

MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL

March 17, 2015

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 and Councilors Fred Brick, Mark Daily, Jennifer Groth, Stephanie Kramer, Thomas Leahy, and Mike Vaughan. City staff present were City Manager Rodger Craddock, City Attorney Nate McClintock, Finance Director Susanne Baker, Community Development Director Eric Day, Library Director Sami Pierson, Public Works Director Jim Hossley, Fire Chief Mark Anderson, and Police Captain Chris Chapana.

City Council Work Session

At 6:00 p.m. prior to the start of the regularly scheduled Council meeting, a work session was held in the City Hall conference room for the purpose of reviewing the final section of the land development code rewrite. Councilor Vaughan entered the meeting at 6:20 p.m. Community Development Director Eric Day presented the new land development code for comment. Suggestions included the addition of text to allow clerical changes to be made at the department level; define the extent of a master plan; discussion of the requirements to connect to and the maintenance of private sanitary sewer and storm water systems; define or reference the types of review; and the order of process and setting the date for a vacation application. No decisions were made.

Flag Salute

Mayor Shoji opened the meeting and led the Council and assembly in the salute to the flag.

Public Comments

No comments were given.

Consent Calendar

Mayor Shoji reviewed the consent calendar which consisted of 3a: approval of the work session minutes of March 3, 2015; 3b: approval of the minutes of March 3, 2015; 3c: acceptance of the February 2015 accounts payable and payroll check registers, and; 3d: acceptance of the February 2015 combined cash report. Councilor Groth moved to approve the consent calendar approving the work session minutes and regular minutes of March 3, 2015, accepting the February 2015 accounts payable and payroll check registers, and accepting the February 2015 combined cash report. Councilor Kramer seconded the motion which carried with Mayor Shoji and Councilors Brick, Daily, Groth, Kramer, Leahy, and Vaughan voting aye.

New Council Business

No new council business was presented.

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Approval to Update the Identity Theft Police to Reference the Oregon Consumer Identity Theft Protection Act – Approval Would Require Adoption of Resolution 15-04

Finance Director Susanne Baker stated the City of Coos Bay enacted Resolution 09-11 Identity Theft Policy as a result of the Federal Trade Commission's Fair Credit Reporting Act 16, CFR Section 681.2; better known as the "Red Flag" regulations. In 2008, the State of Oregon enacted the Oregon Consumer Identity Theft Protection Act (OCITPA) under Oregon Revised Statutes (ORS) 646A.600 – 646A.628. The proposed resolution would serve to update the 09-11 resolution to include a specific reference to the OCITPA as recommended by the City's insurance carrier CityCounty Insurance Services (CIS) and would further evidence compliance with Federal and State law. Councilor Kramer moved to adopt Resolution 15-04 an Identity Theft Program and procedures to comply with the Federal Trade Commission's "Red Flag" regulations under the Fair and Accurate Credit Transaction Act Provision of the Fair Credit Reporting Act 16 and the January 2008 State of Oregon Consumer Identity Theft Protection Act. Councilor Daily seconded the motion which carried with Mayor Shoji and Councilors Brick, Daily, Groth, Kramer, Leahy, and Vaughan voting aye.

Consideration of Approval to Initiate a Local Improvement District to Pave Portions of Nutwood Avenue and 11th Street

Public Works Director Jim Hossley stated neighbors along Nutwood Avenue and 11th Street signed a petition to form a local improvement district (LID) to pave a portion of the gravel roads in their neighborhood. As defined by Chapter 3.15 of the Coos Bay Municipal Code (CBMC) to submit a petition for a LID, at least 66.67% of the property owners benefited by the improvement must sign a written petition to the Council to initiate the improvement in addition to submitting a \$1,000 bond to the city. Mr. Hossley advised there were nineteen (19) lots/parcels that would benefit from the proposed improvement of which thirteen (13) or 68% of the lots/parcel owners signed the petition in addition to providing the required \$1,000 bond to the city.

Unless otherwise directed by Council, the proposed street improvement section would be completed pursuant to standards found in the City's Transportation System Plan (TSP). To minimize costs, the Council could consider reducing the asphalt section width to 20 feet, eliminate the sidewalk, and provide curbing only where necessary for drainage control. The project would include costs for asphalt, gravel, concrete, design, survey, grading, retaining structures (if necessary), drainage control, and utility adjustments. Mr. Hossley noted upfront costs for the design and construction of the improvement would be paid by the City and full repayment from the property owners could take up to ten years. The project would typically be funded from the Special Improvement (LID) Fund 15. In the current fiscal year 2015 (FYE 2015) the carryover balance was \$144,000, however \$130,000 of that balance was budgeted if necessary as a transfer to the General Fund to help balance the budget. To date, the transfer to the General Fund had not been made and the proposed FYE 2016 included the \$130,000 transfer if not needed in FYE 15 and required in FYE 16. City Manager Rodger Craddock stated the transfer would not be made at this time.

Blair Holman: In favor of the LID, requested a deviation from the engineering standards (20' asphalt, no curbs or gutters, and no sidewalk). Craig Main: In favor of the LID, in favor of a 20' wide street.

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Councilor Vaughan suggested attention to the storm water runoff was warranted; Councilor Daily suggested sidewalks were not necessarily used and might be left off; and Councilor Brick requested a quote for both a 20-foot and 28-foot wide street.

Consensus of the Council was to commence the Local Improvement District as directed by ordinance, staff to complete a survey of the Nutwood and 11th Street road improvement, and provide quotes based on the standard, a 20-foot, and a 28-foot wide street.

Consideration of Approval to Purchase Lot 12 in the Westgate Subdivision

Public Works Director Jim Hossley stated as discussed in the City Council's March 3, 2015 Executive Session, the attorney retained by the City's insurance company, CityCounty Insurance Services (CIS), negotiated with the attorney representing the property owner of Lot 12 in the Westgate Subdivision for the City to purchase the lot. The proposal included the City paying \$35,000, the additional costs paid by CIS, and the City would work with Oregon Department of Environmental Quality (DEQ) to remove an existing unauthorized fill lien. The unauthorized fill would be removed at no cost to the City. The property was encumbered with easements for wastewater lines which left the lot unsuitable for building upon due to wetlands and a stream.

Councilor Groth moved to approve the purchase of Lot 12 in Westgate Subdivision (Tax Lot 25S-27B-TL820000) for \$35,000. Councilor Kramer seconded the motion which carried with Mayor Shoji and Councilors Daily, Groth, Kramer, Leahy, and Vaughan voting aye. Councilor Brick voting no.

Approval of a Truck Purchase for the Library District Extended Service Office

Public Works Director Jim Hossley stated the Library Extended Services Office's (ESO) 2007 cargo box van used to transport books to different libraries throughout Coos County would need to be replaced. The vehicle had over 200,000 miles when mechanical problems first occurred in which it was determined the engine needed replaced. Research for a new vehicle suitable for this type of service was found through the National Joint Powers Alliance (NJPA) under contract 102811-HTL in the amount of \$48,250. Funds to replace the vehicle were budgeted in the Library ESO budget. Councilor Daily questioned why the City was the fiscal agent for other entities. City Manager Rodger Craddock provided a history on the ESO fiscal agent approval process, stated the County approved the purchase, and the Council's approval would be required to meet the City's purchasing rules.

Mayor Shoji moved to approve the purchase of the 2014 Isuzu cargo van from NJPA for \$48,250. Councilor Groth seconded the motion which carried with Mayor Shoji and Councilors Daily, Groth, Kramer, Leahy, and Vaughan voting aye and Councilor Brick voting nay.

Proposal to Locate a Wastewater Treatment Plant on the North Spit

Mr. Dennis Beetham, CEO DB Western Texas, Incorporated (DB Western) presented a summary of businesses in which DB Western was involved and a proposal for moving the pending wastewater treatment plant to the North Spit. Mr. Beetham's request would allow his

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company to design, build, and potentially operate the facility on the North Spit and abandon the City's site and pending construction plans. Mr. Beetham stated he believed the Coos Bay estuary was impaired and an ocean outfall would provide a healthier estuary.

An updated proposal received by the City on February 27, 2015 which included information on legal, economic, environmental and technical, and permit issues. The first phase would construct an ocean outfall and treatment plant on the North Spit, piping, and a pump station in Coos Bay to transmit the flows. The second phase would include piping and pumping to transmit wastewater from Plant 1 and North Bend to the North Spit.

The DB Western proposal proposed a \$5 - \$10 million savings with the cost estimated to be \$24.9 million. The proposal was unclear if it included demolition of the existing plant, cost of the new proposed ocean outfall, or converting the biosolids to Class A. The proposal did not include the cost of laboratory and offices as Mr. Beetham suggested using his existing buildings. Life cycle costs were not presented nor documentation supporting the cost estimate. The proposal did not include the sublease cost for the land needed from the Oregon International Port of Coos Bay (Port); nor did it clarify if the \$24.9 million estimate would be contingent upon DB Western being awarded operational services of the wastewater treatment plant once constructed.

The City's design team (SHN Consulting Engineers) and contractor (Mortenson Construction) estimated the cost for Wastewater Treatment Plant No. 2 at \$25.7 million which included the cost of demolition of the existing facilities; construction of the sludge force main from Plant 2 to Plant 1; and the laboratory, office space, and maintenance space. For the City to obtain a State Revolving Fund loan from the Department of Environmental Quality (DEQ), City ownership of the land would not be essential. DEQ indicated assurance of City control of the property for the duration of the construction and operating period, at least 20 years, would be essential. DEQ was unaware of a City not owning the land in which wastewater treatment facilities were built.

The DB Western proposal would delay the pending construction start date and required time to complete the facilities plan review and permit process which would take an estimated minimum of one year along with the procurement process of an additional three months. Time delays would increase construction material and labor costs. The Port indicated a wastewater treatment plant would not be the best use of the proposed property because it was not water dependent.

Mayor Shoji asked Mr. Beetham how he would benefit from this project if DB Western were awarded the opportunity wherein Mr. Beetham advised they would hire Westec to design the facility; DB Western would sub-bid and design behind the scene going through a firm; and build it on DB Western's adjacent site. Mr. Beetham stated he would be at the Coos Bay Library on Thursday, March 19th, at 6:00 p.m. to make a full presentation due to the time constraints at this meeting not allowing for the full presentation. Councilor Vaughan stated he had more questions and would like to see more information.

Keith Anderson, Western Region Administrator for DEQ, stated DEQ did not have an opinion on where the wastewater treatment plant should be sited and concurred it would be a decision of the City Council of the City of Coos Bay. However, the City had spent years doing assessments and facility planning which resulted in the current design proposal of which DEQ was very close

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to approving and financing. Mr. Anderson stated the City's design plans would meet water quality standards very effectively and the objectives of Coos Bay. DEQ supported the plans submitted by the City of Coos Bay and the proposed method. Councilor Vaughan questioned if there was a preference to an ocean versus the existing outfall in which Mr. Anderson stated both have related issues but the focus must be on water quality standards. Councilor Brick asked if a change were to be made to allow the DB Western proposal what would be required wherein Mr. Anderson stated additional facility planning and a significant portion of the design work would need to be completed. Councilor Vaughan stated he would like to see an ocean outfall and questioned if the Wastewater Treatment Plant 2 (Plant 2) effluent could be sent to Mr. Beetham's facility for further treatment before discharged through an ocean outfall. Mr. Anderson stated moving the effluent would add cost to the processing and that would depend upon the appetite for cost the Council would find appealing.

Fred Jacquot, Oregon International Port of Coos Bay (Port), stated the Port would be in favor of developing a regional wastewater treatment plant on the North Spit but had concerns with the condition of the existing ocean outfall. Mr. Jacquot stated the process the City had already completed through was robust and diligent. The Port conducted an assessment of a regional wastewater treatment plant facility in 2013 and found that without participation by all entities, it would not be economically viable. Mr. Jacquot echoed Mr. Anderson's statement earlier wherein the City of Coos Bay's continuing construction for their plant would not preclude the development of a transmission line to an ocean outfall and believed the completion of Plant 2 as proposed by the City would meet water quality standards.

Mr. Rodger Craddock stated an ocean outfall was not included in the DB Western proposal and as estimated by DB Western would be \$8 – 10 million. Mr. Beetham stated this was not correct. Mr. Craddock asked Mr. Hossley if the Federal Food and Drug Administration (FDA) study referenced was still a draft study wherein Mr. Hossley stated it was a draft study and as he understood not a lot of changes would be made and no actions would be undertaken. Craddock inquired how many times the bay was sampled for the study wherein Mr. Hossley stated samples were taken on one or two days in 2011.

Mr. Craddock asked Mr. Day if there was anything in planning that would prevent placement of Plant 2 on the North spit. Mr. Day stated Statewide Planning Goal 11 (OAR660-015-000(11)) stated the City cannot own a wastewater treatment facility outside of the City's urban growth boundary (UGB). A governmental entity other than the City would have to own and operate a facility located on the North Spit. An exemption would allow the construction to occur if it would be the only practicable alternative to mitigate a public health hazard. However, DEQ had not indicated there was a public health hazard to be mitigated of which the current course of action being undertaken by the City of Coos Bay would be an acceptable alternative. It would have to be the only practical option. Mr. Day stated the County Planning Administrator indicated the process would be a land use decision, with multiple applications taking six months to one year.

Mr. Craddock asked if there were state rules regarding design-build-operate (DBO) wherein Mr. Hossley stated there were restrictions for a community under 30,000 which would preclude this as an option as referenced in the DEQ letter provided.

Councilor Kramer asked Mr. Anderson if the new wastewater treatment plant would address water quality wherein Mr. Anderson stated yes. Mr. Craddock asked if the bay was impaired

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and if the wastewater treatment plants were the cause. Mr. Anderson stated over the years solutions have been instituted to address the design of the wastewater treatment plants discharge and those standards were continually improving. DEQ nonpoint sources (run-off from roads, fields, etc.) were a very large contributor to water quality and it was not the point source (wastewater treatment plants) which caused water quality issues.

Councilor Daily referred to the City of Coquille and overflows into the river of untreated sewage and asked if the new plant would prevent sewage overflows wherein Mr. Anderson stated it was not possible to prevent overflows due to large storm events. Councilor Daily asked if this was also the situation for Coquille wherein Mr. Anderson stated yes.

Brooke Walton: Thanked the Council for taking the time to listen to the DB Western proposal and it stated it seemed that a great amount of due diligence had been completed and the north spit regional plant would not be feasible. Ms. Walton expressed concern that a new proposal would redirect and requested the Council to stay the course with the existing proposal. John Hill: Referred to a wastewater outfall issue in San Diego and British Columbia. Butch Shields: Thanked the Council and staff for the work already completed, did not know which option would be best, and suggested listening to the proposal on Thursday. David Petrie: Stated he believed the current NPDES permit was 20/20 BOD/TSS and six months out of the year it was 45 and questioned if this was allowed at any other location; and inquired how much was paid to CH2MHill to operate the wastewater treatment plants. Karl Bender: Stated the health of the bay would affect future generations, suggested there were problems with all of the data and the health of residents should be foremost; thanked the Council and staff for the work completed. Joe Niel: Stated the benefit to Mr. Beetham was his interest in a seventh generation in the area; and the viruses were the bigger issue to address.

Councilor Vaughan stated he would like to hear more information about viruses and pathogens. Councilor Leahy stated he liked the idea of an ocean outfall and to move eventually to an ocean outfall. Councilor Daily referred to the original North Spit proposal which was discarded due to the lack of feasibility, questioned the lower quote, concerned about the costs to pump the effluent to the North Spit and the ocean outfall, and stated the decisions made would affect future generations. Councilor Kramer questioned why DB Western did not state their intention to profit from their proposal. Councilor Groth stated the City had to answer to DEQ since they regulated the water quality standards. If the standards were insufficient, then look at the standards, the automatic answer was not the North Spit. The North Spit option would be an interesting long term, regional solution. The DB Western proposal did not address the current noncompliance issue and the City should continue with its existing plans in order to maintain the current water quality in the bay. Councilor Brick stated he liked the ocean outfall but did not believe there would be enough time to complete the permitting and land use process. Mayor Shoji stated though this was not her field of expertise she did listen to the proposal; however, the current wastewater treatment plant was not adequate, DEQ stated such, and she would not support a different plan without a study of cost, presentations, and DEQ approval. Mayor Shoji liked the ocean outfall and regional plant idea as a long term solution, but did not want to move to something new at this point after all the engineering and due diligence already completed.

Councilor Vaughan stated time had been addressed and new values should be taken on, water quality. DEQ stated they would provide information on viruses which could change his values which were more important than the time and money. However, if the City was fined on a daily

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basis that would change the equation. Mr. Anderson stated the current mutual agreement and order was time sensitive and the approach taken was appealing to DEQ, going with a different choice would require a compelling case.

Councilor Leahy asked if the current plant could be expanded to go across the bay wherein Mr. Hossley stated yes. Councilor Daily suggested delaying any decision and wanted to hear a full proposal on Thursday; requested Mr. Beetham address staff and Council concerns dealing with the time, money, and environmental factors.

City Attorney's Report

No comments were given.

City Manager's Report

No report.

Council Comments

Councilor Brick stated he appreciated the medical staff at the emergency room and was impressed with the women's SWOCC wrestling team. Councilor Daily congratulated those involved in the Jazz festival.

Adjourn

There being no further business to come before the Council, Mayor Shoji adjourned the meeting. The next regular Council meeting was scheduled for April 7, 2015 in the Council Chambers at City Hall.

Crystal Shoji, Mayor

Attest: _____
Susanne Baker, City Recorder