

## **MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL**

**October 21, 2014**

The minutes of the proceedings of a regular meeting of the City Council of the City of Coos Bay, Coos County, Oregon, held at 7 p.m. in the Council Chambers at City Hall, 500 Central Avenue, Coos Bay, Oregon.

### **Those Attending**

Those present were Mayor Crystal Shoji, Councilors Brian Bowers, Mark Daily, Jennifer Groth, Stephanie Kramer, Thomas Leahy, and Mike Vaughan. City staff present were City Manager Rodger Craddock, City Attorney Nate McClintock, Intermediate Accountant Debbie Frankenberger, Community Development Director Eric Day, Library Director Sami Pierson, Public Works Director Jim Hossley, and Police Chief Gary McCullough.

### **Flag Salute**

Mayor Shoji opened the meeting and asked Andrew Dorr to lead the Council and assembly in the salute to the flag.

### **Public Comments**

Andrew Dorr, Coos Bay: announced there was a Marshfield-North Bend High School Civil War football game on Friday, October 24, 2014 at the Marshfield stadium and a silent auction to bid on a home-grown "Great Pumpkin". All proceeds from the auction supported the project to erect a new fence at the Marshfield Pioneer Cemetery.

### **Consent Calendar**

Mayor Shoji reviewed the consent calendar which consisted of 3a: approval of the minutes of September 30 and October 7, 2014; 3b: acceptance of the September 2014 accounts payable and payroll check registers, and; 3c: acceptance of the September 2014 combined cash report. Councilor Groth moved to approve the consent calendar accepting the September 30, and October 7, 2014 minutes, accepting the September 2014 accounts payable and payroll check registers, and accepting the September 2014 combined cash report. Councilor Kramer seconded the motion which carried with Mayor Shoji and Councilors Bowers, Groth, Kramer, Leahy, and Vaughan voting aye. Councilor Daily was absent.

### **New Council Business**

Council Kramer asked about the dog attack earlier this year which resulted in the death of a neighbor's dog. City Manager Rodger Craddock responded staff determined the City had no options as the matter was outside the City's jurisdiction; forwarded the matter to Commissioner Melissa Cribbins; and contacted Representative Caddy McKeown.

Councilor Groth attended Coos County Health Department meetings regarding Brownfield redevelopment and was completing a Business Oregon Grant application. Councilor Groth stated there were grant opportunities from the Environmental Protection Agency and Smart Growth America for updating the Front Street Master Plan and technical assistance with

## **City Council Minutes – October 21, 2014**

planning and assessment of sites. It was the consensus of the Council to proceed with an application.

### **Presentation on the Coos Bay/North Bend Visitor & Convention Bureau (VCB) by Katherine Hoppe in Regards to Rebranding and Advertising Plan of the Organization**

Katherine Hoppe, Director of Promotions and Conventions for the VCB provided options for rebranding, moving away from “Oregon’s Adventure Coast”; future creative direction, and advertising plan. Ms. Hoppe explained how advertising dollars were spent and provided three options for a new logo. Ms. Hoppe anticipated the logo change would be implemented over the next year and would significantly impact the VCB budget.

Councilor Kramer and Bowers supported the Travel Coos Bay logo. Councilor Groth asked if public input was solicited for the rebranding decision and Ms. Hoppe responded only the City Councils provided input. Councilor Vaughan supported the Travel Coos logo; and Mayor Shoji preferred the Travel Coos Bay logo with possible changes.

Joseph Monahan, Coos Bay and VCB Board Chair stated the VCB Board would like input from the Council. Councilor Leahy noted a committee was looking into the rebranding and the structure of the VCB.

### **Public Hearing to Consider an Ordinance Creating a Medical/Recreation Marijuana Sales Tax – Approval Would Require Enactment of the Proposed Ordinance and Adoption of Resolution 14-19**

City Manager Rodger Craddock stated based on direction from Council on October 7, 2014, staff drafted an ordinance to establish a tax on marijuana and marijuana-infused product sales and a resolution establishing a tax rate. Mr. Craddock noted there would not be an immediate impact on the budget if Ballot measure 92 passed because the City’s business license requirements precluded the issuance of business licenses not in compliance with local, state, and federal law. Councilor Leahy asked if the tax could be challenged by the state of Oregon wherein Mr. McClintock stated establishing the proposed tax was recommended by the League of Oregon Cities. There could be litigation but it was unlikely the City would be involved since the City did not allow dispensaries.

Mayor Shoji opened the public hearing. Len Milbyer, Coos Bay commented marijuana was used for the treatment of diseases; the tax would impact citizens of limited means; and the tax should be dedicated for a drug dog to find methamphetamines and heroin. Bob Moore, Coos Bay stated a tax on marijuana at a state and local level would encourage sales through the black market. Ken Fulkner, Coos Bay was opposed to the tax and thought the state should collect and distribute a portion to each city; if the tax was too high it would leave the black market wide open. Mayor Shoji asked if the State planned to distribute a tax to the cities wherein Mr. McClintock stated there was no provision in the initiative. No further comments were given and Mayor Shoji closed the public hearing.

Councilor Kramer noted the City was not necessarily going to impose a tax and if the City did not pass the ordinance it would have no options in the future. Councilor Bowers questioned why the Council was proposing a tax rate at 7.5 percent. City Attorney Nate McClintock

## **City Council Minutes – October 21, 2014**

responded the City was establishing the framework to enact a tax which would be less likely to be challenged and noted the resolution could be repealed or revised at a later date.

Councilor Groth moved to enact the proposed ordinance establishing a tax on the sale of marijuana and marijuana-infused products in the City of Coos Bay. Councilor Bowers seconded the motion. Intermediate Accountant Debbie Frankenberger read the ordinance by title only and Ordinance No. 464 was enacted by the following vote:

Aye:	Mayor Shoji and Councilors Bowers, Groth, Kramer, Leahy, and Vaughan
Nay:	None
Absent:	Councilor Daily

Councilor Groth moved to adopt Resolution 14-19 establishing a tax rate of seven and one-half percent (7.5%) for the sale of marijuana, medical marijuana, and marijuana infused products in the City of Coos Bay. Councilor Kramer seconded the motion which carried with Mayor Shoji and Councilors Bowers, Groth, Kramer, Leahy, and Vaughan voting aye. Councilor Daily was absent.

### **Approval of Amending Resolution 14-13 Authorizing Oregon Department of Transportation (ODOT) to Negotiate Easement Acquisition for Empire Boulevard Newmark Street – Wisconsin Avenue Multi-Modal Transportation Improvement Project – Approval Would Require Adoption of Amended Resolution 14-13**

Public Works Director Jim Hossley stated Resolution 14-13, adopted June 17, 2014, authorized ODOT to negotiate easement acquisitions on behalf of the City in regard to the Empire Boulevard, Newmark – Wisconsin project. ODOT advised the City of new Federal Highway Administration (FHWA) driveway elevation requirements affecting environmental and right-of-way access and required two permanent easements and two temporary easements.

ODOT requested amending Resolution 14-13 to include language recognizing the City of Coos Bay's authority to exercise the power of eminent domain. City staff and ODOT met with the four property owners and all would grant the easements and supported the project; the need to exercise eminent domain would be unlikely. Councilor Kramer moved to adopt amended Resolution 14-13 authorizing the ODOT to negotiate easements for the Empire Boulevard, Newmark Street, Wisconsin Avenue Multi-Modal Transportation Improvement Project. Councilor Bowers seconded the motion which carried with Mayor Shoji and Councilors Bowers, Groth, Kramer, Leahy, and Vaughan voting aye. Councilor Daily was absent.

### **Consideration of Approval of the Final Design Contract for Pump Station No. 1**

Public Works Director Jim Hossley stated Pump Station 1, located at the southwest corner of North Front Street and Birch Avenue, originally constructed in 1951, updated in 1989, did not have the pumping capacity to handle intense storms which resulted in surcharges in the downtown sewer system. The pump station exceeded its design life and required an upgrade.

The Dyer Partnership performed pre-design services to upgrade Pump Station 1 and was working with Oregon Department of Environmental Quality (DEQ) for approval. Dyer submitted

## **City Council Minutes – October 21, 2014**

a cost of \$224,840 for final design, bidding and construction management services with construction to commence the summer of 2015 at an estimated cost of \$1,568,600.

Mr. Hossley stated Section 20(b)(3) of Administrative Directive Number 15, Direct Appointment Procedure for Personal Services Contract, authorized the City to appoint the final design to The Dyer Partnership because the estimated cost of engineering services did not exceed twenty percent (20%) of the total construction cost of the project. Mayor Shoji questioned the chain link or barbed wire fencing along Highway 101. Mr. Hossley proposed including the black powder coating for the fencing. Councilor Vaughan moved to award the final design contract for the Pump Station 1 upgrade to The Dyer Partnership for an amount not to exceed \$258,566 which included a 15% contingency amount of \$33,726. Councilor Groth seconded the motion which carried with Mayor Shoji and Councilors Bowers, Groth, Kramer, Leahy, and Vaughan voting aye. Councilor Daily was absent.

### **Approval of an Amendment to Wastewater Treatment Plant No. 2 Project for Future Demolition of the Existing Wastewater Treatment Plant No. 2 (WWTP 2)**

Councilor Vaughan recused himself declaring a conflict of interest stating he was a consultant for the landscaping of the project.

Public Works Director Jim Hossley stated The Dyer Partnership completed their analysis of bio-solids handling and determined the bio-solids could be removed at WWTP 2 with the installation of a force main to transport sludge (WAS) from the new WWTP 2 site to the digesters at WWTP 1. Mr. Hossley proposed including the demolition of WWTP 2 into the construction project which would remove all structures above grade and three feet below grade. An amendment to the SHN/CH2M Hill contract would be required for \$11,500 to include this work.

Councilor Groth moved to approve the amendment to the WWTP 2 project for demolition of the existing site to the design team of SHN/CH2M Hill for an amount not to exceed \$11,500. Councilor Kramer seconded the motion which carried with Mayor Shoji and Councilors Bowers, Groth, Kramer, and Leahy voting aye. Councilor Daily was absent. Councilor Vaughan having abstained from the vote was deemed, pursuant to the provisions of 4.7.4 of the Rules of the City Council, to have voted with the majority, which approved the motion.

Councilor Daily entered the meeting at approximately 8:40 p.m.

### **Approval of the Egyptian Theatre Management Agreement Amendment**

City Manager Rodger Craddock stated the Urban Renewal Agency (Agency) owned the Egyptian Theatre and contracted with the Egyptian Theatre Preservation Association (ETPA) since 2006 to manage and operate the theatre. Mr. Craddock stated the Council approved an updated management agreement on September 2, 2014, noted the City's standard language for the use of best financial practices was not included, and proposed the Council approve an amendment to the management agreement to include the language.

The ETPA approved the amendment at their recent Board meeting. Councilor Kramer moved to approve adding language for the use of best financial practices providing for financial accountability and compliance with generally accepted accounting principles in the management

## **City Council Minutes – October 21, 2014**

agreement. Councilor Groth seconded the motion which carried with Mayor Shoji and Councilors Bowers, Daily, Groth, Kramer, Leahy, and Vaughan voting aye.

Mayor Shoji asked David Engholm, Vice President of the ETPA Board, if the Board was ready to transfer the Egyptian Theatre ownership, and Mr. Engholm responded the ETPA Board had approved the transfer. Mayor Shoji stated the transfer would be brought up at a future meeting of the Urban Renewal Agency.

### **Consideration of the Ocean Boulevard Wastewater Collection Basin**

Public Works Director Jim Hossley stated the City's 2006 wastewater collection system comprehensive master plan was prepared as a planning document and was not detailed enough to identify all specific issues.

Mr. Hossley stated in 2013, developers for the Ocean Grove project proposed building more than 700 dwellings on undeveloped property at the end of Lindy Lane south of Ocean Boulevard. Staff was aware of potential capacity issues in the downstream system between the proposed development and Wastewater Treatment Plant 1 (WWTP 1). The plan identified approximately 75 percent of the downstream system was deficient and the City's 20-year takedown list of wastewater projects identified two improvement projects to alleviate the deficiency scheduled for construction in 2023 and 2024. When the site plan and architectural review application for Ocean Grove was submitted, it was determined a more thorough study of the downstream collection system should be performed and The Dyer Partnership Engineers, Inc. (Dyer) were contracted to prepare a detailed regional sewer study. The main trunk line gravity sewer piping, manholes, pumps stations, and force mains conveying sewer flows from each basin in direct route to WWTP 1 was evaluated.

Dyer identified \$4.8 million in improvement projects to ensure the system would handle existing flows and an additional \$2.2 million in projects to accommodate future build out of all properties downstream of Ocean Grove. Upgrades would be needed prior to build out of the properties to alleviate risk failure, sanitary sewer overflows, fines, and mandates from DEQ.

Mr. Hossley stated the \$4.8 million in improvements to support existing flows would be the responsibility of the City and the additional improvements for future development could be recovered through System Development Charges (SDC's) or an improvement district.

Mr. Hossley proposed several choices for Council direction: downstream wastewater collection system repairs would be paid by the developers; add the projects to the City's takedown schedule; or the City could make all improvements in approximately five years. Mr. Hossley recommended upgrading the full collection system and stated there were no funds available which would require rate increases. City Manager Rodger Craddock stated delays would also be caused by the permitting process. Councilor Leahy asked for the process to decide where development would occur and Community Development Director Eric Day stated zoning dictated future development locations. Mr. Hossley stated if SDC charges or local improvement districts (LIDs) were not in place, new development could be exempt from any costs. Mr. Day stated many cities were using SDC charges and impact fees because the fees were still allowed even after current litigation. Mr. Day stated impact fees were those imposed by governments on new development to pay for public services and were similar to an SDC. Councilor Groth

## **City Council Minutes – October 21, 2014**

questioned why the \$80 million dollar in approved improvements did not cover future development. Mr. Hossley responded current budgeted projects addressed DEQ concerns. Councilor Daily asked the merit to lifting the moratorium on SDC's and Mr. Craddock responded revisiting the moratorium on SDC charges was a Council goal and was being reevaluated by a consultant. Council consensus was to continue the discussion pending outcome of the SDC analysis and impact fees.

### **North 8<sup>th</sup> Street Gate**

Public Works Director Jim Hossley stated the City received a right-of-way use permit application on December 29, 2004 from Lou and Kathie Leberti of 1725 North 8<sup>th</sup> Street, Coos Bay, requesting to place a gate across the North 8<sup>th</sup> Street between residence addresses at 1801 and 1865 North 8<sup>th</sup> Street to create a dead end for the road.

Surveys were mailed to forty-five residents along North 8<sup>th</sup> having ingress and egress onto North 8<sup>th</sup> and nine were in favor of the gate, thirteen not in favor, and City Manager Scott McClure denied the Leberti's request February 22, 2005. Mr. Hossley stated the Leberti's appealed the decision to the Council on April 14, 2005 and on April 19, 2005 the Council scheduled a public hearing. The Leberti's obtained twenty signatures in favor of the gate in May 2005; the Council approved installation of the gate on June 7, 2005. Mr. Hossley explained the gate was installed with a lock and could be opened by the Coos Bay Fire Department.

Mr. Hossley stated the gate slowed public safety response time. Fire Chief Anderson's research showed the fire department responded to eight emergencies and Chief McCullough determined the police department responded to 72 emergency calls on North 8<sup>th</sup> Street since January 2012. Both Chiefs preferred the gate be removed.

Mayor Shoji asked for public comments regarding the gate. Greg Schandelmeier, Coos Bay spoke in favor of keeping the gate and submitted a petition with ten signatures. Lou and Kathy Leberti, Coos Bay spoke in favor of the gate for safety; stated they bought the gate; and stated the gate had not been locked for eight years. Rick Petrie, Coos Bay spoke in favor of retaining the gate. Sarah Recken, North Bend spoke in favor of retaining the gate and did not want it removed until the City maintained the gravel road behind the gate. Mary Hoffman, Coos Bay spoke in favor of keeping the gate. Martin Hoffman, Coos Bay spoke in favor of the gate and requested the City develop the street if the gate was removed. Deirdre Lynch spoke in favor of the gate.

Police Chief Gary McCullough spoke about the reduced response time and explained police responded from many locations. Mr. McCullough suggested if the gate were removed the road would need to be improved. Councilor Daily moved to approve leaving the gate across North 8<sup>th</sup> Street in the vicinity of 1801 North 8<sup>th</sup> Street in place. Councilor Kramer seconded the motion which carried with Mayor Shoji and Councilors Bowers, Daily, Groth, Kramer, Leahy, and Vaughan voting aye.

### **Annual Coos Bay Public Library Report by Library Director Samantha Pierson**

Library Director Samantha Pierson provided an annual report on the Coos Bay Library. During the 2013/2014 fiscal year the library had 191,966 visitors, 300,780 items circulated, 39,880

## **City Council Minutes – October 21, 2014**

computer uses, answered 39,880 reference questions, provided 101 programs for children, 111 for adults, seven programs for young adults, and the programs were attended by 7,752 citizens. The library had over 85 volunteers with 3,663 volunteer hours. Ms. Pierson extended a special thank you to the library board members, library staff, and volunteers.

Fred Brick, Coos Bay commented on the superb service the Coos Bay library provided.

### **City Attorney's Report**

No comments were given.

### **City Manager's Report**

City Manager Rodger Craddock stated he would email his report to the Council.

### **Council Comments**

Councilor Groth stated the Community Enhancement workgroup would meet on November 17, 2014 where David Koch of the Port of Coos Bay would present the formula to calculate the community service fee. Councilor Kramer urged everyone to vote. Councilor Daily spoke about the train museum and its new acquisition. Councilor Leahy noted there were seven applicants for the South Coast Community foundation.

### **Adjourn**

There being no further business to come before the Council, Mayor Shoji adjourned the meeting. The next regular Council meeting was scheduled for November 4, 2014 in the Council Chambers at City Hall.

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Crystal Shoji, Mayor

Attest: \_\_\_\_\_  
Susanne Baker, City Recorder