

**MILL CITY  
MINUTES OF THE CITY COUNCIL  
Tuesday, September 27, 2022**

**Mayor Kirsch** opened the meeting at 6:30 PM with the flag salute. Councilors present were Janet Zeyen-Hall, Dawn Plotts, Tony Trout, and Steve Winn. Brett Katlong was excused. Staff members in attendance were City Recorder Stacie Cook, and City Clerk Tree Fredrickson.

**Citizens in Attendance were** Ann Carey, Laura Laroque, Udell Engineering and Land Surveying, LLC, Roel Lundquist, and Robert Ward.

**DECLARATIONS OF POTENTIAL CONFLICTS OF INTEREST:** Mayor Kirsch stated that anyone who felt they may have a potential conflict with anything on tonight's agenda may say so at this time or at any time during tonight's meeting.

**CONSENT AGENDA**

**Councilor Trout** moved and was seconded by **Councilor Plotts**, to approve items a; Approval of Minutes of Regular City Council Meeting of September 13, 2022 and, b; Approval of Accounts Payable. Mrs. Fredrickson polled the Council. The motion passed unanimously, (5:0).

**CITIZEN COMMENTS/QUESTIONS:** None.

**PUBLIC HEARING – File No. 2022-06 Comprehensive Plan Map and Zoning Map  
Amendment**

Applicant: Robert and Vicki Ward  
Location: Lyons-Mill City Dr.  
Linn County Assessor's Map 9S3E31 TL200

Mayor Kirsch opened the public hearing at 6:35 PM with the procedures for the land use hearing. Mayor Kirsch called for any potential conflict of interest, bias or ex parte contact.

Councilor Plotts declared ex parte contact, as she was advised by a member of the public that this application was coming to the City.

**APPLICANT'S PROPOSAL:** Laura LoRoque, Udell Engineering and Surveying, said that the Wards own a 6.16-acre parcel, which includes a 1.70+/-acre adjacent to Lyons-Mill City Drive that is inside the Mill City UGB and is designated for Industrial uses. The remaining 4.46-acres is outside the Mill City Urban Growth Boundary (UGB) and is not being considered this evening.

The applicants propose to change the Mill City plan designation from Industrial to Rural Residential. There is a well on site and approval for a septic system has been granted. Access to the property is from Lyons-Mill City Dr. If the application is approved, the applicants intend to build a home on the upper 1.7-acre area adjacent to Lyons-Mill City Drive.

**STAFF REPORT:** Mrs. Cook said that the application meets the City's zoning criteria for this kind of application. In reviewing the application, City Planner Dave Kinney found that there is a natural waterway that runs along the northern base of the slope. With a desire to maintain water quality within the Snake/Deford Watershed, if the property remains industrially zoned, there is potential for contamination within the watershed. Staff may recommend that the properties to the east along the north side of Lyons-Mill City Drive be changed from Industrial to Residential to address this concern.

On September 2, 2022, the Planning Commission held a public hearing on this application and made a motion to recommend the City Council approve the proposal.

**OPPONENT'S TESTIMONY:** None.

**PROPONENT'S TESTIMONY:** None.

**GENERAL TESTIMONY:** Mrs. Cook said the Mill City Rural Fire Protection District indicated that they had no comment.

**QUESTIONS OF CLARIFICATION FROM CITY COUNCIL:** Councilor Trout asked for confirmation that this property is not in city limits and will not be connected to city sewer. Mrs. Cook said this is correct.

Councilor Winn asked if there will be costs to redo mapping. Mrs. Cook said that this is anticipated in the application fee.

Councilor Winn asked if the City is required to have a certain number of acres for Industrial land. Mrs. Cook said that the Buildable Lands Inventory outlines the number of acres of different land types the city should have, however, there is no requirement for Industrial land.

**APPLICANT'S REBUTTAL:** None.

**STAFF SUMMARY:** Mrs. Cook said that after close of the hearing, the Council should deliberate toward a decision. Options include approval as presented/modified, continuance to gather additional information if requested or denial. If approved, Ordinance No. 4XX, which formalizes the Council decision, is on the agenda for a first reading. Once enacted, the Ordinance will be provided to Linn County for their review process.

**CLOSE OF HEARING:** Mayor Kirsch closed the public hearing at 6:51 PM.

**COUNCIL DELIBERATION:** Mayor Kirsch said he concurs with the Planning Commission's recommendation.

Councilor Trout agrees that the change to Residential is the best use for this property.

**Councilor Trout** moved and was seconded by **Councilor Zeyen-Hall**, to Approve the Application of Robert and Vicki Ward, File No. 2022-06, to Amend the Mill City Comprehensive Plan Map from Industrial to Residential for a 1.70+/-Acre Portion of an Existing 6.16-Acre Parcel in the 48200 Block of Lyons-Mill City Dr and to Adopt the Findings of Fact as Prepared.

Councilor Winn asked why the entire 6+ acres is not being considered. Ms. Laroque said that the lower portion of the property is already zoned residential.

Mayor Kirsch called for the vote. The motion passed unanimously, (5:0).

**ORDINANCE NO. 4XX (10):** Ordinance 4XX (10) amends the Comprehensive Plan Map for a parcel in the 48200 block of Lyons-Mill City Dr, rezoning it from Industrial to Residential. Council approval of File No. 2022-06 must be formally outlined by Ordinance.

This ordinance will become effective upon Linn County's adoption of a Board of Commissioner's Order concurring with the City's amendment of the Mill City Comprehensive Plan Map Amendment.

**Councilor Trout** moved and was seconded by **Councilor Plotts**, to Read Ordinance No. 4XX(10) for First Reading by Title Only. The motion passed unanimously, (5:0).

Mrs. Cook read the Ordinance by title only.

**DANGEROUS/DERELICT BUILDING CODE:** After review of the Old Business items at the last meeting, it was determined that reviewing the City's Dangerous and Derelict Building Codes would be the top priority to complete. The following documents were provided for review and discussion:

- Mill City Municipal Code Chapter 15.08 Dangerous Buildings and Structures

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- Chapter 15.10 Derelict Buildings and Structures
- Linn County Title 8 – Building Code
- City of Albany Chapter 18.28 – Dangerous Buildings, Structures, and Premises
- City of Albany Chapter 7.83 – Derelict Structures

Mayor Kirsch said the Mill City Dangerous and Derelict Building code was developed with some flexibility so the city is not overbearing or overstepping on personal property rights, but to address those properties that are potential hazards to the community or anyone visiting the property.

Mrs. Cook provided examples of structures that have had complaints but don't necessarily meet the requirements of the code for Council review.

Mrs. Cook said that after reviewing the structures used as examples, staff recommends leaving the language as it is. Modifying the language could put the City in the position of becoming "paint police" or similar and that it is her opinion that this is not how the City should operate. Additionally, the City must be prepared to follow through with enforcement if a property owner does not comply. This would mean completing any repairs, paying for the work with City dollars and placing a lien on the property.

Councilor Winn asked about the Housing Rehabilitation Loan offered through the City. Mayor Kirsch said that those homes that have been considered in past years are in such disrepair loan funds would not be recoupable upon sale of the home.

Ann Carey, SW 1st Ave., suggested removing the requirement to convene a committee from the ordinance noting that the Council can act as a review committee if needed.

Mayor Kirsch and Councilor Trout expressed that each is a proponent of the Constitution of the United States and private property rights.

Roel Lundquist, SW Linn Blvd, noted that the ordinance has a section requiring posting and that someone be within 50 miles to address any issues that may arise for vacant/derelict buildings. This section could be used to assist with some of the problem structures.

Mrs. Cook and Mayor Kirsch will work to determine how best to address the committee that the code requires.

#### **MISC. CITY RECORDER ITEMS:**

*Generator Noise Complaint Update:* Mrs. Cook said that staff purchased a decibel meter to be able to measure the sound level of the generator at the River Road Pump Station. Public Works Supervisor Russ Foltz took a decibel measurement, measuring 5' out and directly below the exhaust with the generator running. The decibel level at the River Road Pump Station was 82.1 decibels. Average decibel levels for a range of daily noises were provided for comparison.

Mr. Lundquist asked if Pacific Power has been contacted to see if they can address the 3-phase power issue on River Road. Mrs. Cook said that she and City Attorney Jim McGehee discussed contacting Pacific Power to see if anything can be done with the power supply on River Road but this has not been done yet.

*FEMA Request for Extension – March 2023:* Mrs. Cook said that after a request for an update regarding FEMA's lease expiring September 30, 2022, she was advised that FEMA is trying to work out alternate solutions with local municipalities and state government, however, there is no final plan in place. FEMA has requested an extension through March 2023 for the remaining units at the Remine Rd location, which could be revised if alternate solutions are identified.

Mrs. Cook said that she has advised Marion County of FEMA's request and believes that there is a willingness to work with FEMA while still moving forward with Marion County's request for the tiny home placement. If Council authorizes a six-month extension, discussion of a sub-lease with Marion County would need to take place. Mrs. Cook would like to discuss lease options with Mr. McGehee.

Mrs. Cook and Mr. Kinney will be meeting with Marion County next week to discuss the next step in the plan for tiny homes. Mrs. Cook suggested a 30 or 60-day lease extension to allow time to discuss options with Marion County and the City Attorney.

**Mayor Kirsch** moved and was seconded by **Councilor Trout**, to Extend FEMA's Lease for 60 Days with an Option to Negotiate Lease Terms. The motion passed unanimously, (5:0).

Mrs. Cook said that she received a notification from 1,000 Friends of Oregon and the Crag Law Center that they are appealing a Marion County land use decision that modified their codes to authorize or permit event businesses as home occupations in the exclusive farm use, special agriculture or farm timber zones.

Mayor Kirsch said that he received an email inviting him to the Santiam Rails to Trails Stakeholder's Kickoff meeting. This meeting is to initiate the revision of the Canyon Journeys Trail Plan. Mayor Kirsch will provide the information to Mrs. Cook to forward to anyone interested in participating.

**EXECUTIVE SESSION:** None scheduled.

#### **ADJOURNMENT**

The meeting was adjourned at 8:16 PM.

Prepared by:

Approved by:

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Stacie Cook, MMC  
City Recorder

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Tim Kirsch  
Mayor