason for the vacation he would not support it.

Council President Xavier said there was a motion and a second to forward the petition which would initiate this moving to the Planning Commission where they would further investigate it and make a recommendation as to whether or not this vacation should take place. She then called for the vote; by voice 3-1 with Councilor Franzen casting the dissenting vote. It is noted for the record that Mayor Brubaker was absent and excused.

PUBLIC HEARING ON EXCHANGE OF CITY REAL PROPERTY WITH FLORENCE HABITAT FOR HUMANITY.

In accordance with ORS 221.725, sale of city real property; publication of notice; public hearing, consider declaring city real property as surplus and authorizing exchange with Florence Habitat for Humanity.

Council President Xavier said this item is a public hearing regarding an exchange of real property with Florence Habitat for Humanity.

CM Willoughby referred to the screen which showed the city's property; Keener Phase I, which consisted of 10 parcels that could be developed into single family homes. He said that Habitat for Humanity would like to exchange their property on (green parcel) 9th and Ivy for the city's property to develop their next 10 projects. He said both properties were undeveloped sand dunes of about the same size and that the city property had more value and was more developable for housing. He said Habitat's property on 9th is more suited for open space and parks than the property the city currently owns. He said the property on 15th Street is a unique site because of the wetlands issue and is topographically more problematic for development but it was a piece that the council had indicated they would like to preserve for open space.

He said there is a statute that requires the city give notice and hold a public hearing to allow public comment on whether this land should be exchanged with Habitat. He said after the public hearing is closed the second part was for the council's deliberation and possible decision.

Council President Xavier asked if there were any questions of staff before she opened the public hearing. ACM Morgan said there was one clarification on the staff report. She said on page 1 of the staff report, where it is underlined it says, "This exchange cannot be finalized until final PUD approval by the PC." She said she thought they had received PUD approval but what they were waiting for was the final plat approval; the word plat needed to be inserted there and also into the resolution under Section 3 to say, "Upon final approval of the Keener Place final PUD plat...."

Council President Xavier opened the public hearing on the exchange of real property with Florence Habitat for Humanity at 7:50 p.m.

Council President Xavier asked if there was anyone who wanted to speak in favor of the exchange.

Katherine McBroom-Redwine – Exec. Director of Habitat for Humanity:

Ms. Redwine said Habitat had proceeded in good faith with the decision to go forward with the land exchange and they were in favor of making a final deal. She said we have improved what was a sand dune into a nice place to build on.

ACM Morgan said she had received a phone call with Jan Bordewick who owns the Oyster Cove Housing next to the Justice Center, on 9th and Ivy. She said Mr. Bordewick stated that he was not in favor or opposition but wanted to know what the city's plans were for the property and he was told that the intent was to keep it open space. She said if that changes down the road he would like to be involved with the process.

Council President Xavier asked if there was any more testimony either in favor or opposed or neutral, with no one coming forward she closed the public hearing at 7:54 p.m.

Consider approval of Resolution No. 4, Series 2010 a resolution authorizing the City Manager to transfer city property to the Florence Habitat for Humanity (FHFH) and accepting FHFH property on behalf of the city.

Councilor Roberts said she wanted to compliment the Habitat personnel on the decorative rock that is being used on the entrance way into the housing project. She said she hoped that when the city gets money for the other piece of property it will be a beautiful open space park for the citizens of the city.

Councilor Burns moved to adopt Resolution No. 4, Series 2010 as amended (with the addition of the word plat) a resolution authorizing the city manager to transfer city property to the Florence Habitat for Humanity and accept the FHFH property on behalf of the city. Second by Councilor Franzen, by voice all ayes, motion carried unanimously. It is noted for the record that Mayor Brubaker was absent and excused.

**CITY OF FLORENCE
RESOLUTION NO. 4, SERIES 2010**

**A RESOLUTION AUTHORIZING THE EXCHANGE OF CITY REAL PROPERTY BETWEEN
THE CITY OF FLORENCE AND FLORENCE HABITAT FOR HUMANITY**

WHEREAS, there exists a need for affordable housing within the City of Florence, and that need has a profound impact on both the livability of the community and economic development in Florence, as well as the cost of public safety, public health and public school systems; and

WHEREAS, safe and affordable housing gives people an opportunity to build better lives and is a basic human need; and

WHEREAS, the City owns real property near 15th and Oak Street (the "City Property") as follows: beginning at a point North 59° 50' 49" East 504.44 feet and South 0° 04' 08" East 2.31 feet from the northeast corner of KINGWOOD NORTH, as platted and recorded in Book 57, Page 5, Lane County Oregon Plat Records, in Lane County, Oregon, thence South 00° 04' 08" East for 415.78 feet; thence South 89° 56' 39" West for 100.00 feet; thence North 0° 04' 08"

West for 257.87 feet; thence along the arc of a 80.00 foot radius curve to the left (the chord of which bears North 13° 06' 27" West 36.10 feet) a distance of 36.41 feet; thence North 59° 50' 49" East for 40.70 feet; thence North 30° 09' 11" West for 52.00 feet; thence North 59° 50' 49" East for 114.41 feet to the point of beginning, in Lane County, Oregon. The above property is to be known as Lots 1 thru 10 inclusive, KEENER PLACE; and

WHEREAS, Florence Habitat for Humanity ("FHFH") owns real property at the corner of 9th and Ivy Street (the "FHFH Property") described as follows: Lots 1,2,3,4 5,6,7,8,9, and 10 Block 23, In the Amended PLAT OF THE CHICAGO ADDITION to Florence, as platted and recorded in Book 25, Pages 552 and 553, Lane County Oregon Deed Records, in Lane County, Oregon; and

WHEREAS, in the interest of preserving the FHFH Property as park or open space and in promoting affordable housing at the lowest possible cost, the City approached FHFH about exchanging the two properties; and

WHEREAS, In the spring of 2009 the City Council authorized staff to initiate a land exchange with FHFH so that it is feasible for them to build 10 new affordable housing units; and

WHEREAS, according to ORS 221.725, city resident are to be given an opportunity to present written or oral testimony when the City Council considers it necessary or convenient to sell or exchange real property or any interest therein; and

WHEREAS, such opportunity was provided by a public hearing on February 1, 2010, notice which was published in the Siuslaw News on January 22nd and January 27, 2010.

NOW, THEREFORE, BE IT RESOLVED BY THE FLORENCE CITY COUNCIL:

1. In the interest of promoting the development of affordable housing in the City of Florence and to preserve the FHFH Property from development, the City Council hereby authorizes and approved the exchange of the City property for the FHFH Property. In support of making this land exchange, and based upon the evidence provided at the hearing, this Council makes the following findings:
 - a. The City of Florence has a need for more affordable housing for low income residents.
 - b. FHFH has an established and effective program for building affordable houses for low income residents.
 - c. The relative size and values of the two properties are about the same, however the City owned property on 15th Street will produce more affordable housing units at a lower cost than the FHFH property at 9th and Ivy Street.
 - d. The FHFH property is better suited for a public park or open space use than the City's 15th Street property because of the proximity of the City property to Miller Park and Singing Pines Park and because the FHFH property is a unique and desirable property and should be preserved.
 - e. Because it will result in more housing units at a lower cost and better parks and open space for City residents, the public will derive greater benefit from City ownership of the FHFH property than it would by retaining the property on 15th Street.
2. Based upon these findings and all of the written and oral testimony presented at all of the public hearings on this proposed land exchange, the Council further finds that it would be both necessary and convenient and in the best interest of the public to make this land exchange.

3. Upon final approval of the Keener Place final PUD plat, in order to complete the property exchange as contemplated by this resolution, the City Manager is authorized to take such actions and execute such documentation as may be necessary to complete and record the property exchange. The City Manager is further authorized to accept the title to the FHFH property on behalf of the City as is made necessary by ORS 93.808.
4. This resolution will become effective immediately.

REPORT

DISPOSITION OF THE EXISTING FLORENCE SENIOR CENTER BUILDING

CM Willoughby referred to the old Senior Center on the overhead. He said the property and building were owned by the city and had gone through a PUD process in anticipation that the rest of the property would be divided into single family lots to be sold to developers. He said those proceeds could be used on other properties owned by the city near the Justice Center for affordable housing, market rental housing, or even apartments in the future. He said the discussion had been going on for the past year assumes that when the Senior Center was vacated in April or May that it would be torn down and the land made available for private developers. He acknowledged that there had been some interest expressed by one or two groups in the community to use the facility until it was needed in the future, but that this was a decision for the council to make.

CM Willoughby said he had asked PWD Miller to prepare a report to the council on the condition of the building so there would be some basis for evaluating whether the council wanted to keep the structure or tear it down. He said the Senior Boosters will not be vacating the building until this spring so staff didn't need an answer from the council that evening. He said since there had been inquiries into using the vacated building staff wanted to give the council a report on its condition.

PWD Miller said the facility was approximately 4,100 square feet and was built in the 1950's by volunteers of the community; it had been added onto several times. He said one of our first concerns was asbestos because of the age of the building and the fact that abatement was very expensive. He said we did have it analyzed and only one area showed positive for asbestos. He said other things that were of a concern include:

1. The electrical system needs to be replaced – fire hazard
2. Needs a new roof
3. Dry rot in the flooring
4. Kitchen will be non-functional as the Seniors are taking things out of the kitchen for the new Center
5. Hot water heater
6. A lot of insect damage

He said we're looking at \$152,000 out of the general fund to totally rehabilitate the building.

Councilor Franzen said it appeared to him that the building needed to be torn down.

CM Willoughby said staff is concerned about all the unknown things, but also we're concerned about the prospect that if the building wasn't torn down immediately there wouldn't be any funds to maintain it. He said given its age and condition he was concerned that it would deteriorate very rapidly. He said it either needs to be torn down or used for something with an identified source of funds to maintain it.

PWD Miller said he thought there were very valuable wood beams in the building that were part of the roof structure and could be reused/sold to offset some of the costs.

Council President Xavier thanked staff for the report and reported that the Senior's had said their project was running 5 weeks ahead of schedule and they might be doing the walk through as early as the middle of March.

Councilor Franzen asked if there was any way the council could pass an action on this that evening so we don't have to deal with it in the future as he thought there was enough testimony that indicated the building should be torn down.

Council President Xavier said she didn't think council could take action until there was more information; we would need to look at the entire picture.

MEMORANDUM OF UNDERSTANDING FOR FISCAL SPONSORSHIP OF THE FLORENCE SENIOR CENTER

Consider authorizing the Council President and City Manager to sign the MOU for the City of Florence fiscal sponsorship of the Florence Senior Center and approving Resolution No.5, Series 2010, a resolution establishing a Trust and Agency Fund in the Florence city budget for the benefit of the Booster's Senior Center Inc.

Council President Xavier said the item before the council was a MOU for the sponsorship of the new Florence Senior Center.

FD Armstrong reminded the council that at the last council meeting he had presented a report about the city's prior attempt at a fiscal agreement with the Senior Center. He said the MOU before the council that evening was drafted by our city attorney. He said the MOU allows us to set up a Trust and Agency Fund in our budget which is instituted by the attached resolution.

He said this fund would be an operations reserve for the Senior Center; the city would be able to take donations which would go into that reserve and then no more than once a month the Senior Boosters could request funds out of that reserve for the operation of the Center. He said the reason it is done this way is because funds donated directly to the Center or to the Senior Boosters are not deductible with the IRS.

FD Armstrong said doing it this way makes sure that the funds are raised for the city and in control of the city; and there is at least a possibility of deductibility. He said the city is in control of the funds and can disburse them

as we see fit. He said the Senior Boosters can make requests but that the city is not required to honor them.

He said the MOU also outlines that over the next 2-3 years we'd like the Boosters to form a Sec. 501(c)(3) entity so they could take in their own donations instead of the city. He said that would be similar to what the Friends of the FEC do and we've asked the Friends to assist the Seniors in this process.

He said the city will budget for these funds once the fund is established; and it would be the city's responsibility to budget for appropriations so that the money could be spent. He said staff would meet with the Senior Boosters and determine the immediate plans for the \$210,000 that had been received so far and for any donations for operations funds needed going forward. He said for future years this would just become part of our budget process and the Seniors would be submitting a budget every year and it would be incorporated into the city's budget as we would any other fund.

Councilor Roberts asked why it would take 2-3 years to set up a Sec. 501(c)(3). CM Willoughby said it does take some time to go through the process; the Seniors are going to be a little preoccupied for the next few months, getting moved and getting the operations set up; it depends how quickly everything goes. Councilor Roberts expressed her dismay at the length of time for setting up the Sec. 501(c)(3).

Councilor Roberts expressed her concern that the agreement did not state who from the city would approve the requests from the Seniors. She thought it should be the city manager, or council and that was not written in the agreement.

CM Willoughby said it would actually be the budget committee which means the council and the citizen budget committee members make the final decision. FD Armstrong said the initial budget would be set up by the council; going forward the budget would become part of the budget committee process and as far as approving the expenditures it would be the same as any of the other funds; ultimately the city manager is responsible. Councilor Roberts said she didn't see it written in the agreement.

ACM Morgan referred to Section 5 of the agreement; "requests shall be made to the city..." CM Willoughby said if council wanted that clarified; it could be done. He said he would take that to mean that under the policy that we have now, the city manager is the delegated authority up to \$30,000; so if there was money in the budget, approved by the budget committee/council and a request was made that was inside of that authority, then the city manager could make the decision. Councilor Roberts said she would like to see it clarified, with the procedures that we're using now, for the city manager.

FD Armstrong referred to number 3 on page 1, "City expenditure of funds from the reserve account will be subject to city and state procurement regulations." He said that is the same case for all city funds; subject to the approval of the

city manager. CM Willoughby said that is why the city attorney referenced this because there are certain dollar amounts in the procurement regulations which state that the requests that come to the city up to \$30,000 the city manager is given the authority to approve. Councilor Roberts asked if that was covered under number 3; CM Willoughby replied, yes, he thought that covered it.

Council President Xavier expressed her concern about the timing for the release of the funds to the Seniors to pay for the furniture that was ordered. She said if we have to have a budget before any funds could be released she asked when the Seniors would get the \$200,000 to pay for it.

ACM Morgan said that Western Lane Community Foundation had agreed to pay for those expenditures out of the funds received for the Seniors. She said at some point we're going to come to a point where the money would be transferred to the city. Council President Xavier asked if the Seniors could still act while we get the budget in place. ACM Morgan said we would prefer that they spend most of the money for the new building to bring the amount down and whatever is left would be transferred over to the city. CM Willoughby said we don't need this agreement in place for them to buy their furniture, that Western Lane Community Foundation is willing to work with the Seniors on this; which is a change from the last time it was discussed. ACM Morgan said they can purchase the furniture; they don't have to go through the city's public contracting law.

Council President Xavier said she was impressed that the MOU was only two pages; it was the shortest one she had ever seen.

Council President Xavier asked for public comment.

Linda Lauck - Board Director for the Senior Center: Ms. Lauck said the Senior Center had been trying to obtain a Sec. 501(c)(3) for almost a year and the IRS pretty much told them they that they would not be eligible. She said the Seniors provide meals, and we are a service organization; it is very specific about what qualifies. She said we stopped working on this because we felt we were not in a position to ever get a Sec. 501(c)(3).

FD Armstrong clarified that the city was not talking about the Senior Boosters becoming a Sec. 501(c)(3); we're talking about a separate group just like the Friends of the FEC who are separate from the FEC. Ms. Lauck acknowledged that and said we also tried to form the Siuslaw Foundation which was going to get a Sec. 501(c)(3) to get funds in and pass those funds onto the Senior Center and again after talking with the IRS that went nowhere and the Foundation just simply shut down. We've been spending a lot of time to see what we can do; so we are interested in seeing what the Friends of the FEC can do to assist us.

CM Willoughby said the MOU states that it was the intention of the parties to look at the Seniors getting a Sec. 501(c)(3). He said the MOU is fine; as it states we're going to try to do that over the next couple of years.

Council President Xavier asked for any further comments from the public or the council; hearing none she moved forward with the resolution.

Councilor Burns moved to approve Resolution No. 5, Series 2010 a resolution establishing a Trust and Agency Fund in the Florence City Budget for the benefit of the Boosters Senior Center, Inc. Second by Councilor Roberts, by voice all ayes, motion carried unanimously. It is noted for the record that Mayor Brubaker was absent and excused.

**CITY OF FLORENCE
RESOLUTION NO. 5, SERIES 2010**

**A RESOLUTION ESTABLISHING A TRUST AND AGENCY FUND IN THE FLORENCE
CITY BUDGET FOR THE BENEFIT OF THE BOOSTERS SENIOR CENTER, INC.**

WHEREAS, Boosters Senior Center, Inc. (Boosters) are operating the current Florence Senior Center, and

WHEREAS, the Boosters will continue to operate the new Florence Senior Center, and

WHEREAS, the Boosters may need occasional assistance in the funding of operations of the Florence Senior Center, and

WHEREAS, the City wishes to establish a fund to receive donations earmarked for the Florence Senior Center, and

WHEREAS, the City wishes to use these donations to fund various expenses related to the Florence Senior Center, and to assist the Boosters if desired,

NOW, THEREFORE BE IT RESOLVED that the City of Florence establish a Trust and Agency Fund to accept donations and pay expenses related to the Florence Senior Center. Such fund will be able to receive transfers and donations immediately upon its establishment, and the Boosters will submit figures for a future resolution which will adopt a budget for expenditures in the 2009-10 budget year. For succeeding budget years appropriations will be made as part of the regular budget process.

BE IT FURTHER RESOLVED that this resolution shall become effective upon its passage.

Council President Xavier said she assumed that the motion included authorizing her to sign the MOU. CM Willoughby said he thought it should be a separate motion.

Councilor Roberts move to adopt the Memo of Understanding for the Florence Senior Center. Second by Councilor Franzen, by voice all ayes, motion carried unanimously. It is noted for the record that Mayor Brubaker was absent and excused.

EVALUATION ON BICYCLE USE IN THE MILLER PARK SKATEPARK
Consider review of staff's six month evaluation on the use of bikes in the Miller Park Skate Park.

Council President Xavier said the item before the council that evening was a status report on bicycle use on the Miller Park skatepark.

CM Willoughby said about 6 months ago a group of bicycle advocates came to the council and asked the council to reconsider the ban on bicycles in the skatepark. He said the council did make that change and requested a 6 month review to assess the impacts on the skatepark, bicyclists and skateboarders. He said it had been 6 months but unfortunately part of that time had been during the winter and the skatepark had not been heavily used. He said the police department didn't keep statistics in a way that staff could really tell if there was an increase in injuries, citations or calls. He said the police department had asked for some more time to change their recordkeeping methods.

CM Willoughby said he received a draft of an article from the City's insurance underwriter that was going to appear in a risk management magazine, recommending to cities that they do not allow skateboarders and bicyclers to use the same skateparks because of the number accidents and damage they are seeing to the skateparks. He said given all of that; he asked the council to continue this experiment for another 12 months so we can get through an entire year and a couple of summers which will give staff a better idea on the impact to the skatepark. He said he was aware that some of the bicyclists were creating jumps by taking the caps off of some walls and he acknowledged that we need to make sure that we prevent that from happening by either nailing down the caps or getting through to the bicyclists that it wasn't acceptable.

Wendy Farley - Senior Planner: SP Farley said there was an omission on page 1 of the staff report on the bottom of the page - Florence Parks Department: she failed to include that Parks Supervisor; David Miller had reported there was no noticeable damage to the park that he had seen.

CM Willoughby said he was aware of that and that was why he thought it was not a problem to request that we continue this experiment a while longer.

Councilor Roberts said she thought a year was too long and she would like to see another report in 6 months. She said since we've had the risk report on these bicycles and it says that they are totally incompatible with the skateboard parks because they are built differently and are more heavy duty. She said about 2 months ago in a monthly report, there was damage reported to the council from the public works department and it cost the city money to fix that. She said when she asked if that was vandalism, she was told it was not. She asked if this damage was caused by the bicycles; this report indicates that they are costing us money. CM Willoughby said staff would try to find the answer to her question.

Council President Xavier asked if Councilor Roberts was asking for a mid-term report of staff's 12 month recommendation. Councilor Roberts said she wanted to see a 6 month report and noted that it would put us through the summer cycle where we have the heavier use; we can make a better determination as we will have the proper police reports at that time.

Councilor Burns said when the grant was signed and the money received from the state; it stated very clearly that bicycles were allowed. He said it has since been changed by people on the committee to not allow bicycles.

SP Farley said when the grant was signed and marketed; the state said it would be an all wheel (non-motorized) park which included scooters, wheel chairs, etc. She said when it was finally developed it was determined it would be for skateboarders only. Councilor Burns asked if we were being unfair to the public by excluding bicycles. SP Farley said the grant marketed one thing and the park became something different. She said what got built was a skatepark by design as opposed to one that was more bicycle friendly.

Council President Xavier asked if the grant was changed when it was changed to just a skatepark. SP Farley explained that you take things to the state for a grant in concept. She said the state realizes that you have to go through a final design for a bidding process and the end design may be different than was put out to bid. She said the preliminary design that went to the state was sent by the developer (Air Skate) and originally it was going to be a bigger park, but the organizers did not raise enough funds for the larger park which would have been about twice the size.

CM Willoughby said it sounded like we had to scale back the original park because of cost; it would also be reasonable to scale it back because the park itself was different than we originally envisioned. He went on to say that if we find that in operating it that it's either damaging the park or causing unreasonable risk for the city in having this shared use, he thought we could continue to change that vision and we could justify why we were doing it. He said that is something we could check with whoever gave us the grant. SP Farley said the state was aware that we scaled it back and changed the use.

Councilor Burns suggested that staff bring back a report to the council in 7 months (September 1st.) which would get us through the summer months and council concurred.

Council President Xavier asked if the public wanted to address this issue; no one came forward.

Councilor Burns moved to review this item in 7 months. Second by Councilor Roberts, by voice all ayes, motion carried unanimously. It is noted for the record that Mayor Brubaker was absent and excused.

AMENDMENT TO THE FLORENCE CITY CODE 9-5-1-5: STORMWATER UTILITIES

Consider approving Ordinance No. 3, Series 2010, an ordinance modifying the FCC 9-5-1-5 to include a limit on appeals of imperious area used to calculate stormwater.

Council President Xavier said this item includes proposed amendments to the FCC, 9-5-1-5, Stormwater Utilities.

FD Armstrong said when the city instituted the stormwater utility in 2006, there was an appeal procedure put in place for lot owners. He said the city used the county's mapping system to determine lot sizes and the city used those sizes to calculate the amount of the stormwater fee. He said unfortunately, those lot sizes were not always accurate and occasionally the impervious surface was more significant than the lot size.

He said that to appeal their stormwater fee the lot owner comes to the city with what they think is a discrepancy in the lot size. Staff goes out to the lot and if it is found to be different, then the appeal is approved and they are given a refund if they have been overcharged. He said since institution of the stormwater fee 4 years ago there have been two appeals, and they went back three years. He said it was difficult for staff to calculate the refund and the refunds were significant.

He said at this time there is nothing in the code that limits how many years back a citizen could request a refund. He said therefore, staff is recommending a limit of one year for the refund because it limits the city's liability and noted that record keeping becomes a problem as it gets further out.

Council President Xavier asked for any public comment; hearing none she moved forward with the ordinance.

Council President Xavier called for the first reading of Ordinance No. 3, Series 2010, by short title only acknowledging council's familiarity with the contents of the ordinance. CR Heinze gave the first reading. Councilor Roberts moved for approval of the first reading of the ordinance and called for the second reading by short title only, second by Councilor Burns, by voice all ayes, motion carried unanimously.

CR Heinze gave the second reading of the ordinance. Councilor Franzen moved for adoption of the ordinance by roll call. Second by Councilor Burns. By roll call all ayes, motion carried unanimously. It is noted for the record that Mayor Brubaker was absent and excused.

**CITY OF FLORENCE
ORDINANCE NO. 3, SERIES 2010**

AN ORDINANCE MODIFYING FLORENCE CITY CODE 9-5-1-5 TO INCLUDE A LIMIT ON APPEALS OF IMPERVIOUS AREA USED TO CALCULATE STORMWATER CHARGES.

WHEREAS, the City Council of the City of Florence finds that Stormwater rates were first established February 24, 2006; and

WHEREAS, the Stormwater charge for Florence properties is calculated by using the land areas provided by the Lane County Regional Land Information Database (RLID); and

WHEREAS, the areas provided by RLID are occasionally inaccurate, or do not reflect the area of impervious surfaces; and

WHEREAS, there has been an appeal process in place since 2006 for customers who believe their impervious area is less than that reflected in RLID; and

WHEREAS, when impervious area is calculated and found to be less than RLID's number, the customer is owed a refund of the overcharged amount; and

WHEREAS, calculation of such overcharges going back more than one year are difficult and burdensome for utility employees.

NOW, THEREFORE, THE CITY OF FLORENCE ORDAINS AS FOLLOWS:

Section 1. Repayment of overcharges due to appeals of impervious surface area used to calculate Stormwater charges will be limited to one year prior to the date of the approval of the appeal by the City Manager or Public Works Director.

Section 2. Paragraph F will be added to Section 9-5-1-5 of the Florence City Code as follows:

"F. Stormwater utility users may appeal the calculation of impervious surface area used to calculate the Stormwater utility user charge. The City may use any method deemed necessary to measure the impervious surface area. If impervious surface area is reduced by the appeal, refunding of overcharges will be limited to one year prior to the date of the approval of the appeal."

Section 3. This ordinance shall be effective 30 days after its passage by the Council and signature by the Mayor.

FY 2011 OREGON FEDERAL APPROPRIATIONS REQUEST

Consider authorizing staff to submit a Federal Appropriation funding request for the City's Biosolids and Waste Management Program to Congressman Peter DeFazio, and Senators Ron Wyden and Jeff Merkley.

ACM Morgan said the city had received information from our Senators that they were looking for projects to fund. She noted that although it didn't appear favorable to get money at this time, staff felt that it was important to submit an application. She said the city has a good rapport with our representatives and staff agreed that our Senators need to know that the city has viable projects that need funding. She said it is staff's recommendation that we submit an application for Phase I of the City's Biosolids and Waste Management Program-converting to Class A in the amount of \$37 million. She said it would be submitted by the February 23rd deadline.

It was council's consensus to have staff proceed with this funding request.

CITY MANAGER REPORT

Fire District Annexation

CM Willoughby said he wanted to talk about the time schedule for the fire district annexation. He said we have been discussing permanent and sustainable financing for fire services for more than a year with the fire district. He said we have a temporary IGA that was developed in 1999, and it has been extended more than it should have.

He said along with fire district the city commissioned a study in 2009 that was done by ESCI that gave us recommendations; following that the council and fire district commissioned a survey to those in the city limits of Florence which has been mailed out and is now being returned. He said we should have the results of that survey by February 10th.

CM Willoughby said if the city held an election it was important to hold it in May or November so we don't have to pay for a special election. He said working backward from the March 18th deadline for submitting information to the county for the election; staff was proposing the following dates for meetings.

- Results of the survey will be available by February 10th
- February 17th - hold a joint town hall meeting with the fire district at 7:00 p.m. at the FEC. The council would present the results of the survey, ESCI study and explain the results of the year long conversations on the annexation process. If it appears that the citizens are in favor of annexation then;
- February 24th a joint meeting with the fire district to take under advisement what you've learned at the town hall meeting; write a ballot title and all the things that need to be done and finalized to submit information to the county by the March 18th deadline.

Council concurred with the two meetings dates: February 17th for a town hall meeting at the FEC and a joint meeting with the fire district on February 24th.

Council President Xavier asked if the meeting at the FEC could be televised; staff replied yes.

Welcome Sandra Belson's Parents

CM Willoughby said that our meetings are having so much entertainment value that people are attending all the way from New York. He then welcomed CDD Belson's parents from New York to the meeting that evening.

MAYOR AND COUNCIL REPORTS

Budget Calendar

Councilor Burns said he had not seen a budget calendar but he would like to have a budget committee meeting on the 10th of February to go over expectations for the new budget. FD Armstrong said that he would be sending the budget calendar out that evening in an email. He said the first meeting date was an orientation on March 18th and the first budget committee meeting was scheduled for May 6th. CM Willoughby said the plan is to have a balanced budget to the council one week before first the meeting.

With no further business, Council President Xavier adjourned the meeting at 8:58 p.m.

Nola Xavier
Council President

ATTEST:

Pat Heinze
City Recorder