

Minutes
Aurora City Council Meeting
Tuesday, June 11, 2013, at 7:00 P.M.
City Council Chambers, Aurora City Hall
21420 Main St. NE, Aurora, OR 97002

STAFF PRESENT: Kelly Richardson, City Recorder
Jan Vlcek, Finance Officer
Bob Southard, Water Superintendent
Otis Phillips, Waste Water Superintendent
Dennis Koho, City Attorney
Pete Marcellais, Marion County Deputy

STAFF ABSENT: NONE

VISITORS PRESENT: Kris Sallee, Aurora
Betsy Imholt, Aurora
Rodger Eddy, Portland

1. Call to Order of the City Council Meeting

The meeting was called to order by Mayor Greg Taylor at 7:03 p.m.

2. Administrative Assistant does roll call

Mayor Taylor – present
Councilor Graupp - present
Councilor Brotherton -present
Councilor Sahlin – present
Councilor Vlcek – came in late at 7:15 missed roll call

3. Consent Agenda

- I. City Council Meeting Minutes – May 14, 2013
- II. Planning Commission Meeting Minutes – May 07, 2013
- III. Historic Review Board Minutes –April 25, 2013

Correspondence

I. None

Motion to approve consent agenda was made by Councilor Vlcek, seconded by Councilor Graupp. Motion passes.

4. Visitors

Anyone wishing to address the City Council concerning items not already on the meeting agenda may do so in this section. No decision or action will be made, but the City Council could look into the matter and provide some response in the future.

Betsy Imholt, Aurora Colony Days information provided, gave handouts for colony days and parade forms. The candy throwing policy, Mayor Taylor cites the email from the insurance company that we cannot throw candy from moving vehicles however we could allow walkers hand out candy.

Betsy, is doing good with private sponsors and we are wanting revenue sharing money outcome which was approved at last meeting.

No one else spoke.

5. Public Hearing, call to order Vlcek states his nature of possible conflict and that it will not have bearing on this and no comments from other City Council so he will be allowed to participate and vote.

Mayor Taylor reads the procedure for public hearing opens at 7:13 pm

- ❖ **City of Aurora Budget 2013/2014,**
- ❖ **Finance Officer, Vlcek reads the staff report, as inserted,**
- ❖ **Testimony, none being said**
- ❖ **No comments**
- ❖ **Closes at 7:17 pm**

Deliberation and or comments (none)

Councilor Graupp makes motion to adopt the budget as recommended by the Budget Committee and Councilor Sahlin seconds the motion. Motion approved.

6. Discussion and or Action on Rodger Eddy Property Matter, City Attorney Koho starts discussion out with this is not really a public hearing but it is on the appeal and it's an opportunity for the City to lay out the course of action and for property owner rebuttal,

- **MEMO provided by City Attorney Koho gives options,**
- **Sustain**
- **Disallow**
- **Sustain part but not all**
- **Or extend for a period of time**

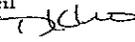
Public Hearing is open at 7:21 pm Mayor Taylor reads the procedure and states the purpose of the hearing as the letter sent to Mr. Eddy on January 31, 2013. City

Attorney Koho begins explaining to the Council if there are any conflicts of interest that should be stated now. Which are stated by each councilor below;

- Mayor, Taylor has seen property and is aware of the property and do I believe this will influence my participation no.
- Councilor Graupp, I have seen the property by the side walk and there are concerns for the property values surrounding it and for the safety of people passing by.
- Councilor Brotherton I have seen it by the sidewalk and because of the legion hall concerns from children and it's an eyesore for a decade now.
- Councilor Vlcek, as a member of the fire dept I headed up the report of the fire at that time and I did walk the property.
- Councilor Sahlin I am aware and my opinion will be based on the code.

City Attorney Koho, reads and explains the notices in question,

- Jan 31, 2013 letter rescinded the notice of June 2012 and listed each section of the code that affected the property; it is likely to collapse and is damaged from years of neglect.
- He recaps the packet that is in your packet it covers many years of discussion from the council about the decapitation and deterioration of the property.
- The City has a letter from our inspector that recaps the property as well.
- Items are below.

TO: Mayor Taylor and City Council
FROM: Dennis Koho, City Attorney 
DATE: June 1, 2013
SUBJ: Eddy Appeal

At the June 11 meeting, the Council will hear the appeal filed by Rodger Eddy on his behalf and on behalf of any other actual or purported owners of the City's Notice dated January 30, 2013. That Notice required certain actions be completed or substantially completed by April 1, 2013.

Although the Notice did not specify the opportunity for appeal and its deadline, Mr. Eddy was in communication with the Council and the City Attorney from the start. He always requested his opportunity for appeal before the Council and will be asked at the outset of the appeal if he waives the specifics in the Notice. From a legal sense, his actual opportunity to participate in an appeal trumps any deficiency in advising him of his right to appeal.

The property in question is well known to the Council as it is near City Hall itself. Council Members should indicate for the record if they have seen the property and if so, has the viewing helped form any opinions about the property. The owners will then be allowed to present evidence to refute any tentative opinions that you may have.

A copy of the latest Notice is attached and is hereby made a part of the record. It cites several areas of concern and the specific section of the Code that provides authority for the alleged violation. After you hear the testimony and review all of the evidence, you can deliberate on the issues alleged and uphold all, some, or none of the violations alleged. In doing so, you should consider only that testimony and evidence which is in the record. This is another reason for stating any tentative conclusions you may have reached after viewing the property.

The allegations fall into three general categories:

- The structures on the property are unsafe;
- The structures on the property unrepaired following damage; and
- The structures pose some sort of public nuisance.

I will discuss below each category, the allegation from the notice, and the evidence in hand as of this writing - including a letter from Mr. Eddy's engineer.

Memo to Council on Eddy Appeal

Page 1 of 3

- Councilor's own observations as made a part of the record and disclosed
- Statements from members of the community, if any, which have been made part of the record of this appeal

The Structures Pose Some Sort of Public Nuisance

Allegations:

- The building or structure, as a result of damage by fire, wind, earthquake, or flood, dilapidation or deterioration, or for any other reason, has become an attractive nuisance to children; a harbor for vagrants, criminals, or immoral persons; or a place that will enable persons to resort thereto for the purpose of committing unlawful or immoral acts. §11.
- The building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence. §15.

Evidence:

- Letter from The Building Department (which provides building inspection for the City)
- Councilor's own observations as made a part of the record and disclosed
- Statements from members of the community, if any, which have been made part of the record of this appeal
- In particular, repeated public testimony at City Council meetings by representatives of the VFW whose building neighbors the property in question. Those statements are included in and made a part of the record by reference.

In defense, Mr. Eddy has provided a number of documents which are attached to this report, a report signed by his engineer attesting to the structure, and I anticipate he will present oral testimony as well.

At the close of testimony, the council has several options. It can close the record and move immediately to deliberations or it may leave the record open so that either side may present additional or rebuttal evidence. It also may adjourn the appeal hearing for up to two weeks to allow for personal inspections of the property.

Once the record closes, the Council should deliberate and make a determination on each allegation. The Council may affirm or modify all, some or none of the allegations. If the Council affirms any of the allegations, it should provide the City Attorney with direction on the imposition of civil penalties or prosecution should the matter not be resolved. Penalties of \$500 may be imposed for each day a nuisance goes unresolved if prosecuted as a violation under AMC 8.08.25 and another \$250 per day under AMC 8.10.230. The penalties are cumulative.

Memo to Council on Eddy Appeal

Page 3 of 3

The Structures on the Property are Unsafe

Allegations:

- A portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property. §4.
- Part of the building or structure is likely to partially or completely collapse because of, but not limited to, dilapidation, deterioration, or decay; the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; the deterioration, decay, or inadequacy of the foundation; or any other cause, that is likely to cause partial or complete collapse of the building. §7.
- The building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used. §8.

Evidence:

- Letter from The Building Department (which provides building inspection for the City)
- Councilor's own observations as made a part of the record and disclosed
- Statements from members of the community, if any, which have been made part of the record of this appeal

The Structures on the Property Unrepaired Following Damage

Allegations:

- The subject property has been damaged by fire, earthquake, wind, flood, or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose, or location. §3.
- A portion of a building or structure has remained on a site after the demolition or destruction of the building or structure for a period in excess of 30 days so as to constitute such building or portion thereof an attractive nuisance or hazard to the public. §16.

Evidence:

- Admissions from the property owner
- Letter from The Building Department (which provides building inspection for the City)

January 31, 2013

Edventures Ltd
Register Agent Janet Eddy
Interested Party Rodger Eddy
2582 NW Lovejoy St.
Portland, OR 97210

Re: Property at 21520 Main Street NE, Aurora

Dear Edventures Ltd, Ms Eddy and Mr. Eddy:

This letter follows the City Council discussion at their meeting on January 8, 2013. You were present for the discussion. The Council ordered me to issue a new notice to you that 1) Rescinds the notice to you issued last June; and 2) Contains the correct allegations so that you can address the Council's concerns over your property.

Rescinded Notice

Accordingly, the Notice issued to you in June 2012 and signed by Lyle McCuiston as the Chief of Police and Building Official is rescinded and no longer in effect. Any time limitations contained in that notice are now void and the limitations and deadlines below will take their place.

New Notice

You are the owner of record of the property located at 21520 Main Street NE in Aurora, Oregon. I have viewed the building and property and determined that it to be dangerous as defined in the Aurora Dangerous Building Code, AMC 8.10.010, *et seq.* Such structures may be required to be repaired, vacated, or demolished.

AMC 8.10.020 states the purpose of the code is to remedy structures which from any cause endanger the life, limb, health, morals, property, safety, or welfare of the general public. Please see AMC 8.10.050 for a list of specific conditions which constitute a dangerous building.

Mr. Eddy, I will try to be brief I am not going to repeat the City's position as prior stated as far as evidence and the allegations we deny that it is not unsafe for which it is being used.

- The letter from the Building Dept did not have any supporting evidence from them.
- There are no written comments from the public we deny additions from the property owners, I do not see that this applies
- Again the letter from the building dept again is not from an experienced person
- The allegation of being unsafe or harboring of unwanted visitors this has not been documented by any dept such as deputy reports.

I have been concerned that in the good faith agreement with me in 2006 signed by Mayor Carr that would allow the structure to remain as is. I did do a records request and I received my records in a timely matter. I was trying to retrieve the agreement (2006) from the city however it was not found, City Recorder Richardson stated there is not one to find. I do think that the resolution 514 shows proof of its existence because following it then came the 515 resolution. I could not retrieve police reports in question either to show if there was a problem or not.

There was a cover page on the January minutes that references nothing.

January minutes and the resolution signed the 9th day 515 appeals 514 and that all nuisances have been taken care of and so there was no need for resolution 514, and it was based on the same set of circumstances in my opinion that exists today and a lot of material in your report was based on prior information to resolution 515 it dealt with 514 I was attempting to show history.

- Not in your packet from Nov 2006 is a letter from a construction company and at that time it could be rebuilt.
- April 16th 2012 letter to Mr. Koho that we felt we were not in non-compliance. We read a paragraph from the letter that states that it is not compromised and the letter from Michael Alea and he originally looked at the building on February 14th 2012 and he states that he feels there is no danger of collapse, in 2004 he states he gave information about rebuilding and states the condition of the building and that its in good shape, except the building materials on top of the structure. Some decay was noticed. (As you see from the copy of the letter)

MICHAEL E. ELIA, P.E.
CONSULTING ENGINEER
PO BOX 6376, PORTLAND, OREGON 97228

TEL (503) 246-0621

mike@michaalelia.com

April 19, 2013

Rodger Eddy
2582 NW Lovejoy St.
Portland, OR 97210

Re: Building at 21520 Main St. N.E., Aurora, Oregon 97002

Dear Mr. Eddy:

As requested, I have provided the following services:

1. I visited and inspected the building located at 21520 Main St. N.E., Aurora, Oregon 97002 on February 14, 2013;
2. I have reviewed a letter addressed to you from the City of Aurora, dated January 13, 2013.

General Summary

At the time of my visit on February 14, 2013, the wood structure and concrete foundation located at 21520 Main St. N.E., Aurora, Oregon 97002, did not appear to be in danger of imminent collapse. The letter from the City of Aurora, Dated January 13, 2013, did not provide evidence of structural distress or conditions consistent with danger of imminent collapse.

Background Information

The building located at 21520 Main St. N.E., Aurora, Oregon 97002, was damaged by fire in 2002. In 2004, I provided professional engineering services for the repair and reconstruction of the building. The services included the design and detailing of a lateral force resisting system, a gravity load carrying system and a method to strengthen the existing foundation walls.

Inspection Accomplished February 14, 2013

As requested, on February 14, 2013, I visited and inspected the structure. Generally, the structure was in a condition similar to that noted in 2004, with the exception that all upper elements above the main ground level diaphragm had been removed and the diaphragm had been covered with metal sheeting.

A few structural elements showed signs of early stages of decay, and some decay was noted in the diaphragm surface. The presence of minor surface decay was confirmed by pick tests. The interior conditions of some beams were evaluated by hammer soundings and were found to likely be free of decay. Evidence of structural distress consistent with the possibility of imminent collapse, such as excessive deflection of beams and joists, and the crushing of wood members at points of support, was not noted. At the time of my visit, the structure did not appear to be in danger of imminent collapse.

The condition of the foundation appeared to be unchanged from that observed in 2004. At the time of my recent visit, detrimental cracking, bulging or other evidence of foundation distress was not observed. The foundation did not appear to be in danger of imminent collapse.

City of Aurora Letter, Dated January 13, 2013

It appears that the letter provided by the City of Aurora was in response to the City's concern that the public health, safety and general welfare may be in jeopardy. The letter states that viewing the structure led them to the opinion that the building was dangerous. It appears that the letter drew conclusions as to the existing structure's structural strength and stability, and made claims that the structure is likely to partially or completely collapse, and made other specific conclusions based on a visual viewing of the property. No statements were provided to indicate that the conclusions presented in the letter were developed by an expert, or that close examination and testing of any kind had been accomplished to support the stated conclusions.

Generally, it has been my experience that opinions relating to a structure's and foundation's strength, stability, and risk of collapse need to be confirmed by a professionally licensed engineer. Reference to an expert of this type was not noted in the letter.

Conclusion

A visit was made to 21520 Main St. N.E., Aurora, Oregon 97002. The purpose of the visit was to inspect the structure at the site. The structure was visually inspected, and pick tests and hammer soundings were performed.

A letter from the City of Aurora addressed to Rodger Eddy, dated January 13, 2013, was reviewed. As noted in a general summary at the beginning of this letter, at the time of my visit on February 14, 2013, the wood structure and concrete foundation located at 21520 Main St. N.E., Aurora, Oregon 97002, did not appear to be in danger of imminent collapse. It appeared that the conclusions in the letter were based solely on a viewing of the structure.

If additional information is needed or if there are questions, please call.

Sincerely,

Michael E. Elia, P.E.



Michael E. Elia, Consulting Engineer
Project No. 626

- It appears that the letter concludes a safety concern and conclusion. There are no statements that any testing has been done and by no means no licensed professionals have done these tests except to do a visual check.
- So this is my evidence for the structural portion of the allegations and as far as the nuisance nothing has been documented and it could happen at any point in time.
- As far as the letter that City Attorney Koho handed me tonight it is the cities effort to now show an experience professional and this was all visual and I would dispute that no formal inspections were done and I would also state that I had tried to put up a fence I went through the process and now I erected a sample of the fence to show what we could do and we were advised by the city not to do it and I can't put up a taller fence because it would be against the regulations, and this would address the safety concerns from the legion hall.
- I would much prefer to cooperate and would like to work with the city.

Mayor Taylor calls for any more comments hearing none he asks the applicant a few clarifying questions.

- He asked Mr. Eddy if he was in fact involved with adventures LLC in any official capacity, Eddy states that is correct I am not involved in an official capacity. I could get a letter from my wife to allow me to speak to the matter at hand if needed.
- After 12 years with this property there has been no attempt to sell or clean it up. This is a new day and new council and we do feel this is a safety issue and a nuisance in the business district, so the fence is a mood point and we want it demolished or rebuilt.
- Councilor Sahlin asks the City Attorney based on the evidence presented do you believe there is enough evidence to uphold the city standing. Attorney Koho, I do believe that there is enough evidence with the letters and opinions stated. Koho by full disclosure as far as our Ordinances we would have to send out notice on this and notice of fine of 500 a day.
- Councilor Graupp on the ORD where do we stand not relative to any one of the bullets that is listed in the nuisance ORD is enough to be out of compliance and could trigger this. Yes Stated by Koho.
- Asking the police dept (Deputy Marcellais) do you believe that this property is more of a hazard than any other property in town yes, Deputy Marcellais yes, I do believe that this could be more of a serious situation than any other.
- Nuisance, Definition is read by KOHO
- Eddy responds length of time he states 2007 is the time frame and the property has been for sale and that was about the time property collapse came across the nation.
- I do have active interest and they have stated that the basement is a value, he is asked if he has written letters to support this. (none were presented at this time)
- Eddy, asks the deputy Marcellais if a fence would help the safety, visually yes but it would create a barrier to then allow people or kids to be seen if on the property and being mischievous.
- City Attorney Koho, let me make sure that you are in charge of the property and the right person to speak to this. (Yes) replied MR. Eddy.

The hearing is closed at 8:04 pm

Discussion between City Councilors ensues,

- First question is about how many liens are on the property at this time City Recorder states 3 so far.
- This has been an ongoing issue for a decade now.
- Councilor Sahlin I just want to make sure we follow our code and effectively apply our code and to make sure we are doing it correctly so we are not talking about this in another 10 years.
- Councilor Vlcek, so are we putting this off (unsafe) we agree that there has been professionals inspect so he said she said thing isn't happening. This is truly unsafe.

A motion is made to follow the code and the Resolution that is now in place is made by Councilor Sahlin and seconded by Councilor Brotherton. Motion Passes.

7. **Discussion with Parks Committee**, OSU report two trees are classified imminent danger prior one so there are three. Let's get a quote and move forward.

Councilor Sahlin we talked about recycle containers is it more beneficial to just look at something that is premade.

Bases came in , I have not placed them yet I think we need it sprayed first then I (Sahlin) will drag it.

8. **Discussion with Traffic Safety Commission**, none

9. **Reports**

A. Marion County Deputy Report – (included in your packet)

- Informs Council of his report
- Are there any issues that you need to bring up, Mayor Taylor asks about the camera in the park no it's not there anymore and no problems have been reported as of yet.
- Recognition of the you tube video on drunk driving video from North Marion School.
- I have sat down with Betsy on the Colony Days items and we have a plan in place, we are looking at cadets, reserves, the posse and the cars being involved at some level.

B. Finance Officer's Report – Financials (included in your packets)

- ❖ Audit is on the Sept 15th calendar.
- ❖ The cash statement balanced.
- ❖ We have 2 weeks left and so there is some actual numbers and many are over budget at this point.
- ❖ Letter from Auditor for approval, **consensus** from the Council is to allow Mayor Taylor to sign, it.

C. Public Works Department's Report – (included in your packet)

1. Monthly Status Report (Storm Water)
2. Monthly Status Report (Water), copper line disintegrate from 2004 this is going to be an issue all over town where these lines are because of the acid soil. We need to budget for them now.
 - Storm water survey still on track for July
 - No more questions
3. Parks Report, OSU Tree Report as discussed before.

A. Waste Water Treatment Plant Update (from Otis Phillips, (included in your packet)

Everything looks good...

Two new interns are working out great.

D. City Recorder's Report (included in your packet) , reads her report.

No questions.

- E. **City Attorney's Report** – (not Included in your packet)
- None as discussed during the public hearing.

9. Ordinances and Resolutions

- A. **Discussion and or Action on Resolution 669 Supporting a Farmers Market**, read by title only.

Motion to approve Resolution 669 is made by Councilor Vlcek and Sahlin seconds. Motion Passes

- B. **Discussion and or Action on Resolution 670 with SEDCOR**, read title only no discussion.

Motion to approve Resolution 670 was made by Councilor Graupp seconded by Councilor Brotherton. Motion Passes

- C. **Discussion and or Action on Resolution 671 State Revenue**, read by title only with no discussion.

Motion to approve Resolution 671 was made by Councilor Sahlin and seconded by Councilor Vlcek. Motion Passes.

- D. **Discussion and or Action on Resolution 672 Declaring the City's Election to Receive State Revenues.** Read by title only.

Motion to approve Resolution 672 was made by Councilor Graupp and seconded by Councilor Brotherton. Motion Passes.

- E. **Discussion and or Action on Resolution 673 Adopting the 2013/2014 Budget and Making Appropriations.** Read by title only.

Motion to approve Resolution 673 was made by Councilor Sahlin and seconded by Councilor Brotherton. Motion Passes.

- F. **Discussion and or Action on Resolution 674 Levying AD Valorem Taxes for Fiscal Year 2013/2014** read by title only.

Motion to approve Resolution 674 was made by Councilor Graupp and seconded by Councilor Brotherton. Motion Passes.

10. New Business

- A. **Discussion and or Action on City of Aurora LED Streetlight offer from PGE (Presented by Luanne Berkey, Lighting Specialist), Wendy Buck presents**, at the time of the Franchise agreement you asked about LED light and Melisa is in charge of this and so I will hand it over to her, Melisa, not sure how familiar you are with the street lights they are more energy efficient and they last longer and they are expected to last 25 years, LED is much more directional and keeps it on

the road. We do have shields available they are a bit more cost involved. But they are much better.

Councilor Brotherton asks is this a potential pole purchase, (PGE) there are about 79 lights that we (PGE) currently own and if we convert them then the remaining amount you own we would like to purchase them from you at 22,000 b poles and if we convert them and we go down about 600 savings a year.

So we are paying for the B poles.

A 5.49 a month

B Poles .85 pole

If you (PGE) own the pole we are then paying all maintenance on the pole.

Can you give us a submittal of fees, it is determined that they did that.

Councilor Sahlin is the style going to change, no (PGE) states.

Councilor Graupp what do you need from us to do the sale of the poles there would be contract if we are interested in it they could then do a contract up,

Consensus from the Council is to allow moving forward with an agreement for the next Council meeting. The numbers would be the same but we could give more description on options of styles and the locations of the poles.

B. Discussion and or Action on the Marion County Contract for Police Services.

Motion to approve the new contract with Marion County is made by Councilor Vlcek and is seconded by Councilor Sahlin. Motion Passes.

C. Discussion and or Action on IGA between City of Aurora and E-Permitting Services.

Motion to approve the IGA as presented is approved by Councilor Brotherton and seconded by Councilor Graupp. Motion Passes.

Discussion is that we are not paying for her (City Planner Wakeley) training because this is something she will need to do for her other contract cities as well.

D. Discussion and or Action on OLCC License Renewal

Motion to approve the renewal of OLCC License is made by Councilor Sahlin and seconded by Councilor Vlcek. Motion Passes.

E. Discussion and or Action on Contract Renewal with Willamette Valley Council of Governments. (City Planner)

Motion to approve the contract for the next year with COG is made by Councilor Sahlin and seconded by Councilor Graupp. Motion Passes

10. Old Business

A. Discussion and or Next Steps on Election Results & Charter Change

City Attorney Koho, yes 97 no 93 so the charter is amended. I just need the direction you want to go and I can draft an ORD. to use the correct language for the charter. None is given at this point.

Councilor Sahlin the Economic Development Committee is stagnant at this point and with SEDCOR.

Nothing is discussed about the property that was first initiated by Councilor Sahlin.

11. Adjourn

A motion to adjourn the June 11, 2013, meeting at 9:05 p.m. was made by Councilor Sahlin seconded by Councilor Graupp and passed unanimously.



A handwritten signature in blue ink, appearing to read "Greg Taylor", is written over a horizontal line.

Greg Taylor, Mayor

ATTEST:



A handwritten signature in blue ink, appearing to read "Kelly Richardson", is written over a horizontal line.

Kelly Richardson, City Recorder