



**Willamina City Council  
Work Session  
Meeting Minutes  
Tuesday, July 25, 2023 at 5:00 p.m.**

Minutes taken by Deputy City Recorder Krystal Stevens

**Location of Meeting:**

West Valley Fire Station  
825 NE Main Street  
Willamina, OR 97396

**Present at Meeting:**

Mayor Ila Skyberg  
Council President Rita Baller  
Councilor Vickie Hernandez  
Councilor Barry Wilson  
Councilor Craig Johnson  
Councilor Jennifer Pederson  
Councilor Karl Klym  
Library Director Sarah Frost  
City Manager Bridget Meneley  
Deputy City Recorder Krystal Stevens

**Absent from Meeting:**

None

**Guests not Limited to:**

Public Works Jeff Rosenberry  
Beery, Elsner, & Hammond LLP Emily Matasar  
Encompass Yamhill Valley Howie Harkema  
Encompass Yamhill Valley Carrie Martin

Mayor Skyberg called the meeting of the City of Willamina City Council to order at 5:14 p.m. on July 25, 2023.

Deputy City Recorder Stevens took the roll call and a quorum was present.

Flag Salute

**CORRESPONDENCE**

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## 1. Yamhill County Sheriff's Office -

City Manager Meneley read an email aloud that was sent from the Yamhill County Sheriff's Office regarding the 9<sup>th</sup> Circuit Court of Appeals opinion on the homeless camping case in Grants Pass. The 9<sup>th</sup> Circuit Court made it clear that all government entities within their boundaries are bound by their law regardless of whether it is a special district.

## AGENDA

### 1. Emily Matasar from Beery, Elsner & Hammond, LLP

Emily discussed the main points of House Bill 3115 and what it means for the City of Willamina. She began by discussing the Grants Pass case, the Martin v. Boise case, and the state law. In 2018 Martin v. Boise was the first case regarding homeless camping in the 9<sup>th</sup> Circuit Court. The case stated that the 8<sup>th</sup> amendment to the United States Constitution prohibits cities from criminally prosecuting people experiencing homelessness. The Johnson v. Grants Pass case also went to 9<sup>th</sup> circuit court. This case clarified and extended the ideas behind the Martin v. Boise case. Whereas in Martin v. Boise, criminally prosecuting people for being homeless, this case prohibits civil punishment to people experiencing homeless as well. It also extended necessary minimal measures for people to keep themselves warm and dry. It requires procedural due processes to exclude people from certain places.

Then in 2021 the state legislature adopted House Bill 3115. This essentially codified the principles of the two 9<sup>th</sup> Circuit Court cases in the State of Oregon. It essentially provides the opposite of what the cases said before meaning instead of what cities cannot do, it stipulates what we must do. It states that a local law that regulates someone sitting, sleeping, lying, keeping warm and dry, or taking precautions from the elements outdoors on public property that is open to the public must be objectively reasonable as to time place and manner with regards to people experiencing homelessness. If a person is cited under a camping ordinance and they believe it is not objectively reasonable, they have an affirmative defense saying the city's camping ordinance was illegal. Also allows for anyone to independently challenge the reasonableness of the law. To prevent the city from actually having that law.

The idea of being objectively reasonable is based on the totality of the circumstances, taking into consideration all the factors of the area. It won't be the same between different cities. It can be based on the population of homeless people, contours of the city, as well as many other things.

Something cities can do is to regulate the time, place, and manner in an objectively reasonable way. There is a misconception that cities cannot prohibit camping at all.

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Cities can choose particular areas where camping is prohibited, but it must be objectively reasonable in the city as a whole and comply with the state statutes and cases. A lot of cities have prohibited camping in parks entirely. According to the law, cities can prohibit camping in all parks legally. Cities can determine places where camping is prohibited or prohibit camping on some properties during certain hours. Cities can also regulate the manner of camping by restricting the size of the encampment or amount of personal property allowed while camping on public property.

Another thing that can be done is to adopt specific ordinances that will target the *effect*, meaning a negative effect that you want to prohibit or contain. Willamina already has ordinances that prohibit public indecency and scattering of rubbish. There is nothing that prohibits fires on public property, but Willamina could easily adopt one that would prohibit fires or stoves on public property. Another example is an ordinance restricting vandalism, such as a person can't convert a park bench into a structure to sleep on or vandalize a bathroom or anything else. These kinds of restrictions are safe because they don't interrupt the acts of sitting, lying, sleeping etc.

Currently there is no law prohibiting public rights of way or sidewalk camping, or public parking lots, but cities have made ordinances using ADA access as leverage. Some cities have said no camping within 10 ft of an entrance to a business.

Some cities have picked a public property and made it into a place where everyone can camp. This site must still be objectively reasonable. Such as, it would be reasonable for people to expect bathroom facilities, garbage facilities, safety, cleanliness, no excessive noise and light at night, and for it to be generally habitable. Some cities have staffed their sites with a 24 hour police officer for safety. If a city chooses to designate a specific camping area, the city could be liable for a "state created danger" that may be created by this camping space.

There is no way to determine how a court will rule in these cases because there have only been two cases ever to date. Whereas most other court proceedings we have long histories of cases throughout the years to reference.

ORS 195.505 is a law requiring cities to have a policy for the humane removal of homeless campsites in their city. Notice is to be posted at least 72 hours before removal, in English and Spanish and it must be posted at all possible determined entrances to the campsite. After the removal, the property has to be kept in the same community that the campsite was in. It must be stored in an orderly fashion and clearly labelled and made easy for person to claim it for 30 days minimum.

Nothing requires the City to have a camping ordinance, it just requires that if the City does have one that it must comply with House Bill 3115 and the two 9<sup>th</sup> Circuit Court cases. Cities can also wait if they want to. If a city does not have a significant problem

with homeless camping right now, they may want to wait.

Willamina doesn't have an ordinance that prohibits camping right now. Emily said she could help with making one, there are lots of examples of good ordinances around the state.

Emily recommended just as Patty Mulvihill did, for the City to host an open community conversation, with all sorts of people from the community and the area. She said she can help with this. She recommended engaging with county to see what resources are available through the county. She also recommended connecting with neighboring cities to see what they are doing and what ordinances they have enacted in effort to be doing similar things.

There was discussion about whether it would be in the City's best interest to thoughtfully put a camping ordinance into place before experiencing an issue with homeless camping. The reason being to prevent having to hastily put together a less thoughtful ordinance if there was an issue in the future. Any issues that may arise from a well-formed ordinance could be addressed by making amendments to that ordinance.

There was discussion about what kind of shelter would suffice as a shelter under HB 3115. It simply states "shelter beds in the area" but there is no stipulation of what size of an area it is referring to. It may mean town, county, nearby cities, etc. A city also can't force a person to go to a warming shelter just because there is free transportation to get to it.

There was discussion about the Grants Pass case because the shelter they had available was of a religious affiliation and people seeking shelter were required to work and attend church services. This doesn't qualify as an available shelter to the government because some people can't work and it requires the people to take part in a religious ceremony. This infringes on a person's right for freedom for religious expression and furthermore it then criminalized all people who wouldn't take part in a religious ceremony and couldn't receive services.

2. **Patty Mulvihill recorded presentation** – Did not show this presentation, Emily watched it and did her own presentation covering the same information.

3. **City of Medford Ordinance 5.257**

- a. **Krystal update about The Dalles** – Krystal spoke with the city lawyer from the City of The Dalles, Jonathan Kara. He said that they are choosing to do nothing, they are not making a camping ordinance. The risks are too high of it not being seen as objectively reasonable. Instead, they are doing things such as inhospitable architecture in effort to make areas not comfortable for people to camp. They are also making alternative ordinances that address negative affects such as fires in the parks, trash, public indecency, caring for parks, etc. They are

addressing the issues from a back door approach instead of directly.

He also stipulated that people don't have to be homeless to challenge your ordinance and say it's not objectively reasonable. They could challenge it from anywhere.

Emily Matasar said there are advocacy groups on the lookout around the state watching for ordinances that are made. If someone brings a lawsuit against the city saying it's not being objectively reasonable, legally the person must notify the City at least ninety days in advance before the lawsuit if they are going to seek attorney fees. If the City did have an ordinance in place and were to get sued, we could change it or withdraw it before the suit began.

Krystal explained some about the ordinance from Medford and the problems they're having with people camping in the parks. Citizens have been saying they can't use the parks anymore due to the camping. The City authorized the police to remove campsites before they are established, in doing this they can avoid giving the 72 hours notice of campsite removal.

There was discussion that we need to have a fire ordinance especially in the dry season. There is great fire danger because of the dry season.

Library Director Frost said that they have had community meetings dating back to February including Polk County Resource Center, Polk County Warming Shelters, YCAP, and community members from Polk County, Yamhill County, Sheridan and Grand Ronde. Our city must rely very heavily on our neighbors because of our limited resources. The conversations have been focused towards things that as a community we could provide services and/or solutions for. The next conversations we will have is making space for those who need it during hot and cold weather events.

#### **4. Encompass Yamhill Valley -**

Encompass Yamhill Valley Founder and President Howie Harkema and Executive Director Carrie Martin gave a presentation on what Encompass Yamhill Valley (EYV) does. Their statistics are based on the point in time counts done by YCAP. Oregon has the highest number in the country of people experiencing homelessness. Yamhill county being one of the highest in the state. EYV operates county-wide as a mobile based outreach designed to connect with the most vulnerable members of our society with programs and services they desperately need.

Their services are aimed at assisting the most vulnerable community members to access shelter, housing, and other critical resources to provide safety, stability, and self-sufficiency. They work with people that are the highest need, people that are

experiencing mental health crisis and substance addictions. People that could not get themselves the help they need because they can't function on their own at this point in their lives.

They help people access the resources that they wouldn't be able to access on their own such as social security benefits, job seeking, resume building, health insurance and doctor visits, shelter beds and housing, peer counseling, food and meal distribution, court advocacy, mental health and substance abuse treatment referrals, gas and transportation vouchers, and safe overnight car parking.

They also help organizations that want to help people, to access grant money and resources. Help put ideas into action for each community. Each community is different and their needs and what works for each is different.

They discussed that doing nothing isn't free, the burden is passed on to the shoulders of hospitals, social services, law enforcement and jails.

Since Covid there has been a rise in the number of people experiencing homelessness due to loss of jobs and homes. They discussed other reasons people experience homelessness such as trauma, severe loss, ptsd, family conflict or break up, substance abuse disorder, criminal history, mental illness, domestic abuse, or aging out of foster care.

They want to work together with Willamina to offer any support they can to help with any ideas the City would like to try. They will work around whatever our parameters are. The cost of their services is different for every case, it is not one size fits all. It is based on what the needs are. Some projects they works on are processes to get a program up and running and after it is successfully running, there is no need for them to be involved further. Other projects have an operational cost and partner with EYV for the long period of time. They can help with getting other sources of funding for their services.

They would love to facilitate a whole West Valley response instead of just one city or the whole county. They would like to bring services and making resources available to our population experiencing homelessness.

## **5. Petition Discussion –**

There was discussion about the proposed petition to ODOT for the Main Street railroad crossing for National Night Out table and the informational flyers. The petition needed to specify the exact location of the railroad crossing and that it was sponsored by the Willamina City Council.

Mayor Skyberg discussed the recent visit to the crossing site by ODOT and the railroad, looking at the areas of concern. ODOT said they don't have the money to fix it. In the Willamina TSP plan the sidewalk crossings are supposed to be ADA compliant, Jenna Berman from ODOT said they might be able to find money for a temporary fix. There was discussion about putting a cold patch over the pot holes. There is concern about possibly pushing too hard on the railroad, worries that they would possibly just shut the branch of the railroad down if they don't have the money to fix it.

Jenna Berman from ODOT also said the more concern that is expressed, the quicker she thinks she could expedite it. The commissioner is also aware of the situation and is involved which helped get the engineers out to look at it.

## ADJOURN

**MOTION:** Councilor Hernandez moved to adjourn the meeting at 7:38 p.m. Council President Baller seconded the motion. Motion carried with a unanimous vote.

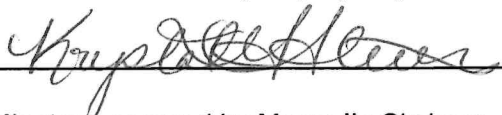
The meeting was adjourned at 7:38 p.m. by Mayor Ila Skyberg.

## Time and Date of Next Meeting

The next City Council Regular Meeting will be held on August 8, 2023 at 6:00 p.m.  
West Valley Fire Station  
825 NE Main Street  
Willamina, OR 97396


Community members are invited to join via Zoom - access information can be found on the City of Willamina website at <https://www.willamina.oregon.gov>

Minutes submitted by Deputy City Recorder Krystal Stevens



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Minutes approved by Mayor Ila Skyberg



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