

MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL

November 15, 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 outgoing Mayor Crystal Shoji; Mayor Elect Joe Benetti and Councilors Elect Lucinda DiNovo, Drew Farmer, and Stephanie Kilmer; Councilor Jennifer Groth. Councilor Stephanie Kramer attended via telephone. Councilors Mark Daily and Mike Vaughan were absent. Councilor Phil Marler was appointed during the meeting. City staff present were City Manager Rodger Craddock, City Attorney Nate McClintock, 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 Police Chief Gary McCullough to lead the Council and assembly in the salute to the flag.

Administration of the Oath of Office to Mayor Joe Benetti and Councilors Lucinda DiNovo, Drew Farmer, and Stephanie Kilmer

The oath of office was administered to Mayor Joe Benetti and Councilors Lucinda DiNovo, Drew Farmer, and Stephanie Kilmer by City Recorder/Finance Director Susanne Baker.

Presentation of Appreciation Plaques to Mayor Crystal Shoji and Councilor Mark Daily

Mayor Benetti presented an appreciation plaque to Mayor Shoji. Mayor Shoji expressed her thanks for a wonderful six years, wished everyone luck, and stated she had faith in our wonderful city. Councilor Mark Daily was not in attendance to receive his plaque.

Consideration of Filling Council Vacancy

City Manager Rodger Craddock stated on September 20, 2016, former Councilor Thomas Leahy resigned his Council position. At the October 4, 2016 meeting, the City Council decided to leave the position vacant until after the November general election. City Manager Craddock reviewed the relevant sections of the City Charter which addressed filling the vacancy along with a history on how past vacated positions were filled. The Council could accept letters of interest, interview applicants, and appoint one of the applicants to the open position, appoint the candidate who received the next highest vote in the last election, or simply appoint a new councilor through a majority vote. City Manager Craddock noted based on the November 8, 2016 election results, Phil Marler received the next highest number of votes. Whatever processed was used, the appointed Councilor would serve until the next biennial general election in November of 2018. The person appointed could then stand for election in 2018 if he or she desired. After that, the seat would be up for election every four years. Councilor Groth moved to appoint the candidate who received the fourth highest vote in the last election, Phil Marler. Councilor DiNovo seconded

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the motion which carried with Mayor Benetti and Councilors DiNovo, Farmer, Groth, Kilmer, and Kramer voting aye.

Administration of the Oath of Office to Councilor Phil Marler

The oath of office was administered to Councilor Phil Marler by City Recorder/Finance Director Susanne Baker.

Election of Council President

Mayor Benetti nominated Councilor Groth as Council President. No further nominations were made. By action of Council ballot Councilor Groth was appointed Council President for a term ending with the next general biennium election.

Mayor Benetti announced agenda item 13, a joint City and Urban Renewal executive session would be moved up on the agenda as item 8a.

Public Comments

Steve Schneiderman: announced on behalf of Rotary and K-DOCK radio that the “Bus Jam” food and toy donation event was scheduled for Saturday, December 3rd from 10 a.m. to 3 p.m. at the Coos Bay and North Bend Bi-Mart Stores, US Cellular in Bandon, and Coquille Valley Hospital; noted over the last 12 years over 212,000 pounds of food was collected and 7,000 children were served.

Geno Landrum, Coos Bay: welcomed the new Council and Mayor; stated he was a firm believer that an economy would not grow without business; viewed himself as proactive businessman on behalf of the community; stated he approached the Council in January but the can was kicked down the road; wondered how much the delay cost the City of Coos Bay; requested the Council consider a change of venue for his business in downtown Coos Bay and assistance to create an expedited city process for application of retail marijuana outlets; recommended using “pot tax” for pot holes. City Manager Craddock stated the ballot measure approving recreational marijuana in Coos Bay passed during recent election and noted staff would be presenting revised ordinance at next scheduled council meeting.

Barbara Gimlin, North Bend: stated she was with Blue Heron Environmental Consulting; suggested making a decision tonight on the City’s wastewater treatment plant in Empire would be unconscionable; there was no way the new Council and Mayor had enough time to brief themselves on the long history and issues at hand in order to make an informed decision. Ms. Gimlin stated she was a biologist with a 30+ year history that included 15 years as an environmental compliance specialist with the Federal Emergency Management Agency (FEMA) and was a property owner in Coos Bay. While employed with SHN Engineers Ms. Gimlin stated she drafted the majority of the environmental assessment (EA) for the wastewater treatment plant that was published in September 2014 after she left SHN. Suggested the research and analysis used in the EA lacked knowledge of the FDA scientific study conducted in 2011 on viruses released into the Bay by wastewater treatment. Ms. Gimlin further suggested the EA lacked scientific basis required to meet the intent of the National Environmental Policy Act (NEPA) as required for federal funding of the project and the EA needed to be redone. Ms. Gimlin stated

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she did not understand why city failed to provide a copy of the FDA study to her when she made a request for the information when she was writing the EA; stated the EA needed to be revised or thrown out; it needed to include accurate scientific analysis that was available to public officials and citizens before decisions were made. Suggested many of the city services related to wastewater were already privatized; DB Western had the ability to construct the plant within two years at 1/3 the estimated amount it would cost. Their project would utilize substantial discounts on manufacturing materials through their existing vendors, would hire locals for manufacturing, construction, and operations; it would also eliminate the copper and metal issues that National Marine Fisheries Services (NMFS) was concerned about. The current National Pollutant Discharge Elimination System (NPDES) permit did not expire until August 2018. Ms. Gimlin stated she did not work for DB Western nor had she been paid by them for anything but had the upmost respect for them for all of their donations and charitable community contributions. Ms. Gimlin stated the City needed to take the virus issue seriously especially since there was a cost efficient solution; a conscience was needed by city officials; it was not too late to do the project right.

Ken Folker, Coos Bay: congratulated new Council and Mayor and expressed his disappointment in low national voter turnout.

David Petrie, Coos Bay: stated he was a Coos Tribal Member and was familiar with the human impact on the environment; stated it was important to him to know the new and former council members recognized they should be serving the people of the community and not management of the City; suggested Council's votes should reflect the interest of the citizens they served; stated he did not believe it could be at this stage; suggested it was important Council looked forward and not make decisions in a hurry.

Consent Calendar

Mayor Benetti reviewed the consent calendar which consisted of 7a: approval of the minutes of November 1, 2016; 7b: acceptance of the October 2016 accounts payable and payroll check registers; 7c: acceptance of the October combined cash report, and; 7d: acceptance of a DUll traffic safety enforcement grant. Councilor DiNovo moved to approve the consent calendar approving the minutes of November 1, 2016, accepting the October 2016 accounts payable and payroll check registers, accepting the October combined cash report, and accepting a DUll traffic safety enforcement grant. Councilor Groth seconded the motion which carried with Mayor Benetti and Councilors DiNovo, Farmer, Groth, Kilmer, Kramer, and Marler voting aye.

New Council Business

Councilor Farmer recommended the Council attend a local high school assembly to encourage youth to get involved and take interest in the community. Mayor Benetti recommended the Council schedule work sessions on Tuesday's between the regularly scheduled Council meetings; suggested meetings would start at 5:30 p.m. and end between no later than 7:00 p.m.; intent was to meet in a less formal setting, to work, and provide feedback to staff. Mayor Benetti suggested starting next Tuesday and noted the meeting would be open to the public. City Manager Rodger Craddock advised the work session would be held in the fire station meeting room due to conflict with the Planning Commission meeting.

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Mayor Benetti postponed the City Council meeting. The Council then met as the Urban Renewal Agency and then convened into a joint executive session at 7:35 p.m.

Executive Session

A joint City and Urban Renewal executive session was held pursuant to ORS 192.660 (2) (d) for the purpose of discussing labor negotiations, (e) for the purpose of discussing real property transactions, and (h) for consultation with legal counsel concerning legal rights and duties regarding current litigation or litigation likely to be filed. No decisions were made.

The executive session ended at 8:21 p.m. The Council took a five minute break and reconvened into regular session at 8:26 p.m.

Consideration to Proceeding with Wastewater Treatment Plant No. 2 Project

Mayor Benetti invited public comments on the matter. Mike Alexander, Coos Bay: stated he was recently retired and had 37 years of experience as a wastewater environmental engineer; noted he had no personal or financial interest in the wastewater treatment plant; shared personal credentials which included being a certified wastewater treatment plant operator, was a licensed professional mechanical engineer, master's in business administration, worked for Brown and Caldwell designing wastewater treatment plants, worked for Jacobs Engineering for 15 years in construction management of wastewater treatment plants, was general manager of the Napa, California wastewater reclamation facility. Noted the Council had two options, privatization or a design-bid-build wastewater facility; typical process for solicitation of a private facility started with hiring an independent consultant (one without conflict of interest) to assist with the process; next step would be a request for statement of qualifications which listed response requirements (financials, experience, similar projects, references, etc.); next consultant would evaluate responses and narrow down the selection to 3-5 qualified firms; a request for proposal would then be sent to the 3-5 firms to establish quality criteria for the facility NPDES permit requirements, define use of existing facility, equipment, expertise, and funding. The proposal should also outline expected condition and level of efficiency of plant at end of 20-year contract. Mayor Benetti asked Mr. Alexander for his opinion on if he received a RFP that was less than one page. Mr. Alexander stated that was not an RFP, it was proposal; sounded more like a brief statement of qualifications noting a proposal would include process flow diagrams, process and instrumentation diagrams, list equipment manufacturers, would include operational parameters, etc. Mr. Alexander stated he did not think the City had an RFP; noted privatization could be a viable option but the City would need to go through all the necessary steps to obtain it.

Barbara Gimlin, North Bend: stated she spoke with representatives from DEQ during the executive session who indicated the RFP was only one page. Ms. Gimlin stated she was given in her quest for information a copy of the RFP that was submitted and it was over 100 pages. City Manager Rodger Craddock advised the RFP was only one page; the document Ms. Gimlin was referring to was the response to the proposal. Ms. Gimlin stated she also learned that DEQ was using fecal coliform and E.coli as indicators for the presence of viruses; noted the FDA study showed virus were a problem and questioned why fecal coliform and E.coli were being used as indicators; suggested more time was needed and if the Council made decision tonight, it would be irresponsible.

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Public Works Director Jim Hossley stated the details regarding the Oregon Department of Environmental Quality (DEQ) approved wastewater treatment plant #2 (WWTP2) sequencing batch reactor (SBR) project were provided in white paper to the Council; noted the project was approved by DEQ last spring. The City Council approved a zero cost contract with the contract manager/general contractor (CMGC) in March 2016. The DEQ 1% loan package to finance the project was approved by the City Council on May 3, 2016. Progress on the project was halted by the Council in June 2016. In September the Council authorized the CMGC to bid most of the SBR project. Mr. Hossley stated bidding was complete and the project could begin construction within six weeks of Council authorization to move forward. Should the Council desire to move forward with the DEQ approved plan, Council would need to approve an addendum to the zero cost contract with the CMGC. The addendum would authorize and approve the cost of constructing the new plant, construction of the sludge pipeline between the City's two treatment plants, and the demolition of the existing WWTP2.

Mr. Hossley stated on October 27, 2016 D.B. Western Texas (DBWT) provided a response to the Council advertised request for proposal (RFP) for WWTP2 services; noted not a lot of details were provided in the proposal as they were intended to be worked out through future negotiations. Per their proposal, DBWT would lease the WWTP2 land site from the city, finance the construction of the new plant, own the new plant, and operate the new plant. The DBWT proposal package also included processing sludge to create Class A biosolids and disposal in addition to including the use of membrane bioreactor (MBR) technology. Mr. Hossley stated should the Council desire to move forward with the DBWT proposal, or something similar, a new and robust RFP consistent with local and state regulations should be developed and advertised to ensure adequate opportunity for competition. If Council desired to move forward with the present DBWT proposal, Council would need to direct staff to start negotiations with DBWT. In either case, discussion with the State would be required since it would be the only privately owned municipal wastewater treatment plant in Oregon; there would also be several permitting issues to work out with the State.

Mr. Hossley stated moving forward with the DEQ approved SBR project plan would provide excellent water quality benefit to the receiving waters. The approved plan was vetted by numerous wastewater design and operation professionals and was the most cost effective plan for the City of Coos Bay. The DEQ approve plan was expected to meet DEQ and Environmental Protection Agency (EPA) water quality requirements for the next 20 years. Engineers thoroughly familiar with the City's WWTP2 plan and City's privately operated and maintained wastewater system, determined the SBR at WWTP2 would actually save rate payers \$24 million (present value) over DBWT's proposal for the same time period provided in DBWT's October 27, 2016 proposal. The DEQ approved project could begin construction within six weeks and would help to minimize potential DEQ fines to the City for failure to meet deadlines listed in the City's mutual agreement and order (MAO) with DEQ; low cost funding and grants for the City were also noted as a benefit.

Mr. Hossley noted the DBWT proposal included use of MBR technology which provided improved water quality performance over the SBR. The proposal was expected to meet DEQ/EPA water quality requirements for the next 20 years. It also proposed private operation and maintenance service to the treatment plant (similar to the services currently provided by CH2M/OMI) and included demolition of the existing WWTP2 and manufacture of Class A biosolids which had more application options than Class B biosolids. The DBWT proposal was for outright ownership of the

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plant. However, the recent investigation by attorney's specializing in wastewater matters, did not recommend outright ownership but were supportive of the privatization of the operations and maintenance of the treatment plant.

Mr. Hossley stated there were no disadvantages to the DEQ approved plan noting it was thoroughly vetted and was ready for construction. The DBWT proposal cost over the life of the project was expected to be substantially more than the cost for the SBR plan. There were still several unknowns related to the proposal that needed vetted out with DBWT and the State. Mr. Hossley advised it was difficult to predict when the DBWT proposal could be completely designed and approved for construction since private ownership was new to the regulatory agencies; estimated an additional 6 months to one-year delay over the time it would take to approve a publically owned plant.

Mr. Hossley estimated if Council chose to advertise for a new RFP for services similar to the proposal offered by DBWT, it would take at least six months for the RFP and selection process. Because of the complexity of private ownership and financing, the City would also need to contract with financial experts and attorney's specialized in these matters to assist the Council and staff to craft the RFP and contract documents to ensure the best interest of the City was met. Mr. Hossley cautioned if the Council moved forward with the existing DBWT proposal without doing a new RFP, the City could face potential litigation since the previous RFP did not meet City or State rules. Private ownership of the wastewater treatment facility could limit the Council's control of wastewater rates and hamper the Council's ability to control quality of service.

The CMGC's maximum guaranteed price (GMP) to the City for the construction of the DEQ SBR plan, construction of a sludge pipe between WWTP1 and WWTP2, and demolition of the existing WWTP2 was \$24.9 million. The City Council authorized bidding of the SBR project this past summer and bids came in less than estimated. The actual cost to the City would be less than the GMP. Details on the City's actual cost were generated by the City's CMGC. The 16 year (2019 to 2034) present value cost for the DEQ SBR plan (not including WWTP1 or the collections system) was \$36,294,000. Per the proposal submitted by DBWT the 16 year (2019 to 2034) present value cost for their WWTP2 proposal (not including WWTP1 or the collections system) was \$61,112,000. If the RFP was re-advertised the additional cost for consulting services was estimated at \$50,000 and possibly much more.

Mayor Benetti noted DBWT stated their plant would be less expensive than DEQ approved plan and questioned the different conclusion. Mr. Hossley stated he was not sure how DBWT came to the cost conclusion; suggested they made incorrect assumptions regarding city related costs. Mr. Hossley stated city staff (Jan Kerbo, Resident Project Representative) prepared the city's estimated cost, she was assisted by the City's design engineers and it was also confirmed by city's wastewater rate consultant expert (Steve Donovan). Councilor Farmer stated DBWT's numbers excluded consideration for collection system and the demolition of WWTP2. Mr. Hossley noted that was the case in an early versions but their reply to the RFP the numbers were only associated with WWTP2. City Manager Craddock noted the DBWT proposal assumed a city rate increase of 6.9% in perpetuity, but in reality the city had never used 6.9%, it was 6.5%. And as far as perpetuity, the rates consistently reviewed and would only be raised to ensure debt service obligations were met; rates were not in perpetuity. City Manager Craddock stated the City used time based accounting to allocate staff expense based on activity or projects they worked on; noted the City had a staff of approximately 100 people. The City did not add staff, rather staff

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cost was allocated based on the different tasks they performed and time staff members spent on various activities. City Manager Craddock believed DBWT misunderstood and extrapolated that information which gave the impression the city would increase staff by 360%. Councilor Kilmer asked if anyone had clarified with DBWT. City Manager Craddock stated the city provided DBWT correct figures on numerous occasions since 2014.

Mr. Hossley stated the MBR technology would provide cleaner water but SBR met clean water quality standards and performed better than the current water quality standards produced by the plant. Mayor Benetti inquired about potential litigation costs. City Attorney Nate McClintock stated the City was already involved in litigation with DEQ for failure to meet requirements of the DEQ approved plan; potential costs included fines of \$1,600 per day. The Charleston Sanitary District also advised potential litigation due to the loss loan and grant, in addition to potential litigation over the RFP process with DBWT and whether it was truly competitive; other potential litigants included the CMGC Mortenson Construction and CH2M/OMI. Mayor Benetti questioned the potential litigation was defensible if the Council elected to move forward with privatization. City Attorney McClintock stated he did not want to get into specifics due to attorney client privilege but suggested it would be an uphill battle. Mayor Benetti questioned if there was a known cost if the city were to change course. City Attorney McClintock stated he did not have estimated costs but noted the Charleston Sanitary District alone stood to lose millions of dollars which they were not going to have to charge their rate payers; they would expect the City to absorb those costs.

Mayor Benetti questioned the difference in quality between the SBR and MBR technologies. Jon Gasik, Senior Engineer with DEQ stated he worked at DEQ for the last 25 years. Mr. Gasik stated the SBR and MBR systems used the same process for biological treatment; the difference between the two was a SBR system was processed in one tank. A MBR system, membranes were placed in the tank and then water was pulled through the membrane. A MBR system was costly and limited how much water could be forced through a membrane. The SBR system offered more flexibility with fluctuations with flow. Mr. Gasik noted the Coos Bay collection system was leaky; the average flow was approximately one million gallons whereas the peak flow was eight million gallons. Mr. Gasik stated he had not seen the DBWT proposal and questioned if the proposed treatment plant would be able to pass the 8 million gallons of peak flow. Noted membranes were discussed throughout every evaluation step and it was determined a full membrane system was too costly, use of partial membrane system was proposed but the EPA would not sign off. The SBR was more flexible and could better manage the wet-weather peak flow fluctuations. A MBR system would be necessary if Class A biosolids were required or if an entity was discharging to low flow stream which was not the case for WWTP2 since it discharged to the Bay. With regards to dissolved metals it was pretty much the same, there was some research that suggested a SBR was better at removing pharmaceuticals. On the other hand there were some studies that suggested the MBR process did physically remove some of the viruses but ultimately for virus removal, a disinfection system was required.

Councilor DiNovo questioned if the SBR met future EPA and DEQ requirements. Mr. Gasik stated regulatory requirements consisted of: known requirement (in permit), standards promulgated (not in permit but will be), and future (pharmaceutical, health care products, and viruses). SBR and MBR's were state of the art treatment; noted the City had the future option to install MBR cartridges into the SBR tanks. So for the next treatment plant expansion in 20-years the City could buy MBR cartridges to drop into SBR tanks. Councilor DiNovo clarified if the City had the ability to retrofit in future whereby Mr. Gasik answered in the affirmative. Mayor Benetti stated it

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was suggested EPA was going to have stricter regulation in the next five and DEQ approved plant would no longer meet EPA requirements. Mr. Gasik advised that States were the agent for water quality standards, the EPA created recommended nationwide standards; they did not require states to adopt those standards. On a national level, the EPA held studies, evaluated the studies and now proposed a virus standard. Mr. Gasik stated the DEQ did not test for pathogens directly because it was very expensive to test for each pathogen and it was not possible to test for something that was not there. The current method was to test how well disinfection system worked by testing indicator species or organisms. The rule for indicator organism was to pick something always present; currently four standards: E.coli, fecal coliform, total coliform, and enterococci, none of which were pathogenic. Other criteria included if the bacteria was easy to kill, and if it was easy to test for. Up until recently it was very expensive to test for viruses. In 2016 EPA recommended another study for coliphage testing and anticipated draft recommendations in 2018. Mr. Gasik suggested it could take several more years before the draft recommendations were adopted. At that point it would then be up to the States to adopt criteria. Mayor Benetti clarified regardless of the method, SBR or MBR; it was the disinfectant that made the determination on the effluent. Mr. Gasik stated that was correct and advised DEQ was not doing any work on viruses, they would leave that up to the EPA; also noted MBR effluent would be easier to disinfect because it had less particles; more disinfection would be required with SBR.

Mayor Benetti questioned the impact and costs associated with the MAO if the City elected to change direction. Mr. Gasik stated MAO had milestones which started with facilities plan but the collection system was a mess so the City shifted direction to address and reduce collection system inflow/infiltration (which met with DEQ and EPA policy); DEQ extended the MAO to allow collection system work. At that point WWTP1 and WWTP2 were evaluated and it was determined both needed work but WWTP2 was in worse shape so work began on WWTP2. Mr. Gasik advised the facilities plan and value engineering were requirements of funding agency; if city wanted to keep SRF funding and City wanted to build an MBR facility, it would need to submit an amended facilities plan, have another value engineering study, and the submit final plans; estimated it would take more than one year to complete. If the City elected to privatize, a new NPDES permit would be required in addition to new engineering plans; SRF monies could not be applied to a privatized plant. Mr. Gasik estimated it would take at least a year to get plans for the NPDES permit submitted for review which would take additional time beyond that point.

Ranei Nomura, Wastewater Manager for DEQ stated she managed the wastewater permitting and compliance staff for this part of the state. Ms. Nomura stated DEQ and the City entered into a MAO in 2003 and since that time the MOA was amended three times. In August 2016, DEQ processed a unilateral modification of order meaning it was no longer mutual, it was basically DEQ ordering the City to meet certain interim milestones to ensure city would meet original schedule of having the plant completed in two years, by April 2018. Ms. Nomura noted the City appealed the unilateral modification and requested informal meeting with DEQ. DEQ postponed the meeting at the request of the City, until after new City Council was seated. Another aspect of the unilateral modification included a penalty of \$1,600 per day for failing to meet the schedule. At this point, DEQ expected the City to help set the date to have the informal meeting to discuss the unilateral modification. DEQ's expectation was that the City followed through with MAO. Ms. Nomura stated DEQ typically extended schedules if there were circumstances beyond the City's control; however it was DEQ's opinion contemplation of a different alternative was not beyond city's reasonable control. If the City were to change to a different alternative DEQ still expected the City to meet original schedule set and agreed to by both the City and DEQ. Councilor Kilmer

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questioned if the city proceeded with DEQ plan, if the MAO could be re-instated. Ms. Nomura stated it was unlikely that DEQ would negotiate a different penalty amount; DEQ believed the City was behind schedule on the SBR construction; DEQ would consider an extension of current schedule but would need sufficient information to substantiate the request. City Manager Craddock questioned if would be possible to negotiate away some of the interim deadlines if the City were to get back on track with the DEQ approved plan. Ms. Nomura stated this was a very unusual situation and there was pause for concern and stated it depended on the information the City provided at the informal meeting as to whether the interim milestones were still appropriate and could potentially be moved around. Ms. Nomura stated under the current MAO, once DEQ approved the plans, the City had two-years to construct the facility and one year to get it operational.

City Manager Craddock clarified if City proceeded with the direction DEQ wished but were not able to meet DEQ's schedule there was potential that the City could face some fines but they would be far less than if city changed direction. Ms. Nomura stated the MAO was mutual, something both the City and DEQ agreed to, if the City wished to construct a MBR or move the outfall to the ocean that was within the City's control. However, DEQ still expected new treatment plant to be built to meet existing water quality standards since the City was in violation since 2003. DEQ wished to protect the quality of the Bay and wanted the City to hold their end of the deal by replacing WWTP2. DEQ needed a proposal from city assuring DEQ WWTP2 would be replaced in timely fashion and as close to the original scheduled previously agreed upon. Mayor Benetti inquired how much time had elapsed from the original timeline. Ms. Nomura stated DEQ approved final plans April 2016 which was the starting point for the two year schedule. Mayor Benetti noted six months had already passed and if City changed plans that would take another year or longer; surmised that fines were unavoidable and funding would go away. Mayor Benetti questioned if there were additional fines beyond the \$1,600 per day. Ms. Nomura stated this was new territory for MAO's; based on discussion with DEQ legal counsel, at some point when the MAO was viewed no longer as mutual, the MAO would be terminated and then the City would be subject to additional penalties which increased with multiple violations. Mayor Benetti questioned if DEQ would place a building moratorium. Ms. Nomura stated DEQ had placed moratoriums in the past if the sewage treatment capacity did not exist. Mr. Gasik anytime a city expanded their wastewater treatment collection system, DEQ approval was required. Part of the approval process required the City to certify with DEQ that it had capacity to expand. If a city is not able to certify capacity for the treatment plant, DEQ would deny expansion request. Mayor Benetti questioned if the collection system was figured into the privatization plan whereby Mr. Hossley stated no.

Councilor Groth moved for the City of Coos Bay to proceed with the DEQ approved plan for replacement of WWTP2 with the new plant utilizing SBR technology and that staff work with the engineer and contractor who were previously retained by the City for that project in order to begin construction as soon as reasonably possible. Councilor Farmer seconded the motion which carried with Mayor Benetti and Councilors DiNovo, Farmer, Groth, Kilmer, Kramer, and Marler voting aye.

City Attorney's Report

No comments were given.

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City Manager's Report

City Manager Rodger Craddock welcomed the new Mayor and Council and stated staff looked forward to working Council.

Council Comments

Councilor Kilmer noted the wastewater decision was tough, there was a lot of information to process over the past several weeks; noted tonight's decision would not make everyone happy but it was important for the City to move forward; announced the Coos Bay Christmas Tree Lighting ceremony was scheduled for 5:30 p.m. on November 25th at the Coos Bay Boardwalk followed by a showing of the movie Elf at Egyptian Theatre; encouraged attendees to bring new socks for the snowball toss and subsequent donation to local homeless shelters. Councilor Marler; expressed his thanks and stated he looked forward working with everyone. Councilor DiNovo stated the Empire Christmas Tree Lighting ceremony was scheduled for 5:00 p.m. on December 3rd at Star of Hope. Councilor Kramer welcomed new the new Mayor and Councilors. Councilor Farmer stated he was happy to be on the Council; was pleased there was some resolution to the WWTP2 issue noting he starting following and researching the issue since July. Councilor Groth welcomed everyone and thanked the new council members for their excellent preparation on the wastewater issue; stated she was impressed with questions the council asked noting it was evident that everyone had done their homework. Pajama story time for preschoolers was scheduled to take place at 6:30 p.m. on November 17th at the Coos Bay Public Library. Councilor Groth noted the recent fuel tax measure did not pass but the committee was still focused on finding ways to fund new infrastructure improvements. Mayor Benetti noted ongoing information on the wastewater issue was provided to all mayoral and council candidates upon their filing for council; stated there was a lot of data to process but tonight's information was not new. Mayor Benetti commended staff for their assistance with providing information on both sides of the matter and thanked DEQ personnel for the attendance and feedback on the issue.

Adjourn

There being no further business to come before the Council, Mayor Benetti adjourned the meeting. The next regular Council meeting was scheduled for December 6, 2016 in the Council Chambers at City Hall.

Joe Benetti, Mayor

Attest: _____
Susanne Baker, City Recorder

MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL WORK SESSION

November 22, 2016

The minutes of the proceedings of a City Council work session of the City of Coos Bay, Coos County, Oregon, held at 5:30 p.m. in the meeting room at Fire Station 1, 450 Elrod Avenue, Coos Bay, Oregon.

Those Attending

Those present were Mayor Joe Benetti and Councilors Lucinda DiNovo, Drew Farmer, Jennifer Groth, Stephanie Kilmer, and Phil Marler. Councilor Stephanie Kramer was absent. City staff present were City Manager Rodger Craddock, City Attorney Nate McClintock, Finance Director Susanne Baker, Community Development Director Eric Day, Public Works Director Jim Hossley, and Police Chief Gary McCullough.

The work session involved a review of the upcoming Council/URA Agenda's for December 6, 2016. No decisions were made.

Business License Amendment

City Manager Rodger Craddock discussed the impact of the November 2016 election regarding allowing marijuana businesses within the city limits. The ballot measure would require an update of ordinances and resolutions.

Community Development Director Eric Day discussed amending the land use code to allow the use based upon Council direction. At a minimum, the State of Oregon requirements would need to be implemented; 1,000 feet from public and private elementary, middle, and high schools; 1,000 feet from other dispensaries and grow sites; and not allowed in residential zones. Mr. Day stated other cities implemented the minimum standard and he provided a zoning map noting the exclusion areas based on the state standards.

Mr. Day stated to allow use within the city as long as it met the state requirements; placing a moratorium on the processing of marijuana products would allow time for the city to include text in the development code restricting location and/or review type or restricting the use outright. Another option would be to place a moratorium on both the dispensing and processing of marijuana products to allow time to update the development code restricting its location and/or review type.

Mr. Day recommended the Council allow dispensaries without new land use restrictions; place a moratorium on the processing or manufacture of marijuana related products until the Planning Commission and Council held public hearings for public input and to process a development code text amendment restricting their use/and or location. The moratorium period would be for six months. The ordinance would be implemented as an emergency since the ballot measure was recently passed by the electorate and effective in December.

Mr. Craddock discussed the state and local process to obtain a marijuana dispensary license through OLCC and a City business license. Questions were asked about the impact of the marijuana businesses in the area, the interest generated by the public to date, information on other cities experience, and the proximity to residential areas.

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City Manager Craddock stated there had not been a request for processing and suggested it could be moved away from the more populated areas. Concerns could be addressed for the processing by placing a moratorium on processing and related odor to allow development of the appropriate code.

Marijuana Tax

Finance Director Susanne Baker stated the local ballot measure passed which would impose a 3% tax. The next step would be for the Council to adopt an ordinance to implement the tax. City Manager Rodger Craddock suggested a portion of the marijuana tax could be directed to assist in funding the County South Coast Interagency Narcotics Team (SCING) position as their funding was ending. The position had been occupied by Coos Bay Police Captain Cal Mitts. The County and other entities were considering similar allocations.

Council Committee Appointments

City Manager Rodger Craddock provide information on the existing Council and other committees for consideration of filling vacancies and continuance based upon the City Charter and ordinances. Discussion commenced on the various venues in which to address issues that arise and to meet City business needs.

Farmer - Library Facilities Steering Committee

Groth - Streets Task Force

DiNovo - Brownfields Action Committee

Kramer - Urban Renewal Advisory Committee

Craddock - Household Hazardous Waste Advisory Committee

Craddock - Coos County Solid Waste Advisory Committee

Groth - Coos County Urban Renewal Agency (Rodger to ask about Mayor's at-large position for the County)

Craddock – Coos Bay North Bend Visitor Convention Bureau

Groth - Bay Area Enterprise Zone

Craddock - Oregon Coastal Zone Management Association

Groth and Kilmer - County Enhancement Plan Committee

Craddock and DiNovo - Waterfront Development Partnership Committee

Farmer - South Coast Community Foundation (formal Council appointment)

Kilmer - Coos Bay Downtown Association

Community Coalition of Empire (Mayor suggested an explanation of the meeting conflict be discussed with the group)

Craddock - Egyptian Theatre Preservation Association

Craddock - Bay Area Chamber of Commerce Board

Award Addendum Number 2 to Mortenson Contract for Wastewater Treatment Plant No. 2

Public Works Director Jim Hossley stated the addendum would need to be authorized by Council to direct staff to proceed with construction of Wastewater Treatment Plant No. 2 (WWTP2). The addendum would authorize Mortenson to proceed with the remainder of the project for the guaranteed maximum price of \$24,830,242. Funding would be provided by the Department of Environmental Quality (DEQ) totaling \$19.1 million and 25% from Charleston Sanitary District.

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Mayor Benetti asked if local contractors were encouraged to bid wherein staff advised that Mortenson worked to ensure the local contractors were aware of the bid package and staff also made phone calls to local contractors.

Mr. Hossley stated in the spring it was anticipated a wastewater rate study would be proposed to be completed. With the final cost of the plant known, an updated rate study would ensure the current and future rates would be set to meet operational needs as well as sufficient to meet debt service payments and debt requirements.

Mr. Hossley discussed projects anticipated to be funded through the state loans and the award of the contract with OMI (CH2MHill) for current operations and maintenance for both wastewater treatment plants. OMI was recommended award based on cost and performance. City Attorney Nate McClintock stated the City was still working with DEQ to set up benchmarks for construction and to minimize the potential for fines.

Highway 101 Streetscape Proposal and Entrance Signs

City Manager Rodger Craddock stated the project commenced the discussion of the city logo and installation of a fence along the boardwalk to the Oregon Historical Railroad. The boardwalk project was installed as a safety issue in conjunction with funding from the Oregon Department of Transportation (ODOT) and Oregon International Port of Coos Bay. Discussion commenced on the potential projects and cost for sidewalks, bike lanes, possible retaining walls, and streetscapes from the southern entrance to the north city limits. The areas available to make improvements within the right-of-way were restricted due to the availability of developable area and also to that which was within the urban renewal district. Mr. Craddock suggested the availability of funding in the downtown urban renewal district next year would allow the Agency to consider a number of different projects.

Mr. Craddock suggested competing projects would include development of the American Building, potential development of Old Central dock and mitigation of infrastructure issues, and the McAuley hospital purchase/demo for construction of a new building and parking consideration for Oregon Health and Science University students.

Mayor Benetti requested more information on implementation of the urban renewal special levy to generate additional revenue for both urban renewal districts. Mr. Craddock discussed the funding of tax increment funds and their use.

Mr. Craddock stated the entrance signs were not large enough and new signs were needed. The existing signs could be moved to other locations. Discussion commenced on the alternatives and if the expenditure to change all of the existing logo would be the best choice of funds in the public's perception. Consensus was to leave the existing logo in place.

Mr. Hossley suggested the streetscape project could be done in phases. Consensus was the Council was interested in moving forward with the streetscape project. Joe Monahan stated the Coos Bay North Bend Visitor Convention Bureau (VCB) had \$5,000 in their budget to assist the cities with entrance signs.

Mayor Benetti suggested to leave the existing formation of the VCB as-is and allow further

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discussion to improve the VCB. Discussion commenced to add language into the agreements to require entities to provide one-year notice if an entity decided to leave the organization, the VCB funds would remain with the VCB, and the entity would continue to exist based on the remaining members. Discussion commenced on the potential growth of the VCB with marketing and funding.

Change Order for Dolphin Theater Façade Contract

City Manager Craddock stated this was a taking care of business item and was approximately \$700.

City Manager Craddock suggested discussing the Visitor Center agreement for operations by the Bay Area Chamber of Commerce. Councilor Farmer asked about interacting with the schools to generate interest wherein Mr. Craddock stated he would contact Superintendent Trendell. Consensus on the location of the next meeting was the Coos Bay Library which would provide an opportunity to see the degenerating condition of the structure. Councilor Marler suggested a discussion on a street light policy and their location as well as the downtown parking district (parking lots, maintenance, and parking markings). Councilor DiNovo asked about a discussion with the Port on the railcar parking in downtown and on Front Street wherein Mr. Day stated current discussions were occurring. Discussion commenced on attendance expectations of the Council at upcoming events.

Adjourn

There being no further business to come before the Council, Mayor Benetti adjourned the meeting. The next regular Council meeting was scheduled for December 6, 2016 in the Council Chambers at City Hall.

Joe Benetti, Mayor

Attest: _____
Susanne Baker, City Recorder