

MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL

April 19, 2016

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 (by phone only for discussion on new council business), Finance Director Susanne Baker, Deputy Finance Director Amy Kinnaman, Library Director Sami Pierson, Community Development Director Eric Day, Public Works Director Jim Hossley, Fire Chief Mark Anderson, and Police Chief Gary McCullough

Flag Salute

Mayor Shoji opened the meeting and asked Dick Leshley lead the Council and assembly in the salute to the flag.

Public Comments

Dick Leshley, Coos Bay: thanked the Council for their volunteer service; stated wastewater was an important issue that the city had been working on for more than ten years; suggested the top three things the city needed to provide was clean water, take care of wastewater, and maintain streets and roads; expressed concern about deadlines to meet wastewater mandates and economic consequences; urged the Council to make a timely decision on the wastewater issue.

Consent Calendar

Mayor Shoji reviewed the consent calendar which consisted of 3a: approval of the minutes of April 5, 2016; 3b: acceptance of the March 2016 accounts payable and payroll check registers; 3c: acceptance of the March combined cash report; 3d: acceptance of a historical preservation grant; 3e: approval of a Veterans of Foreign Wars (VFW) proclamation, and; 3f: approval of the emergency medical services (EMS) proclamation. Mayor Shoji requested item 3a: approval of the minutes of April 5, 2016 be brought down to the agenda as item 5a for further discussion. Councilor Groth moved to approve the consent calendar as amended accepting the March 2016 accounts payable and payroll check registers, accepting the March combined cash report, accepting a historic preservation grant, and approving the VFW and EMS proclamations. Councilor Kramer seconded the motion which carried with Mayor Shoji and Councilors Brick, Daily, Groth, Kramer, Leahy, and Vaughan voting aye.

New Council Business

Mayor Shoji stated at the April 5, 2016 meeting, the Council voted not to approve the financing for the building the new wastewater treatment plant #2 (WWTP #2) facility; noted Council had already approved building WWTP #2 but now had no funding; Council work session scheduled for April 26, 2016 at 3:00 p.m. to discuss options for moving forward. Mayor Shoji stated Councilor Leahy cited an undisclosed conflict of interest during the April 5th discussion for

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consideration to finance WWTP #2; noted Councilor Leahy later disclosed the conflict in article written in The World Newspaper [Leahy accepted \$135,000 in funding for the 2017 Tall Ships Festival from Dennis Beetham (DBWestern), who was a proponent to stop the construction of WWTP #2 in Empire and instead move the project to the North Spit with DBWestern as the contractor]. Mayor Shoji stated she thought it would be useful to discuss what created a conflict of interest or bias (actual and/or perceived), and planned to poll the Council after the discussion to determine if anyone had a conflict related to WWTP #2; noted the nature of a conflict of interest (actual or perceived) should be declared on the record prior to any action taken on the issue. Councilor Daily stated he did not think it was appropriate to bring up the discussion of financing, unless the matter was brought forth by someone from the prevailing side of the vote. Mayor Shoji noted a clause in the Council Rules which suspension of rules by vote of majority of Councilors present during the meeting; questioned if the financing matter should be scheduled for reconsideration since the Council was having a work session to discuss the matter. Councilor Daily suggested the matter could be introduced at the regular City Council meeting following the work session under new council business should one of the Councilors from the prevailing side of the vote wish to bring the matter for reconsideration.

City Attorney Nate McClintock stated conflict of interest was a separate issue from a motion to reconsider a prior decision of the Council; reconsideration of a prior decision must be made by one of the Councilors who voted in the majority of the given matter. Councilor Daily stated he disagreed with discussing conflict of interest if the purpose of the discussion was directly related to the vote that was already taken. City Attorney McClintock stated he took partial responsibility for Councilor Leahy not disclosing his conflict of interest last week noting he did not advise Councilor Leahy that he needed to disclose his conflict of interest. City Attorney McClintock stated anytime someone had a conflict of interest, (actual or perceived) the nature of conflict of should be disclosed for the record. City Manager Rodger Craddock suggested scheduling a regular meeting following the April 26th work session so the Council could vote on the matter due to the pending Empire Boulevard project, otherwise the Council would likely be facing a change order for additional costs due to the delay. Councilor Daily suggested one of the outcomes of the pending wastewater work session could be a less expensive alternative.

Councilor Groth moved to vote to suspend the Council rule to allow reconsideration of prior Council decision on the wastewater loan agreements. Councilor Kramer seconded the motion. Councilor Leahy recused himself declaring an undisclosed conflict of interest. Councilor Vaughan stated he worked for the Coos History Museum as a landscape designer and worked as project manager on restoration of the Liberty Theatre and noted Dennis Beetham had made financial donations to both organizations; at one point Mr. Beetham was looking into purchasing the central dock property in which Councilor Vaughan's sculpture was located and offered assistance to move the sculpture but Mr. Beetham did not purchase the property and the sculpture was still on central dock property and needed to find a new home. Councilor Vaughan stated he felt he could make a fair decision and suggested he did not have a direct conflict. No to conflicts were noted. Councilor Daily hoped the Council would keep an open mind when considering the matter during the work session. Councilor Groth noted the city was facing multiple deadlines and felt a duty to Coos Bay citizens to move forward to address the issues. City Manager Craddock advised no decisions could be made during a work session but a meeting could be noticed should the Council wish to convene into a regular meeting; one of the members from the majority vote could motion for reconsideration which would need to be seconded and passed by a majority vote to allow for reconsideration. A call for the question was made which carried with Mayor Shoji and Councilors

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Groth, and Kramer voting aye and Councilors Brick, Daily, and Vaughan voting nay. Councilor Leahy having abstained from the vote was deemed pursuant to the provisions of 2.8.4 of the Rules of the City Council to have voted with the majority and in the event of a tie, the member's vote shall be counted as an aye, which approved the motion.

Councilor Groth moved to add reconsideration of the wastewater funding to the May 3rd city council agenda. Councilor Kramer seconded the motion. Councilor Daily stated he was voting under protest as he wanted third party clarification on the City Attorney's interpretation of Council rule 2.8.4 relating to conflict of interest votes. Mayor Shoji read out loud, Council rule 2.8.4. A call for the question was made which carried with Mayor Shoji and Councilors Brick, Groth, and Kramer voting aye and Councilors Daily and Vaughan voting nay. Councilor Leahy having abstained from the vote was deemed pursuant to the provisions of 2.8.4 of the Rules of the City Council to have voted with the majority, which approved the motion.

Mayor Shoji stated the Coos Bay – North Bend Water Board (Water Board) asked for a volunteer to serve on their budget committee and inquired if there were any volunteers. Councilor Groth noted she had served the budget committee for the Water Board on several occasions and that it was a great opportunity to learn about their operations. Mayor Shoji volunteered to serve with Councilor Groth to serve as backup if necessary.

Coos Bay Boat Building Center Annual Report

Councilor Leahy noted the Boat Building Center (BBC) was entering their sixth year of operation; showed a video presentation which highlighted various projects and activities at the BBC; noted the BBC worked with many other non-profit organizations which included the Coos History Museum, Coos Art Museum, Alternative Youth Activities (AYA), and Rotary. Councilor Leahy noted the importance of the City's support of the BBC stating they had a budget of approximately \$20,000. The BBC provided the Council with a hard copy annual report. Councilor Leahy invited the Council and community to visit the BBC.

Councilor Brick exited the meeting at 7:33 p.m. and returned at 7:35 p.m.

Review of the April 5, 2016 City Council Minutes

Mayor Shoji requested the minutes of April 5, 2016 be amended to reflect Councilor Groth declared an ex parte conflict but did not recuse herself during the consideration for public hearing for a proposed ordinance to approve a text amendment to city municipal code Chapter 17.65.020 permitted uses in the medical park district. Mayor Shoji moved to approve the April 5, 2016 minutes as amended. Councilor Kramer seconded the motion which carried with Mayor Shoji and Councilors Brick, Daily, Groth, Kramer, Leahy, and Vaughan voting aye.

City Fee Revision for Building Code Fees – Approval Would Require Adoption of Resolution 16-07

Community Development Director Eric Day provided a brief history on the building department fees noting in September 2014, staff met with the Council Finance Committee and discussed the need to increased building department fees by 30%. The City contracted with John Hitt to conduct an evaluation of the City's permitting process in late 2014 and early 2015 who recommended

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increasing building department fees. On June 2, 2015 the Council held a public hearing to consider adoption of a resolution to increase the fees. During the public hearing, only two people testified; one of which was a contractor who recommended allowing the state to operate the building code department suggesting they could provide the services at a lower cost. The Council delayed taking action on proposed fee increase to allow staff time to look into the advantages and disadvantages of allowing the state to take over building department services.

Mr. Day stated staff contacted the building codes regional services managers who advised staff the state building code division could administer the building codes for the city. The state would perform the services and charge customers the city's established fees of which they would keep 90% of the fees. They also advised they would not perform all of the services the city currently provided such as plan reviews, inspections, and enforcement of substandard and dangerous buildings.

Currently, the building department budget partially supported eleven positions within the City; the positions provided direct or indirect support to the division. Most of the positions received less than 3% of their salary from the fund, the building official was allocated at 85%, code enforcement at 25%, and two planning code specialists at 50%. Mr. Day noted the two planning code specialists assisted customers with the building code applications, land use applications, engineering services, business license, special event applications, and were the front line point of contact for customer service for code enforcement, public works, community development, and engineering. Some positions would likely be eliminated if the State was given control over the city's building department. Additionally, with the elimination of the building official position, the city would not be able to investigate nor enforce substandard and/or dangerous building code issues. Elimination of the code planning specialists would impact customer service for planning, business license administration, and processing special event applications.

At the February 2, 2016 City Council meeting, the Council directed staff to resend the proposed fee increase to the State Building Code Department for review and public comment. Council directed staff to schedule the matter to come back before the council for a public hearing and possible adoption. Should the Council elect to adopt the proposed resolution, building department fees would be increased approximately 30% across the board. Councilor Daily questioned why staffing was not reduced when the economy declined and there was less work to be performed to help compensate decline in revenue wherein Mr. Craddock advised the number of permits for remodels and other permits were still numerous, they were just not of the size to generate enough revenue and Bay Area Hospital was the major building permit holder during that time period. City Manager Rodger Craddock noted the State of Oregon had to approve building code fees; recommended the fees be increased every two year based on the CPI index. Mayor Shoji opened the public hearing. No comments were made and the hearing was closed. Councilor Daily recommended not using the CPI index and to review the fees every four years. Councilor Groth moved to adopt resolution 16-07 raising building permit review and inspection fees within the City of Coos Bay and to review fee increases every three years. Councilor Brick seconded the motion which carried with Mayor Shoji and Councilors Brick, Daily, Groth, Kramer, Leahy, and Vaughan voting aye.

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Approval of 2016 Fund Exchange Agreement with Oregon Department of Transportation

Public Works Director Jim Hossley stated a December 2015 storm created infrastructure failure throughout the city, one of which was the Coos River Highway road slide. Staff contacted the Federal Highway Administration (FHWA) for financial assistance to complete the repair which included embankment stabilization. The Oregon Department of Transportation (ODOT) obtained embankment stabilization cost from one of their pre-qualified contractors, GeoStabilization International. The cost to stabilize the north embankment was \$293,172.39. After further investigation, FHWA and ODOT determined the embankment stabilization did not qualify for FHWA funding; FHWA contended there was historical proof the stabilization issue existed prior to the December 2015 storm event. However, the FHWA would pay for the roadbed, rebuild, asphalt, and traffic control.

Mr. Hossley stated the Coos River Highway would continue to settle/slide until the north embankment was stabilized. To remedy, staff requested ODOT to release a portion of the city's surface transportation program (STP) funds to assist with the embankment stabilization and culvert replacement. ODOT determined the proposed work was eligible for STP funds and provided a proposed agreement for Council consideration. The agreement would authorize the city to expend \$317,320.50 in STP funds on the embankment stabilization and culvert replacement. Councilor Vaughan suggested the City inherited the problem from ODOT.

Councilor Kramer moved to approve the 2016 fund exchange agreement for the Coos River Highway rehabilitation using \$317,320.50 in STP funds to assist the city with the Coos River Highway embankment stabilization and culvert replacement and authorize the City Manager to execute the agreement. Councilor Daily seconded the motion which carried with Mayor Shoji and Councilors Brick, Daily, Groth, Kramer, Leahy, and Vaughan voting aye.

Award of Contract for Geotechnical Stabilization Design and Construction of the Coos River Highway

Public Works Director Jim Hossley noted a December 2015 storm caused the Coos River Highway road slide. As mentioned earlier in the meeting, the city obtained a quote from GeoStabilization International, a firm under contract with the ODOT to provide landslide stabilization services. The city's purchasing rules allowed the city to forego its typical procurement process when using form procured by other government agencies which used the government purchasing process. GeoStabilization International would prepare the bank stabilization plan and perform the stabilization work for the Coos River Highway. Two additional bids were needed to contract for Coos River Highway repairs; culvert replacement and roadbed rebuild and asphalt. STP funds would be used for the stabilization design and construction contract. The cost was \$293,172.39 for design, build, and a five-year performance warranty. Staff recommended including a \$22,000 contingency for a total cost of \$315,172.39.

Councilor Kramer moved to award the Coos River Highway slope stabilization design and construction contract to GeoStabilization International for a cost not to exceed \$315,172.39. Councilor Groth seconded the motion. Councilor Leahy inquired what "void absent GSI". Mr. Hossley stated the City was not obligated by the language in the contract included with the staff report; city would be using standard city contract. The Council continued discussion on project coordination. Mr. Hossley provided a PowerPoint presentation on proposed stabilization process.

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A call for the question was made which carried with Mayor Shoji and Councilors Brick, Daily, Groth, Kramer, Leahy, and Vaughan voting aye.

City Attorney's Report

No comments were given.

City Manager's Report

City Manager Rodger Craddock announced the Bay Area Brigade Highway 101 clean-up scheduled for May 7, 2016; 9th annual City (Coos Bay – North Bend) clean-up day scheduled for April 23rd; City of Coos Bay brush pick-up scheduled for May 2, 2016;

Council Comments

Councilor Kramer thanked all the members of the Coos Bay Budget Committee; also expressed thanks for the Coos Bay Fire Department. Councilor Brick stated he appreciated the recent wastewater comments and editorial coverage in The World Newspaper; suggested the newspaper should take a more open-minded approach and cover both sides on other issues. Councilor Vaughan expressed thanks to West Coast Contractors for their assistance moving the milk boat "Welcome" to the Coos Historical Museum; questioned staff operations and why Randy Dixon did not provide the staff report on the Coos River Highway. Councilor Leahy noted he worked alongside Councilor Vaughan to restore the milk boat "Welcome" and expressed his appreciation for Councilor Vaughan's leadership and guidance during the restoration project. Mayor Shoji thanked Mac McSwain for voicing his concern regarding the Front Street Pump Station replacement project; stated she was interested in the Planning Commissions process and wanted to see the Planning Commission's final order for Front Street.

Adjourn

There being no further business to come before the Council, Mayor Shoji adjourned the meeting. The next regular Council meeting was scheduled for May 3, 2016 in the Council Chambers at City Hall.

Crystal Shoji, Mayor

Attest: _____
Susanne Baker, City Recorder