

**PHILOMATH CITY COUNCIL  
MINUTES  
August 10, 2015**

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6 **1. CALL TO ORDER**

7 The City Council of the City of Philomath was called to order on Monday, August 10,  
8 2015, at 7:00 p.m. in the Philomath City Hall Council Chambers by Council President  
9 Sean Manning.

10  
11 **2. ROLL CALL**

12 Present:

13 Council President Sean Manning  
14 Councilor Angie Baca  
15 Councilor Doug Edmonds  
16 Councilor Charla Koepp  
17 Councilor Jason Leonard  
18 Councilor Eric Niemann

Excused:

Mayor Rocky Sloan

19  
20 Staff Present:

21 City Manager Chris Workman  
22 City Attorney Jim Brewer  
23 Finance Director Joan Swanson  
24 Police Chief Ken Elwer  
25 City Recorder Ruth Post  
26 Public Works Director Kevin Fear

27  
28 **3. CONSENT AGENDA**

29 **3.1 City Council Minutes – July 27, 2015**

30  
31 **MOTION:** Councilor Koepp moved, Councilor Baca second, to approve the  
32 consent agenda and the council agenda for August 10, 2015, as presented.  
33 Motion APPROVED 6-0 (Yes: Baca, Koepp, Niemann, Manning, Edmonds and  
34 Leonard; No: None.)

35  
36 **4. ITEMS REMOVED FROM CONSENT AGENDA**

37 **4.1** None.

38  
39 **5. OATH**

40 **5.1 Officer Ted Vaughn** – Ms. Post administered the oath of office to new police  
41 officer Ted Vaughn.

42  
43 **6. PUBLIC HEARINGS**

44 **6.1 PC15-02 Annexation; Applicant: Ron and Barbara Hartz; Address: 405**  
45 **Landmark Drive (12-5-7BC Tax Lots 12900 and 13000) and Unaddressed**  
46 **(12-5-7 Tax Lot 2100).**

47  
48 Council President Manning opened the public hearing at 7:01 p.m. and Mr.  
49 Brewer announced the rules for conduct of the public hearing and testimony.  
50

1 Staff Report: Mr. Workman summarized the staff report as included in the packet.  
2 He noted that the subject property is almost completely surrounded by property  
3 in the city limits. He stated there are no specific plans for development at this  
4 time.

5  
6 Presentation by Applicants: Ron and Barbara Hartz, Philomath, OR – Ms. Hartz  
7 waived the right to provide a presentation.

8  
9 Testimony of Proponents: None.

10  
11 Testimony of Opponents: None.

12  
13 Testimony of Neutral and Governmental Parties: None.

14  
15 There was no request to keep the record open. Council President Manning  
16 closed the public hearing at 7:07 p.m. That applicant waived the right to submit  
17 final written testimony.

18  
19 Discussion:

20  
21 **MOTION:** Councilor Niemann moved, Councilor Edmonds second, to adopt the  
22 Findings of Fact as presented in the staff report and upon the evidence and  
23 discussions presented at the public hearing and that the City Manager be  
24 directed to place this annexation request as presented in File No. PC15-02 on  
25 the November 2015 ballot; and If the annexation is approved by the Philomath  
26 voters, the City will conduct the proper hearings to rezone the subject property  
27 from Industrial to Industrial Park. Motion APPROVED 6-0 (Yes: Baca, Edmonds,  
28 Koepe, Niemann, Manning, and Leonard; No: None)

29  
30 **6.2 Vacation of Right-of-Way per ORS 271.130; Applicant: City of Philomath;**  
31 **Location:** Citywide – Specific alleys.

32  
33 Council President Manning opened the public hearing at 7:09 p.m. Mr. Brewer  
34 announced the criteria for testimony. Councilor Baca declared a conflict of  
35 interest on ROW 52 and 53 because it affects her property.

36  
37 Mr. Workman provided a summary of the staff report. He described the 66  
38 alleyways that staff has identified as not needed for any public use. He reviewed  
39 the process that was used to identify each of the alleys proposed for vacation. He  
40 described examples of the current uses of these right-of-ways by the adjacent  
41 private property owners. He reviewed the public notification process that was  
42 used including posting on the property, mailing of notices to area property  
43 owners, and publication in the newspaper. He stated that 22 alleys have been  
44 opposed for vacation and they should be removed from consideration. He  
45 recommended leaving the hearing open for two weeks for receipt of additional  
46 testimony.

47  
48 He described the process for the actual vacation, per Oregon statute. He clarified  
49 that any opposition from an adjacent property owner automatically results in the  
50 right-of-way being excluded from consideration. He stated that everyone who

1 was previously notified will receive a final notification of the outcome of the  
2 adjacent right-of-way.

3  
4 **Proponents:**

5 Toni Hoyman, Philomath, OR (ROW22) – Ms. Hoyman stated she supports her  
6 right-of-way being vacated. She questioned if it is not vacated, what will happen  
7 to it. Mr. Workman stated it will remain as is and any obstructions such as  
8 vehicles and fences can be reported to the Police Department.

9  
10 Bruce Bricker, Philomath, OR (ROW66): He stated his right-of-way is currently  
11 still in the unopposed status. He questioned if the new property line would be  
12 surveyed. Mr. Workman explained that the County Assessor would redraw the  
13 assessment maps with the line down the middle of the right-of-way but there  
14 would be no on-site survey. He stated that it would be up to the property owners  
15 if a new fence was to be built to determine the actual physical property line  
16 location.

17  
18 Carl Matthews, Philomath, OR (ROW54): Mr. Matthews requested that the south  
19 half of ROW54 be vacated. He understood that the commercial property to the  
20 north was opposed to the vacation but felt the south half of the right-of-way could  
21 be vacated without impacting the use that the commercial business needs to the  
22 north. Mr. Workman stated that the City would reach out to the affected property  
23 owners to confirm that everyone was in agreement with that resolution.

24  
25 Judy Hays-Eberts, Philomath, OR (ROW25 & 26): Ms. Hayes-Eberts questioned  
26 if the property is not vacated and there are trees in the right-of-way who remains  
27 responsible for those trees. She questioned how the trees would be managed.  
28 Mr. Workman described the maintenance options related to trees that are in the  
29 right-of-way and the City's responsibility for them.

30  
31 David & Kelly Cox, Philomath, OR (ROW42): Ms. Cox stated ROW 42 is a  
32 through-way used by traffic from Wells Fargo Bank. She stated that they are  
33 concerned about children near that alley and requested that the City consider a  
34 partial vacation. Mr. Workman stated he would follow-up with adjacent property  
35 owners.

36  
37 Tim Ranney, Philomath, OR (ROW61): Mr. Ranney stated his concerns about a  
38 neighbor and questioned if the entire right-of-way could be attained by one  
39 property owner. He encouraged any arrangements between neighbors to be  
40 documented as an actual easement.

41  
42 Kim Rose, Philomath, OR (ROW45) – Ms. Rose referred to ROW 45 that has  
43 been removed from consideration and requested that the west side of ROW 45  
44 be considered for vacation as a partial vacation. Mr. Workman stated he would  
45 follow up on that request with the other property owners.

46  
47 Ronda Lindly-Bennett, Philomath, OR (ROW38 & 39) – Ms. Lindly questioned if  
48 there are any property tax implications to the additional property. Mr. Workman  
49 described his conversation with the County Assessor and stated there is nothing  
50 size-wise that would warrant the County Assessor coming out and re-assessing

1 the property. He described a scenario where the property owner made an  
2 addition to the house that could result in the property being entirely re-assessed.

3  
4 Alan Ayers, Philomath, OR (ROW 50 & 51) – Mr. Ayers questioned if someone  
5 comes in during the additional two weeks of testimony being allowed and  
6 opposes the vacation, would the City provide notice of that to the other property  
7 owners and give them an opportunity to respond. Mr. Workman stated the City  
8 would do that.

9  
10 Richard Symons, Philomath, OR – (ROW 7): Mr. Symons supported vacation of  
11 the west half of ROW 7 but requested that the east half remain open.

12  
13 Nathan Hightower, Philomath, OR (ROW 23) – Mr. Hightower stated he was  
14 neutral on ROW 23 and 24 but had concerns about the existing easements for  
15 utilities if the right-of-way is vacated. Mr. Workman stated that any existing utility  
16 easements would remain.

17  
18 Janice Speers, Philomath, OR (ROW17) – Ms. Speers stated that there are ruts  
19 on ROW 17 and questioned who is responsible for maintaining that area. Mr.  
20 Workman stated that those are the responsibility of the adjacent property owners.

21  
22 Pamela Hawks, Philomath, OR (ROW60) – Ms. Hawks questioned if the right-of-  
23 way is vacated, can fences be built. Mr. Workman stated that if the property is  
24 vacated, fences can be built on the line property lines.

25  
26 Scott Ramsey, Philomath, OR (ROW23 & 24) – Mr. Ramsey stated concerns  
27 about private utility easements and that there are private utility lines running  
28 through those alleys due to the presence of the railroad tracks south of the block.  
29 He stated he is concerned about the City giving up the access to alleys that are  
30 still being used for private utility access. He stated that he generally thinks it is  
31 reckless of the City to abandon public property that wasn't initiated by the  
32 property owners. He requested that the City amend the abandonment to create  
33 an easement for the private property lines. Mr. Ramsey stated his concerns that  
34 these lines are not recorded. He stated it would cost him at least \$2,000 for  
35 surveys and title costs to get a private easement. He declared opposition to  
36 ROW23 in addition to his previously submitted request to oppose ROW24.

37  
38 **Opposed:**

39 Council President Manning restated that any right-of-way that has already been  
40 opposed does not require additional testimony.

41  
42 Tim Bennett, Philomath, OR (ROW1) – Mr. Bennett stated he is opposed to  
43 vacation of ROW1.

44  
45 **Neutral Parties:**

46 None.

47  
48 Council President Manning stated there will be an update on the website with an  
49 additional two weeks to receive opposition requests.

50

1 Herbert Kelley, Philomath, OR (ROW41) – Mr. Kelley questioned how he could  
2 find out who had opposed the vacation of ROW41. Mr. Workman stated he could  
3 provide that information.  
4

5 Mark Larson, Philomath, OR (ROW23) – Mr. Larson stated he is a neighbor of  
6 Mr. Ramsey's and questioned if they come to an agreement, can Mr. Ramsey's  
7 opposition be rescinded. Mr. Workman stated that the record will remain open for  
8 two weeks and adjustments can be made.  
9

10 Mr. Workman clarified that property owners can still initiate vacation of a right-of-  
11 way on their own in the future via the application and fee process.  
12

13 Council President Manning stated that the record will be left open until 5:00 p.m.  
14 on August 24, 2015.  
15

16 **MOTION:** Councilor Edmonds moved, Councilor Niemann second, to close the  
17 public hearing at 8:04 p.m. Motion approved 6-0. Council President Manning  
18 declared a short recess.  
19

20 Council reconvened at 8:11 p.m.  
21

## 22 **7. VISITORS/PETITIONS**

23 7.1 None.  
24

## 25 **8. STAFF REPORTS**

26 **8.1 City Manager** – Mr. Workman noted this is Chief Elwer's final meeting before  
27 retirement. He stated that the senior staff that this City had in place when he  
28 applied for the City Manager position was one of the most appealing features of  
29 the job and that Chief Elwer has set a very high bar for the position. He stated  
30 that a request has been received from Dale Collins; Michele Waddell, previous  
31 Philomath Downtown Executive Director; and the Chamber of Commerce to  
32 rename the police station after Chief Elwer. He requested a consensus from the  
33 Council to place a resolution on the next agenda in support of that action. Council  
34 consensus was to do so.  
35

36 **8.2 Public Works Director** – Mr. Fear stated his thanks for working with Chief Elwer  
37 and appreciated the working relationship between the Police Department and  
38 Public Works. Mr. Fear reported that fog sealing will happen next week and  
39 information will be posted on the City website. Mr. Fear described the fog sealing  
40 process that seals the street and prevents water from getting through the cracks  
41 where it can freeze and damage the street. Councilor Niemann questioned how  
42 the Newton Creek riparian project by the Marys River Watershed Council was  
43 proceeding. Mr. Fear stated that they got about 60 to 70 feet cleaned using 7  
44 volunteers and 2 staff members. He stated they are planning another event to  
45 continue the work.  
46

47 **8.3 City Recorder** – Ms. Post thanked Chief Elwer for his service to the community.  
48 She stated the bike rack and Rotary bench dedication is this Saturday at 10 a.m.  
49

50 **8.4 Finance Director** – Ms. Swanson described the effect that Chief Elwer has had  
51 on the Municipal Court. She complimented him on the police officers that

1 Philomath attracts and employs. She reviewed the Supreme Court decision on  
2 the Hewlett-Packard property tax appeal. She described the impact of that  
3 decision on both the City and Urban Renewal Agency property tax collections.  
4

5 **8.5 Police Chief** – Chief Elwer thanked Pastors Brooks and Lucke and Marcia  
6 Gilson for the recent successful National Night Out celebration. He thanked staff  
7 and Council for being great to work with.  
8

9 **8.6 City Attorney** – Mr. Brewer described the amazing job that Chief Elwer has done  
10 to create a professional department with strong morale.  
11

12 Incoming Chief Ken Rueben described the strong reputation that the Philomath  
13 department has thanks to Chief Elwer and that representatives from other  
14 agencies suggested he apply for the Sergeant's position because of the strength  
15 of that reputation.  
16

17 **9. COUNCIL REPORTS**

18 **9.1** Councilors stated their appreciation for the department that Chief Elwer has  
19 created and the excellent job he has done for the community.  
20

21 **10. ORDINANCES & RESOLUTIONS**

22 **10.1 Resolution 15-10 Establishing Ballot Title for Hartz Annexation** – Ms. Post  
23 summarized the requirements of the ballot title and the appeal process.  
24

25 **MOTION:** Councilor Niemann moved, Councilor Edmonds second, that  
26 Resolution 15-10, establishing the ballot title for the Hartz Annexation be  
27 approved as presented. Motion APPROVED 6-0 (Yes: Baca, Edmonds, Koeppe,  
28 Niemann, Manning, and Leonard; No: None).  
29

30 **10.2 Resolution 15-11 Certifying Delinquent Sewer Accounts for County**  
31 **Assessor** – Ms. Swanson reviewed the customers who have sewer only service  
32 from the City and the process that the State has established to allow cities to  
33 collect unpaid bills via the County Assessor's office. She distributed a revised  
34 Attachment A because one of the two property owners came in and paid in full.  
35 There was discussion about the remaining property owner being on the list every  
36 year.  
37

38 **MOTION:** Councilor Edmonds moved, Councilor Leonard second, that  
39 Resolution 15-11, certifying delinquent sewer accounts for collection to the  
40 Benton County Assessor. Motion APPROVED 6-0 (Yes: Baca, Edmonds,  
41 Koeppe, Niemann, Manning, and Leonard; No: None).  
42

43 **11. INFORMATION & CORRESPONDENCE**

44 **11.1 Website report for July 2015** – No comment.

45 **11.2 CWACT July 23, 2015 Quick Notes** – No comment.

46 **11.3 Republic Waste 2nd Quarter Update** – No comment.  
47

48 **12. ADJOURNMENT**

49 **12.1 Adjournment** – Seeing no further business, Council President Manning  
50 adjourned the meeting at 8:34 p.m.  
51

1 SIGNED:  
2 Sean Manning, Council President

ATTEST:  
Shelley Bartlow, Police Clerk