GLADSTONE REGULAR CITY COUNCIL MEETING MINUTES of August 12, 2014

Meeting was called to order. No time stamp provided.

ROLL CALL:
The following city officials answered roll call: Councilor Nelson, Councilor Mersereau, Councilor Martinez, Councilor Reisner, Councilor Busch, Mayor Byers

ABSENT:
None reported

STAFF:
Scott Tabor, Public Works Supervisor; Stan Monte, Fire Chief; Jolene Morishita, Assistant City Administrator; Jim Pryde, Police Chief; Jeff Jolley, Police Lieutenant; Rhonda Bremmeyer, Senior Center Director; Shane Abma, City Attorney, Irene Green, Library Director.

COUNCIL ELECTION TO APPOINT A CITY COUNCIL MEMBER FOR POSITION 1

Mayor Byers introduced the applicants for the position:

- Frank Hernandez
- Dominick Jacobellis (not present)
- Patrick McMahon
- Kim Sieckmann

Assistant City Administrator poled the Councilors for their votes:

- *Kim Sieckmann – 4 votes*
- *Patrick McMahon – 2 votes*

Assistant City Administrator Morishita administered the Oath of Office. Councilor Sieckmannn did so swear, then did take his seat on the Council.

Representatives of the Gladstone and Oak Grove Rotaries, Steve Leitz and Joe Kaufman presented comments of thanks to the Council, the Mayor, Public Works, Fire Department, and Police Department for helping to put on the Gladstone Cultural Festival. They presented a plaque to the Mayor and Council on behalf of the Gladstone-Oak Grove Rotary Club.

Mayor Byers accepted the plaque and thanked the Gladstone-Oak Grove Rotary Club for putting on the festival after the Chautauqua Committee announced that they would not be doing the festival. He congratulated them for the great job that they had done in putting the festival on.

Mr. Kaufman went on to ask the Mayor and Council to consider having the Gladstone-Oak Grove Rotary Club put the festival on July 31 – August 2, 2015. He asked that they consider a contract during the August and September Council Meetings, with the intent of signing the contract in September. Mayor Byers encouraged them to do so, and stated that the contract would be the final decision.

BUSINESS FROM THE AUDIENCE:

- Sherry Hall thanked the Council and City Agencies for their participation in the National Night Out Against Crime. She read a letter from the Police Chief Pryde to the organizers in appreciation for their work in making National Night Out Against Crime a success.
- Jerry Miller presented the members of the Council, staff, and their guests with invitations to the River Resource Museum for a free salmon bake at 6-8 p.m. on August 20, 2014.
- Ted Schumaker of the Gladstone Booster Club asked for the Council's support for an enhancement project on Portland Avenue, in front of the stadium and school. He provided handouts to illustrate the enhancement project. The Booster Club wants to put a banner up, but has been informed that it breaks two city violations to do so:
    - Cannot have more than one permanent sign on the property.
    - Cannot have a permanent sign in the public right of way.

The Booster Club is asking for a variance in the statutes to allow the club to put the banner up as an enhancement. He believes the banners will improve the appearance.

Mayor Byers stated that he wanted to defer the request to City Planner Clay Glasgow and the Planning Commission to make sure that it did not present another problem, since the City had just had signage problems in the area.

Mr. Schumaker said that there were 6 banners, 24" X 36," for the East side of Portland Avenue, which would extend all the way down to the Tech Center. Mayor Byers said that this is why they present things to City Planner Glasgow, the City Attorneys, and the Planning Commission, so that they do not set some kind of precedence and cause other problems.

Councilor Martinez explained that this request would require a code change, and that involves a process that does not allow them to address the issues in this meeting. Discussion ensued. Mayor Byers concurred with Councilor Martinez. He explained that the Planning Commission would bring their recommendations to the Council, then they would address it.

Councilor Martinez explained that The Booster Club could always have some mockups made and present them at Homecoming. Putting the banners up in a temporary condition could still be allowed.

Kathy Beykovsky asked if they could put the banners up for football, then take them down so that they would not be in violation of the statute. Mayor Byers reiterated that if a sign goes up, it falls under the sign rule. The City Planner, City Attorneys, and the City Planning Commission must consider the matter first, then they will present their recommendations it to the Council.

CONSENT AGENDA:

Consent Agenda items:

1. Approval of June 24, 2014 and July 8, 2014 Minutes
2. Approval of Police Department Taser Replacement Proposal
3. Approval of COLA to City Administrator Contract
4. Payment of July, 2014 claims

Councilor Mersereau requested that item 2 to be pulled.
Councilor Reisner requested that Item 4 be pulled.

Mayor Byers poled Council for approval of items 1 and 3. Councilor Nelson moved to approve. Councilor Busch seconded. Consent Agenda items 1 and 3 were passed unanimously.

2. Approval of Police Department Taser Replacement Proposal:
Councilor Mersereau stated his support of tasers for the Police Department but was concerned about the item costs. He supports getting the 13 tasers, but when he calculated the cost per taser per year was confused by the item costs:
   - Option 1 costs $272 per taser per year. When you take the total cost and divide it by 5 years, then divide by the number of tasers, the cost comes to $278.01 per unit.
   - Option 3, with the purchase of more than twice as many tasers, costs $340.39 per unit.

   Councilor Mersereau wants to know why the taser units cost so much more under Option 3 which utilizes the Taser Assurance Plan which locks in that price per unit for future purchases of 12 units every 5 years, receiving a 13th unit free. Option 13 would lock Taser and the Police Department into that plan as long as the Police Department chooses to do so. Councilor Mersereau asked if TAP also is included in the price of the Option 2 units. Police Lieutenant Jolley and Officer Matt Okerman came to the podium to represent the Police Department. Police Officer Okerman explained that Option 2 only includes replacing the current Tasers which are already out of warranty, including 4 units, plus a free unit. Option 2 only allows certain officers to be outfitted with Tasers, and require them to differentiate between the two models of the Tasers, while Option 3 allows each officer on the force to be assigned a Taser.

   Councilor Reisner said that the Police Chief's recommendation was missing from the proposal. Lieutenant Jolley explained that the Chief had signed and initialed his proposal to the Chief, and had signed on a letter to Lieutenant Jolley on June 26, 2014. Councilor Reisner recommended that the Police Department resubmit the proposal with better information because he did not see consideration of manufacturers other than Taser. Lieutenant Jolley said that the Taser X26 model represented the latest technology, was very close to what they are already using, and would require the least amount of training. A more expensive model does not fit into their operational expense. The model that they are currently using is being phased out. After a question by Councilor Martinez, he explained that the Department currently has 10, but that one of those is out of service. Police Officer Okerman and Lieutenant Jolley explained that Option 3 was appealing because the more expensive model would require a minimum of 2 additional hours of training, but the Option 3 models would require no addition training.

Councilor Mersereau wanted to know if Tasers were made by more than one manufacturer. Officer Okerman explained that there were other electrically conductive devices used in other settings that can be used for stunning, but they were usually used in other applications, such as jails. In his opinion, Taser built the most rugged of the devices and were better suited for the police application. Lieutenant Jolley added that Option 3 included $2200 for a maintenance program for the units that replaced them for the life of the program, so that if any two of the Tasers units failed, the program paid for itself. At the end of the lifecycle of the units, they get a shipment of new Tasers at the same price.

On question from Councilor Martinez, Lieutenant Jolley explained that the new units that they would receive at the end of the five-year life cycle would have the latest technology, and fall under a new warranty and maintenance program, and it locks in the current price of the units.

On question from Councilor Mersereau, Officer Okerman explained that with Option 3 the price would stay the same for each new unit that they ordered in the future, but if they ordered a new model that they would only be charged the difference between what they are paying for the current model and what the new model would cost.

Councilor Reisner asked if the funds would be coming out of the General Fund or from the Levy Fund. Lieutenant Jolley, after referring to Chief Pryde audience, answered Levy Fund.

Councilor Sieckmannn asked if the purchase was made through the manufacturer or through a wholesaler. Officer Okerman answered that all purchases are made directly from the manufacturer. Councilor Sieckmann said that he Googled the price of the units and the costs were coming in at under $900 each without the TAP program. Officer Okerman explained that intermediaries could sell the units but did not provide the service and maintenance warranties, unless they bought it through Taser. Because of service related issues, Taser had discontinued the program and moved all service agreements to their own law enforcement related division to insure service levels and supply related issues.

Councilor Sieckmann wanted to know if the units were to be purchased on the Police Department Budget, and why it had been brought to the Council for approval instead of just buying them out of the Police Budget. Lieutenant Jolley explained that this was not budgeted, and that they had only become aware of this program through exposure to it through West Linn's enrollment in it. He also explained that the units that they would be turning in have some retail value for which they would be receiving credit under the program, making it more time sensitive. Councilor Sieckmann asked if there was enough in the Levy Fund so that the purchase would not affect them someplace else. Lieutenant Jolley assured him that it would not.

Councilor Nelson moved to approve the purchase of the new Taser units under Option 3; Councilor Martinez seconded. In discussion, Councilor Reisner noted that it would have been nice to have had a lot of the information ahead of time, alleviating the need for so

much discussion, but appreciated having the officers available for discussion in the meeting. Motion carried unanimously.

4. Payment of July, 2014 Claims. Councilor Reisner stated that on page 2, Brown and Caldwell was to be paid $16,848.23. Councilor Busch understood that the Council was supposed to get a report from them on the Master Plan that is over a year behind schedule. He would like to hold off on the payment until the Council receives the report. He wants to ascertain why the City is to be paying $8,424.12 out of the Master Plan Fund and $8,424.11 out of the Engineering Fund.

   Public Works Supervisor Tabor explained that he had been working closely with Brown and Caldwell to finish up the Water Master Plan and to determine how the final finances would be done. He expected them to have a completed Master Plan before the end of August.

   Councilor Sieckmann concurred with Councilor Reisner that Brown and Caldwell had missed their deadline, had requested a delay, and had tried to charge the City more money. He thinks that payment should be withheld until Brown and Caldwell fulfills their end of the bargain. Councilor Mersereau said he previously had commented that the job would require an extension, and Brown and Caldwell had assured them that it would be completed without the extension.

   Councilor Reisner made the motion to approve the payment of the billing with the exception of Brown and Caldwell; Councilor Sieckmann seconded. Motion passed unanimously.

CORRESPONDENCE:

Letter dated August 6 from Serena Royce in support of approving the proposed Dog Park at Meldrum Bar Park.

REGULAR AGENDA:

5. City Council Voting Procedure: Someone called into question that the role call was called left to right instead of by the Councilors' position numbers. The question was about deliberating the role call just by their position numbers. After some discussion, Councilor Nelson said that the order had been changed so that he could sit closer to the staff positions so that he could hear and understand what was going on, since he had lost hearing in both ears. The Recorder had been calling the role call from the left to the center, then from the right to the center since the change – from the outside in.

   The Council reached a consensus to continue to the way they are voting.

6. Discussion of Final Location of Dog Park: Mayor Byers asked if there was an additional staff report. Assistant City administrator replied that there was not, and that City Administrator Boyce had provided Council with a staff report. The staff recommended

that Council take public comment, but Council had not called a public hearing.

City Attorney Abma noted that this was an agenda item and that notice had been sent out. There are no zoning issues, so if the Council wished to vote on it, there would be no problem, but they could table it if not. Councilor Martinez commented that there was quite a bit of public comment in light of what was in the packet and recommendations.

Councilor Sieckmann stated that he thought a lot of information was missing, such as the cost impact and would there be a better use for that area of the park which was not looked at? That seems like a prime bit of waterfront property on which to set up a fence and have a bunch of barking dogs there. He is not opposed – he just wonders if there is a better use for it. He was also concerned that they had a lot of petitions that were in favor of the dog park, but he did not see any of the information regarding the opposition to the dog park that he had seen while serving on the Planning Commission. The Planning Commission had previously shut down the dog park because they had opposition.

Councilor Nelson recollected that the original petition had maybe 50 signatures on it, and the current one had about a couple of hundred. When they examined the first petition, they had maybe two people in opposition, but they also had a petition with a few names on it. Councilor Martinez concurred.

Councilor Sieckmann thinks that the people who signed the petition might not understand the potential of expense to the City of zoning changes, and that if they knew and realized the possible expense, they might shape their opinions. Those are considerations that should be in the staff report. He believes that the Council should have all the facts, or best estimates of the facts, in front of them to make a decision, but he does not feel that they have all the facts now.

City Attorney Abma pointed out that this was not an official public hearing, so Council did not have to hear public comment if it did not wish to.

Public Works Supervisor Tabor stated that he had been approached by Councilor Mersereau about the cost of the dog park, and that he had started an initial investigation. He stated that they had about $3500 invested in the fencing already, but that he had requests for bids out right now for the fence removal, but had not received any responses – so he did not know the costs for the dog park right now. After he gets the bids in, then he will have a better idea about what the cost of the fencing will be. Signage will be only a little change for the location of the park, so he does not see it as a huge expense. He does not know what the attorney costs will be for the zoning of that area, and that is something that City Administrator Boyce can answer on his return. The Park and Recreation Board were intent on just naming a location for the off-leash dog park, and had determined that this was the best area. He states that the park is not widely used there, so it would be much better used as a dog park. It is well away from any residential area, which makes it prime. He stated that when he gets the costs of the removal of the fencing at the Valley View site in conjunction with the remainder of fencing needed for the Meldrum Bar site, he will be give the Council the accurate figure of the costs.

Councilor Nelson wants to know what it would cost to have it rezoned as compared to what it would cost to have it moved. Public Works Supervisor Tabor stated that he could not answer that question, but in his opinion it is going to be much more cost effective to just move the fencing and pay for the remainder of the fencing to set up at the Meldrum Bar site. Moving the fencing would be much more cost effective than the attorney fees for rezoning the current property. City Attorney Abma could not verify the attorney costs for the project either way.

Councilor Reisner noted that City Planner Glasgow had already spent $1200-$1300 to check on the zoning change. Supervisor Tabor interjected that if there were a zoning change, that it would possibly be followed by legal suit. Mayor Byers added that in addition, there would be Planning Department fees. Supervisor Tabor reiterated that he understood that tonight's agenda was for the Council to determine if the Meldrum Park site is where they wanted the dog park, and if so, then they could figure out how to put it all together. Councilor Nelson interjected that they had pretty much determined that keeping the Valley View site would just be too expensive.

Public Works Supervisor Tabor pointed out that this meeting was to determine if Council wanted to approve the Park and Recreation Board's recommendation of using the Meldrum Bar site of the dog park. Once the Council determines the site, then he can bring the final cost to the Council for their approval in a future meeting. Councilor Reisner needed assurance that the plan to move would include the removal of the fencing and the Valley View property, and it would be just left as is. Supervisor Tabor concurred. Councilor Martinez noted that it was not the City's property. Supervisor Tabor concurred and that he had talked with Dan Bradley of Oak Lodge and that they were aware of what was happening and that they are not out anything.

Councilor Martinez made the motion to accept the Meldrum Bar Park site for the dog park; Councilor Nelson made the second. Mayor Byers solicited discussion.

Councilor Reisner brought up that in the previous meeting about the dog park, 6 people had showed up, and nobody had any objections about moving it to the site. It is about as far west as possible, and he liked that Public Works Supervisor Tabor had already thinned out the trees in that area of the park, so it is ready. Mayor Byers reiterated that this meeting has determined that the Meldrum Bar Park site is where they want the dog park and that it would cost more to get the current location rezoned to continue it as a dog park. Discussion ensued about the options. Councilor Martinez reiterated that tonight was only on the selection of the site, and that it does not include approval of the project.

Mayor Byers called for a vote and Council was poled. Motion passed 6 to 1, with Councilor Sieckmann opposed.

7. Discussion of Partial Right of Way Vacation – Clackamas Road: Councilor Nelson stated that he had gone to look at the property, and in the process had met the people to whom the property belonged. He believes that they deserve to have the property back

because they could better maintain it rather than just letting people park and dump. Right now the people go to the river and park on the property, leaving behind trash and garbage. He said that he did not understand how they lost it in the first place. Mayor Byers said that they never really lost it; it was part of the street. The street has a dedicated width to it and he can remember having gone through the citing of that house; they had approved a variance. The property never was theirs.

Councilor Mersereau had looked at the site, and the neighbor adjacent to the property had a garden located on the corresponding site on his property – on the easement, he believes. He sees no reason not to allow them to move the fence forward. The way the proposal is worded, it looks like they would gain the property rather than just using the property. Mayor Byers interjected that it would be deeded to them. Councilor Mersereau continued with his observation that if the City ever needed the property, it would no longer be available. A short discussion ensued about sidewalks. Councilor Reisner said that there was already a sidewalk across the street.

Councilor Sieckmann stated that since the property was next to a park, that it might be nice to have sidewalks on both sides of the street. He wondered about future usage, like expanding the road width or putting in more parking on that side of the road. In that case, once the City gives up the rights to the property owner, they can never use it again. He used the Tigard-Lake Oswego Water Project going through town as an example of how future right-of-way may be needed. Once the City gives it up, they will not be able to get it back. He can see no benefit to the City in the future to vacate it, but can see many possibilities for keeping it, though he has no problem with the property owners building a fence in the easement area.

Public Works Supervisor Tabor noted that the criteria that he discussed with City Administrator Boyce was considering any future plans for widening the street or putting curbs on that side of the street. He recalled that a few years earlier, just up the street (on Cornell, or Yale , or Harvard), the City had vacated the rights on a similar lot, turning the property rights over to the owners. In this situation, there is abundant parking; there is already sidewalk in the area all the way down to Portland Avenue on the river side. He made his recommendation to the City Administrator to vacate it because he saw no future need for it in light of what had been done with the property up the street many years earlier. It would be in keeping with what they had done in the past, since they had given up the rights in line of sight properties up the street. He sees no concern for vacating the right-of-way looking out 15 year in the future.

Councilor Reisner was concerned that if the right-of-way is vacated for that property, that it will no longer line up with the properties next to it. Since the property to the East of property line, where the garden is, will stay where it is, the right-of-way lines will not line up. Public Works Supervisor Tabor explained that these people are requesting the right-of-way changes, whereas the adjacent property owners have just built out to where they are through a succession of owners and just pushing the property line. He also told the Council that he had informed the neighbors on the street that they may want to pursue the same action to vacate right-of-way on their property as well.

Fire Chief San Monte, speaking as a citizen, said that to satisfy what Mr. Hickman is doing, the State, County, and City (he believes), has a Permit and Release that allows the property owner to do just what they are trying. The Permit and Release allow the owner to come into and build fences etcetera in the right of way, but if the City ever needs to use the right-of-way area, they have the right to do so. The people will not really own the property, but the Permit and Release will be attached to the property so the owners can go out into the right-of-way. So in his opinion, the City should never give up right-of-way.

Councilor Mersereau wanted to know if the Permit and Release would remain the same in 5, 10, or 15 years. Fire Chief Monte explained that the Permit and Release becomes a permanent part of the deed, and it maintains the right-of-way so that it cannot be changes under Aggressive Acquisition. City Attorney Abma also added that an owner cannot adversely possess government property. He also added that he would never recommend that the City give up any City right-of-way. He also stated that if the City used a Permit and Release on the property, it just assures the owner that it will not be used as a street or for parking, but that the City still owns the property.

Councilor Martinez observed that if the City is going to go look at setting up a Permit and Release on this property that they might want to look at the properties around it to see if they want the same thing. Fire Chief Monte said that they need to get each homeowner to make application for it so that they would pay for it – not the City. Councilor Martinez stated that it may be something that the City just wants to get started.

Mayor Byers observed that the properties on lot 3 look like they might be treated as one property for all practical purposes. Fire Chief Monte said that it looked like two tax lots. It would be affecting two deeds if you extended the Permit and Release down the hill. Mayor Byers observed that where the vacation request was made, it looks like only one property.

Councilor Sieckmann wondered if the bicycle paths in the City's Transportation Plans go down that street. Councilor Nelson said that it shouldn't matter because the street is wide enough that a bike path could be added without affecting the bicycles and that there is a sidewalk all the way down.

Rich Vandegraft, 420 E Clackamas Blvd, owns the property adjacent to the property in question. He gave a brief history of the property in question. He stated that for the property in question, the front of the property is actually on 1st Street, the property frontage along Clackamas Blvd is actually their back yard. Because of the situation of the property between the two streets, a full third of their property cannot even be used. He feels that it is a crime when he sees it as he drives down Clackamas Blvd. He feels that the owners cannot properly utilize the property in its current situation, and feels that an injustice is being done. He believes that the owners could do much more with the property if given a chance.

Councilor Mersereau reiterated his comment that he believes they should be able to build a fence on the property, but that it should be on a temporary basis.

Pat McMahon, 175 W. Berkeley, said that he would like to have his 15 feet of property vacated as well, and that they have set a bad precedent in vacating the right-of-way. If you did it for them, then you need to do the same for me. He said that he would like to use his own corner lot for his personal gain as well. By setting the precedence, what is to stop him from coming back next month and asking for the same thing? Councilor Martinez observed that he could do it as a Permit and Release.

Renee Bryant, owner of the property in question, said that there is no other property like this in all of Gladstone. She had been working with City Administrator Boyce for over a year in trying to be able to utilize the property. Because the neighbors front door faces Clackamas Blvd, and her back door faces does, then she does not get to utilize a large portion of her property,. while her neighbor gets to utilize all of their property, even though much their front yard is actually City right-of-way. Mayor Byers observed that the fact is that many of the people in the city are using city right-of-way. He believes it is appropriate for Fire Chief Monte's suggestion to allow you to use that property.

Councilor Martinez wanted to know that if you had a Permit and Release on the property, and you decide to sell the property, does that affect the property rights? City Attorney Abma stated that when you sell the property, the Permit and Release is a part of the deed – it can be a selling point or a detriment to the sale, according to the viewpoint one takes. But with the Permit and Release, it remains City property.

Councilor Nelson noted that it enhances the City when people take the right-of-way property to put in the gardens – it looks good, much better than an empty lot. Councilor Reisner asked the Renee Bryant about how she feels about getting to use it, but not owning the property. She said that she wants to own the property. Councilor Martinez noted that if the City Attorney recommended that the City not sell the right-of-way, then the Council can't say otherwise.

Scott Bryant wanted to know what good it is to have the property if it can be taken away at a later date. Councilor Martinez stated that they could put a fence up on it and it is not likely that the City is ever going to need to use the property right-of-way. Councilor Reisner likened it to an easement on which you cannot build. Mayor Byers assured the Bryants that the City has never taken the right-of-way back after use by the property owners because the City was already established with streets, sidewalks, and curbs – all those things are already done. The prospects of redeveloping the street are not very high.

Renee Bryant said that her house was built small to accommodate the odd shape of the lot and restrictions. She would like to have that property so that they can build onto the house. Mayor Byers interjected that is a different topic. City Attorney Abma said that the City could vacate the right-of-way, and that they could actually sell the property through a statutory process, but if they did, it would have to be put up on the market for open bid, and the Bryants would be taking a chance of losing use of the land totally. The City

cannot just give the property away. In addition, if the Bryants retained the lot, their taxes would go up because they would be taxed for the larger lot size. Councilor Martinez interjected that it would not be so under the Permit and Release. City Attorney Abma concurred that they would not pay additional taxes under a Permit and Release. Councilor Martinez interjected that they would not be able to build on it either. City Attorney Abma explained that even if they had the property, they would still have to go through the process of getting permission to build with the right setbacks and restrictions for the property, and that they would still have to go through the processes of getting variances for the setback requirements.

Mayor Byers commented that the prospect of adding on to the house is different than what was presented thus far. Renee Bryant asked how it was different, if the property line moves, then the setback would also move. Mayor Byers explained that the City Attorney had advised Council that the property should remain under City ownership. Renee Bryant said that she had not heard that as the final answer. Councilor Busch reiterated that the City could not give the property away.

Renee Bryant said that they were told by someone at the County that the City could give them the property. City Attorney Abma reiterated that there were many things that the City can do, but it cannot give the property away regardless of the value. Scott Bryant noted that, in actuality, the City would not be giving it away if they were continuing to pay taxes on it. City Attorney Abma stated that the City would no longer own the property then, and that they cannot give it away. Councilor Martinez stated that they had several options now, one being that the City could vacate their rights and the Bryants would have to go through the process to buy the property, or the property stays in the City's ownership and they could use the property. They could still check their setbacks to see what they can do to increase the house. Councilor Reisner commented that they can remove the fence and get a bigger back yard. Mayor Byers noted that there were numerous fences in the City that are built on public right-of-way – at the end of almost every block. Renee Bryant said that they could have just done that and nobody would have known.

Councilor Busch said that the Staff recommendation was to determine if we should move forward with this and have a public hearing in September. He suggested that the Council move forward with a full public hearing with the Staff's report what the City's options are. Councilor Martinez said that we would have to have the public hearing if they were going to move on vacating the public right-of-way. If they decided to go the other way (Permit and Release), then there would be no need for the public hearing and that they could just go ahead and move on the issue.

Councilor Busch said that a public hearing should be held in either condition, because he is not sure that the City has anything in the code regarding Permit and Release. City Attorney Abma reiterated that a street vacation would require a public hearing, so it cannot be done in this meeting. For a permit and Release, he would have to do some research to see what the options are for the City's standpoint. Councilor Martinez said that looking into the Permit and Release is what they should look into, because there are

other properties that are in the same situation and it could be applied to many other properties. Councilor Reisner agreed. Mayor Byers reiterated that most people in Gladstone are using public right-of-way either at the front or side of their houses.

Councilor Sieckmann asked if we have a consensus that the Council is not going to move forward with the right-of-way vacation, but would like more information regarding a Permit and Release, or something of that nature that would fit under the City code. Does the City need to adjust the code to allow that? Mayor Byers and Councilor Martinez concurred.

After a short discussion, City Attorney Abma said that he would look into the legal aspects of doing something like the Permit and Release. Mayor Byers observed that these matters had been handled defacto system in the City's history, and that they just had not used the Permit and Release.

8. Resolution 1045, Gladstone Personnel Handbook Amendment – Allow On-Call Employees to Hold Elected City Office – Fire Department: Councilor Martinez observed that the only city employees mentioned in the report were fire department employees, so is it only the fire employees that can participate? Councilor Nelson referred to the fire department as volunteers. Discussion ensued. Councilor Martinez and Mayor Byers explained that fire department people are on-call are employees for IRS purposes. Councilor Martinez was concerned that if the resolution referred only to fire department employees, that it would eliminate the possibilities for other city employees.

Councilor Sieckmann pointed out that only the Staff Report referred to the fire department personnel, but the resolution does not. Sections 5.3.1 and 5.3.2 of the Personnel Handbook do not differentiate between the departments. In the handbook they are classified by hours worked, on call, volunteers, etc.

City Attorney Abma concurred that the resolution does not differentiate, however, Heather Martin was concerned that it referred to just the on-call employees. She believes that it would be defensible to refer to the employees as regular or non-fulltime employees, which includes seasonal, temporary, and on-call.

Mayor Byers solicited for motion. Councilor Nelson moved to adopt the resolution; Councilor Reisner made the second. Mayor solicited for discussion.

Councilor Busch declared that it is not the right thing to do, and he is not going to vote for it. Councilor Martinez declared the same. She said that it is talked about a lot in the community.

In discussion, Public Works Supervisor Tabor referred the Council to a letter that he wrote to them about his concerns that there would be a great amount of conflict of interests if city employees sat on the Council. It also causes confusion in situations where a department head may have to discipline one of his employees who may also be sitting on the City Council. It has the potential to put the department head or the employee into

compromising situations. The backlash from such a situation could cost someone a job. He agrees with Councilor Busch that the resolution just opens up too many possibilities for confusion.

Councilor Sieckmann said that he could see what Public Works Supervisor Tabor and members of the Council are talking about, but he is concerned that it would prevent good people, volunteers who really want to help the community, but also want to serve on the Council. It seemed wrong to tell someone who may spend 24 hours on call that they cannot serve on the Council because they work for the city.

Senior Center Manager Bremmeyer announced that they had been an employee of the City of Gladstone for 25 years. They had an advisory board member take a job for the City in the courts department. After the advisory board member took the job, she was asked to step down from the advisory board because of the city ruling, even though she only worked a few hours per week. This has been a long standing ruling that the Council is trying to change, and she is not sure that it is a fair thing.

Mayor Byers explained that at one time, members of the fire department were on the City Council. They continued to serve until the time that they had to be classified as on-call employees for the IRS purposes. He did not know the circumstances of that, but 40 years ago the Mayor was a fireman.

Fire Chief Monte said that when he first started working at the fire department years ago, he was told that he would not be able to sit on the Council. He did not know why, but there was some kind of history on it. Just because he grew up hearing that he could not serve on the Council as a fire department employee, he cannot agree with the ordinance. There had to be some in the past that put this ordinance in place.

Councilor Sieckmann said that he would like to hear from more of the department heads to see what felt about the resolution. Police Chief Pryde asked City Attorney Abma about whether the practice that they are talking about tonight is standard or common? City Attorney Abma said that the practice is not prohibited, but it can cause conflicts. For instance if you were a city employee and they were voting about budget issues, you would have to disclose that you are conflicted and could not participate in voting or participating in the budgetary process. It is not a matter of state law; it was something that was implemented in the City Handbook. If an employee is elected to the City Council, they would have to be very careful throughout the year.

Mayor Byers noted that when members of the fire department had served on the Council and as Mayor, the city was very small. Now the population of the City is three or four times greater. Public Work Supervisor Tabor explained that he was not doubting the integrity of anyone on the fire department, but as a department head he sees the possibilities of many problems and possible conflicts. It has nothing to do with their credibility and serving the community.

Library Director Green said that they had a large number of on-calls working at the library, and that she would feel very uncomfortable having someone on the Council working for her as an on-call. She would feel that she has someone who has seniority working on her staff. She feels that it would also make members of her staff very uncomfortable. It would be hard to move forward with things that the Council member might disagree with.

Mayor asked the Recorder to please call the role.

Councilor Nelson	*Yes*
Councilor Mersereau	*No*
Councilor Martinez	*No*
Councilor Sieckmann	*Yes*
Councilor Busch	*No*
Councilor Reisner	*Yes*
Mayor Byers	*No*

The motion was defeated 4 to 3.

9. Ordinance 1452, Amending Chapter 2.32 of the Gladstone Municipal Code to Remove Pre-Residency Requirement and Reference to Inapplicable Bylaws: Assistant City Administrator Morishita read ordinance 1452 by title.

Mayor solicited a motion for the first reading of the ordinance. Councilor Martinez moved for the first reading of Ordinance 1452. Councilor Sieckmann made the second. Mayor Byers solicited for discussion.

Councilor Reisner wonders if the references to volunteer and on call be stricken from the ordinance and worded differently. Maybe the names need to be changed. Also, in the fourth paragraph down, "shall" is marked out as is "fifty." City Attorney Abma explained that that is just an attempt to remove old legalese. The number "50" is used, and it makes it easier to read to have the "fifty" in parenthesis knocked out in modern legal documents. Legal documents just aren't written that way anymore.

Mayor Byers agreed with Councilor Busch regarding the names that are used. The Gladstone Volunteer Firefighters Association is not a city name; it is only a name that the association has used. To be consistent, we should not be calling people volunteers in the ordinance. The use of volunteer in the name will have to remain until the association decides to change the name.

Fire Chief Monte said that the association is now The Gladstone Firefighters Association; the name Gladstone Volunteer Firefighters Association was dissolved and reformed under a 501.3C. Technically it is still called the Gladstone Volunteer Fire Department, still used on the buildings and letterhead. Because of the history of the fire department, Fire Chief Monte is not ready to change the name and remove the word volunteer because so many of the old volunteers are still around, even though legally they are considered on-call employees.

Councilor Martinez read at the top of page 9-2 … "and a force of volunteer fire fighters.." that should read …"and a force of on-call fire fighters…" She doesn't know how they need to change it, but all instances of "volunteer" need to be changed to reflect the fire fighters as employees. Councilor Sieckmann was also reading from the same section, expressing the need to remove "volunteer" from the Volunteer Fire Coordinator, and from volunteers, including the Fire Chief. Councilor Martinez they just needed to rework the language in all of that.

City Attorney Abma stated even more pressing is the use of the term member. More importance right now is to get the residency thing fixed so that the Fire Department can recruit. If they want to get the other things fixed, they can bring it back in the future.

Fire Chief Monte reflected that if they can bring this back with the changes made for the September meeting, he can survive until then. City Attorney Abma said that he could do that if the Council so desired. Mayor Byers said that would be appropriate; a lot was done, but more can still be done.

Councilor Martinez asked what it took to be a "member" of the association. Fire Chief Monte replied that, unless they were honorary members, they had to be a firefighter.

Councilor Sieckmann asked how long does the initial training take. He replied that it took 4-6 months at the academy and then they would be on probation for another year. Councilor Sieckmann then asked how much it costs to train a firefighter. Fire Chief Monte replied about $2200-$2300, including the academy and equipment. Councilor Sieckmann was concerned that the firefighters would come in and take the training, then take jobs at other fire departments before the training was really paid for. Fire Chief Monte explained that they were certified after just taking the academy. He is sure that he would have them for at least a year, if not two, to finish out their task books through the department. If they stay with the department for the entire certification, the fire department comes out ahead. He also explained that most of them finish up in about 5 years, and now with the changing industry, that many of them also need to get a paramedic degree, adding another 2-4 years.

Councilor Sieckmann asked how they would determine who qualifies to work in the department from outside the area. Fire Chief Monte responded that the decisions are made between him and his officers. To make the selection, they have to be flexible and actually look at where the candidate is at.

City Attorney asked for clarification about removing the term volunteer, but in keeping the Gladstone Volunteer Fire Department. Fire Chief Monte explained that the name of the fire department would stay the same, however the terms volunteer within the narrative of the ordinance needs to be changed. Mayor Byers suggested that included the association as well. Someone remarked that the word volunteer was used in paragraph three also. City Attorney Abma said that throughout the document we have two problems, volunteers and members. He also questioned how the word members applied to

the association. Chief Monte said that he would like to refer to his laws and rules before answering. He will get together with the City Attorney to work that out.

Councilor Martinez asked if a member of the on-call fire department has to be a member of the association. Fire Chief Monte answered "Yes." He explained that nobody has ever challenged that requirement. Councilor Nelson asked if the members had to pay dues. Again the answer was Yes. Councilor Martinez gave an example of where someone might want to be a fire fighter, but not a member of the association. Fire Chief Monte said that he requires all fire fighters be members of the association. Councilor Martinez said that she could see a situation where someone might want to be a fire fighter, but not want to join the association. Fire Chief Monte said that he would have to look it up.

Mayor Byers announced that they would take another look at this on the Council meeting on September 9, 2014.

Pat McMahon, 175 W Berkeley, had a couple of comments on the ordinance change. He feels that there is a lot more of this chapter that needs to be changed. When he looked up the municipal code chapter for the Police Department, there is none; for the Library Municipal Code there is only one paragraph. There is much of the chapter that is simply outdated and really does not need to be in the code anymore. Sections like the hiring of the Fire Marshal and Fire Chief should not be in this code.

City Attorney Abma reiterated that there is an urgency to get the residency requirements part of the code fixed, and that this may take more time. So he wanted to address the issues separately to avoid tying the Chief's hands. Mayor Byers concurred that the Council will handle the residency requirements and some of the obvious fixes in the September meeting. Other changes may be made as appropriate in future meetings.

10. Resolution 1046, Line Item Transfer for Personnel Services in the Library: *Mayor Byers asked to entertain a vote to adopt Resolution 1046. Councilor Martinez made the motion to adopt Resolution 1046; Councilor Nelson did second the motion. Mayor Byers solicited for discussion.*

Councilor Sieckmann asked for clarification on the line item transfers, they seemed backward.

Library Director Green handed out pages to the Council members. She is facing staffing issues as they prepare to open the library on Sundays. Now that 50% of her staff has Master of Library Science degrees, they are looking in other areas for full time positions – she recently lost 3. She introduced Lauren who is the "16 hour position." They are seeking to make Lauren a full time employee to cover the 2 Sunday positions. She would be absorbing three positions that Director Green had posted as three 19 hour positions into one full-time position. It would also include the need to provide benefits, which she had included in the proposal as $15,000. In addition to getting Lauren's full-time position, that she needed to get approval for the other part-time reference position so she can post it.

Lauren is currently the 2231, Library Assistant II. She would also become the 2233 and the 2234 positions. That will still require one additional Sunday position for two staff members for Sunday operation – that would be the 2236 position for which she must hire.

Mayor Byers solicited for vote. Resolution passed unanimously.

11. Approval to Award RFQ Bid for the Arlington Street Drainage Project: Public Works Supervisor Tabor explained that the City has a problem with water drainage on East Arlington Street by 82nd Drive filling a residential garage. He had asked Sisul Engineering for a bid to run a storm line down that area through multiple catch basins, and into the storm line on Columbia Street. He went out for RFPs to fulfill the project.

Only one of the bids came in at the level that fit within the budget for the project ($35,000), Timberline Development $34,020.30. He asked that the Council approve Timberline Development for this project.

He added that some questions were raised during the week about possible change orders and he had provided them to the Council. He explained that change orders happen, but they must go through an engineering approval and an approval process through the City through the Public Works Supervisor or the City Administrator. He considers that bid a fair and equitable bid. On comment from the Mayor, he added that they have worked for the city many years without problems.

Councilor Reisner said that he received a copy of the bid for $68,000 from Jeff Kersey via email. Were the others emailed out? Assistant City Administrator replied that originally they only received the low bids for items 11 and 12. They received the other bids when another councilperson requested copies of the bids from Jeff Kersey and Jim Smith.

Councilor Reisner could not find the low bids for the item 11 bid request. He wondered why, if the bids were in, the Council did not get them in their packets so they could examine them ahead of time. They had received incomplete email information without a staff report or without other supporting information to explain the RFB or bid process. They received no explanation or recommendation of why the bid should be accepted for work and experience.

Public Works Supervisor Tabor said that they always go out for sealed bids, and that his recommendation is to accept the bid for $34,020.30. He got the bids because they were having a flooding issue, and he had an engineering firm look for a solution, then go out for competitive bids. He said he understood the problem and would provide better information for bids in the future.

Councilor Mersereau explained that he had asked to see the bids so that he could get an average of the higher bids and find out why the low bid was so much lower than the others – it looked like they saved $15,200 just in the first item – Mobilization, possibly

because they resided right in Gladstone. He had asked Supervisor Tabor specifically about any add-ons, because he understood that some contractors can use the area for raising the price of the bid.

Public Works Supervisor Tabor said that there were no add-on issues. He admitted that he relied on Timberline Development's knowledge of Gladstone and its infrastructure because they had worked for the City for so long. This is a pretty cut-and-dry project.

Gary Nichols, owner and president of Timberline Development, explained that one of the reasons that the other bidders were so high was that when their bids went over $50,000, they had to figure all wages at BOLI rate, which raises the bid substantially. He also didn't figure in a lot of traffic control because he will just shut the street down for one block and route traffic around it. Those two items alone probably make up a $20,000 difference.

Councilor Martinez asked Public Works Supervisor Tabor what the bid requirements are since they represent a governmental agency. Public Works Supervisor Tabor deferred to the City Attorney. City Attorney Abma explained that there were many factors that were involved, one of which is the level of the bid, which in this case was under $100,000. The other is how the City evaluates the bid, which in this case was "Best Interest" which allows the City to select the bid which is in the best interest of the City, even if it is not the lowest bid. In this case, however, the lowest bid was considered in the best interest of the City. In some projects, the City is mandated to use the lowest "qualified" bidder. If one of the bidders were to bid much lower than all others, the City may determine it to be not qualified because it is not prepared to provide the same level of service as the others – something is missing.

Councilor Mersereau says that one of the things that the Council should be considering is due diligence; do we have enough information to make a good decision? When the Councilors are trying to make a decision, they need certain information, such as a description of the project, which was just given to the Council verbally. Other things like how it affects cash flow of the City, justification for the spending, and other options that might have been available to solve the problem. Why were other options rejected? Having that kind of information is pertinent to making decisions on bids like this. Essentially, there are these questions because they do not receive written information that they need to consider for approval. We are spending a lot of money on something, why is it justified?

Mayor Byers suggested that maybe they adopt the format that City Administrator Boyce uses. He used it for the dog park. If we used something like that, we would know where we are looking for the information.

Public Works Supervisor Tabor promised that in the future the bid information would be much more complete and in an easier format to display the information. Right now, he sees a fix for an ongoing problem that the City has, and he has the bid to get it fixed, and

he wants to get it done. He says that he has no secretarial staff that would be needed to provide future bids in the kind of format that is being requested.

Councilor Sieckmann asked what the timeframe was for the project. Public Works Supervisor Tabor deferred to Gary Nichols, who figured it should take about a week.

Councilor Martinez moved to accept the low bid on this item; Councilor Nelson did second the motion. Mayor Byers solicited for discussion. No discussion. Mayor Byers asked for the vote. Motion passed unanimously.

12. Approval to Award RFQ Bid for the Cross Park ADA Sidewalk Improvement: Public Works Supervisor Tabor explained that this project developed when trying to get the pathway built from Dahl Beach Road under the 99E bridge, where Federal requirements for additional studies halted the construction. At the time the City had already spent about $18,000, and to meet the Federal requirements could see spending another $18,000. To help solve the issue, he had approached METRO with an alternative to provide better handicap access to the lower river access and better access through Cross Park, where they have a lot of issues getting access to handicapped users. To do so, METRO would provide access to funds through their green space program.

The first time the bids went out, no one bid on the project at all. He had Sisul Engineering put the bid calls out again. The only two bids came from Jim Smith Excavating and Jeff Kersey Excavating. He asked for approval for spending $78,000 of Metro Green Space money.

Councilor Martinez moved to accept the Jeff Kersey bid for the project; Councilor Nelson motioned second. Mayor Byers asked for discussion. No discussion. Mayor asked for vote. Motion passed unanimously.

BUSINESS FROM THE COUNCIL

Mayor Byers poled the members of the Council for business.

Councilor Mersereau recounted the success of the 2nd Annual Car Show with 231 paid cars, which raised $3554, the Doernbecher Rep raised $400. All $3554 was given to Gladstone Children Families, with 50% going to them and 50% going to the Rotary who is going to give some to GCCF as well as the High School Scholarship Foundation. The Lacey Lady Bomber will be moved on August 13 to the Aurora Airport where they hope to restore it to flying status (about $6 M).

Councilor Martinez reported that Sunday is Servant Sunday for the Gladstone Ministerial Association. They have about 6 projects lined up where they will be helping out people who need it, usually senior citizens and the schools. Mayor Byers asked about the status of Pastor Dunfee. She said that at one time he was the Chaplain at the fire department, and that he had been called back to active duty in the Navy. He is stationed in Afghanistan, and will probably be there for another 9 months.

Councilor Sieckmann took the opportunity to thank the Council for having the confidence in him to do the job. He is ready to step in and go to work.

Councilor Busch sent an email to the Council members regarding a meeting at C4 regarding one of the topics about forming an Area Commission on Transportation. The ACT is a local body that forms recommendations to the STIP (State Transportation Improvement Plan). Each year a plan is formed for about 3 years in the future. Currently there is no ACT for Area 1, which includes Hood River County, Clackamas County, Multnomah County, and Washington County. That means that Area 1 has no input to ODOT about how transportation money is spent for the area. Unfortunately, the meeting is August 18, so they won't be able to make input on this one. He would like to have input from the Council members regarding ACT.

Councilor Reisner reported that the Traffic Safety Commission met a couple of weeks ago. They are planning to obtain and use some of the RADAR controlled flashing speed control signs around for traffic control. He wanted to know what the status of the barrier at the elementary school is. Public Works Supervisor Tabor reported that the cost for the barrier is going to be about $7,000. He had talked with Chris Green of the school district and they are going to split the cost, so the City will only pay $3500. He ordered them already, and is hoping to have them up in time for school. The Traffic Informational Signs are about $5000 each, of which they would need two to be moved around town to keep drivers aware of what they are doing. He also reported about the cards that the Council received regarding the Tri-City Sewer. He is hoping that maybe the four entities can get together to work things out regarding the right-of-way.

Mayor Byers had heard that Oregon City has determined to stay the course on the Tri-Cities Services. He said that Oregon City already charges their Sewer and Water customers a 6% fee. He informed the County that Gladstone did not want to be involved in a law suit with a neighboring city.

Councilor Reisner reported that he had taken the time to visit Judge Beloof's court and is impressed with the way she handles people, and with her ability to mete out justice. Her appointment was a real plus for the city.

Mayor Byers reported that the Festival was a great event for the City, and also wanted to acknowledge the people who worked on the National Night Out against Crime event. It was more impressive and had grown in events. He also reported that on Thursday, August 14, the Clackamas County Historical Society would be a celebrating VJ Day – the victory over Japan. He encouraged people to attend.

ADJOURN

Meeting was adjourned. No time stated.

INFORMATION ONLY

- Emergency Preparedness
- 2013 Municipal Ordinance Specialist Statistics

Council meeting was adjourned. No time stated.

Approved by the Mayor this 9 day of September, 2014.

ATTEST:

Wade Byers

Wade Byers, Mayor

Jolene Morishita, Assistant City Administrator