

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

**April 5, 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, Thomas Leahy, and Mike Vaughan. Councilor Stephanie Kramer was absent. 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 Captain Chris Chapanar.

### **Flag Salute**

Mayor Shoji opened the meeting and asked Drew Farmer lead the Council and assembly in the salute to the flag.

Councilor Vaughan entered the meeting at 7:01 p.m.

### **Public Comments**

No comments were given.

### **Consent Calendar**

Mayor Shoji reviewed the consent calendar which consisted of 3a: approval of the minutes of March 15, 2016; 3b: acceptance of a Coquille Indian Tribe C.O.P.S grant; 3c: approval of the National Telecommunicators Week proclamation; 3d: approval of the National Child Abuse Prevention Month proclamation; 3e: acceptance of bulletproof vest partnership grant, and; 3f: adoption of resolution 16-05 approving a rural gateways grant, Coos County Cultural Coalition grant, ready to read grant, and a supplemental budget appropriating funds in the Library fund. Councilor Daily requested item 3e: acceptance of the bulletproof vest partnership grant be brought down to the agenda as item 4a for further discussion. Councilor Groth moved to approve the consent calendar as amended approving the minutes of March 15, 2016, accepting a Coquille Indian Tribe C.O.P.S grant, approving the National Telecommunicators Week proclamation, approving the National Child Abuse Prevention Month proclamation, and adopting resolution 16-05 approving a rural gateways grant, Coos County Cultural Coalition grant, ready to read grant, and a supplemental budget appropriating funds in the Library fund. Councilor Brick seconded the motion which carried with Mayor Shoji and Councilors Brick, Daily, Groth, Leahy, and Vaughan voting aye. Councilor Kramer was absent.

### **New Council Business**

Councilor Daily stated the THE House had unexpectedly lost approximately \$26,000 in United Way funding. Councilor Daily questioned if there was additional assistance that could be provided during the upcoming budget process. City Manager Rodger Craddock noted he had a

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meeting scheduled with the executive director and board member from the THE House tomorrow and would seek additional information on the matter.

### **Acceptance of Bulletproof Vest Partnership Grant Funds**

Council Daily noted recent coverage in the news about police officers looking too much like the military and questioned if the proposed vests would give that impression. Police Captain Chris Chapanar noted he was wearing a ballistic vest; stated there were different applications for ballistic vests but purchase would be for the standard ballistic vest worn by the Coos Bay Police Department. Captain Chapanar explained the grant provided a reimbursement of 50% of purchase cost which were approximately \$850; noted the outer carriers which Councilor Daily referred to were load bearing vests which helped to take weight off the officer's hips which caused sciatic nerve issues; noted officer's switch back and forth between vests to help redistribute the weight. Councilor Daily moved to accept the bulletproof vest partnership funds. Councilor Brick seconded the motion which carried with Mayor Shoji and Councilors Brick, Daily, Groth, Leahy, and Vaughan voting aye. Councilor Kramer was absent.

### **Public Hearing to Consider the Proposed Ordinance Approving a Text Amendment to City Municipal code Chapter 17.65.020 Permitted Uses in the Medical Park District – Approval Would Require Enactment of the Proposed Ordinance**

Mayor Shoji briefly reviewed the procedures for reviewing a land use hearing and asked if there were any objections to the City of Coos Bay City Council's hearing on jurisdictional grounds; no objections noted. Mayor Shoji inquired if any Council member had a conflict of interest, bias, or ex parte contact to report. Councilor Groth declared an ex parte conflict stating her husband owned part in the Bay Clinic building within the medical district. Community Development Director Eric Day stated applicant, Chip Goodman proposed an amendment to Coos Bay Municipal Code Chapter 17.65, Medical Park (MP) District, to allow 'professional and administrative services' as a permitted use in the MP district. The MP district currently only allowed medical service and pharmacy for commercial uses. Mr. Day noted the applicant was part of an investment group that owned a vacant commercial structure at 2130 Thompson Road and requested the added uses applied to that particular property, the requested change would apply to the entire MP district. A variance was not an option because variances only applied to relief of development standards and could not be utilized for relief of restricted or prohibited uses. Mr. Day stated the applicants reasoning for request was the restriction on professional offices in the MP district caused long-term vacancies and blight in the area.

Staff researched the issue and found the City of Tualatin and Springfield had similar MP districts. Tualatin allowed some limited supporting retail and service use for the convenience of patients, patient visitors, and staff. The City of Springfield allowed medically-related services and uses were required to be directly related to medical care and patient treatment; their zoning regulations also did not allow unrelated uses of any type. Mr. Day noted the Planning Commission (PC) reviewed the application at their March 8, 2016 meeting and recommended approval by a 5-2 vote. Mr. Day stated he disliked PC's narrow definition for professional administrative services; recommended if passed, Council consider expanding allowable use types; noted the intent of medical park district was to encourage centralization to bring people to one central area. Mr. Day stated the application met the criteria in the development code for the Council to consider the proposed text amendment.

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Mayor Shoji opened the public hearing. Connie Stopher, Coos Bay: stated was the Executive Director for the South Coast Development Council (SCDC); she assisted the applicant through the text amendment process; overall objective was to allow for a broader range of uses within the MP that would have a similar impact; noted she saw a commercial demand that could be useful to people who work within the medical district. Dorothy Beesly, Coos Bay: stated she owned property on Thompson; noted multiple vacancies in and around Thompson with IC zoning which could accommodate many different uses; suggested Council consider awarding commercial on a conditional use basis. John Burles, CEO of North Bend Medical Center (NBMC): stated NBMC opposed the text amendment to the zoning; noted existing MP worked well and was the only space available for expansion. Karl Dolzotti, Coos Bay stated he was the Facilities Director for the Bay Area Hospital (BAH) and was speaking on behalf of BAH; stated BAH was opposed the text amendment change; stated they did not have problem with specific property in question if there were a chance for variance or conditional use; due to limited property in the MP, BAH was concerned the proposed change could limit future growth. Joe Slack, Coos Bay: stated he was the architect for BAH and was also opposed to the text amendment; expressed concern over the global ramifications of the proposed change. No further public comments were given and the hearing was closed.

Councilor Groth stated it was important for physicians to be located close to the hospital. Mayor Shoji stated it was important to look at comprehensive plan along with the other zones. Councilor Leahy cited concern for the capacity of growth in the MP district. Councilor Daily inquired if the change could be made through a variance or conditional use permit. Mr. Day advised process could not be accomplished through a variance; conditional use would still have to go through text amendment process and rather than permitted use it would be a conditional use; recommended against conditional use process. Councilor Daily hoped there was a way to individually address and allow use. Mr. Day advised legally, the same requirements needed be applied every property in the zone. Mayor Shoji stated the medical park was one of the more successful districts in Coos Bay; suggested the proposed change did not fit with the comprehensive plan; was not in favor of the proposed change.

Mayor Shoji moved to deny the request for the text amendment. Councilor Daily seconded the motion. Councilor Vaughan inquired as to what type of business was looking to locate within the medical park whereby Mr. Day advised it was a financial office. A call for the question which carried with Mayor Shoji and Councilors Brick, Daily, Groth, Leahy, and Vaughan voting aye. Councilor Kramer was absent.

Mayor Shoji stated any appeal of the decision must be filed with the Land Use Board of Appeals within 15 days of the decision. The decision would be effective 30-days after the enactment of the ordinance unless an appeal was filed. Mr. Day stated in this case, there was no ordinance, if there was an appeal it would follow the 15 day period.

Mayor Shoji advised the next three Council agenda items were related to the Wastewater Treatment Plant #2 which included loan financing, financial management, and project funding. Mayor Shoji asked if there were any public comments related to the City's wastewater management or agenda item. No comments were given.

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### **Approval of State Revolving Fund Point Source and Non-Point Source Loan Agreements – Approval Would Require Adoption of Resolution 16-07 and 16-08**

Public Works Director Jim Hossley reminded Council of the informational only presentation on the terms of the Department of Environmental Quality (DEQ) clean water state revolving fund (SRF) loan agreement which was presented at the March 15, 2016 Council meeting. The loan agreements consisted of two separate documents; the point source (Wastewater Treatment Plant #2) loan agreement and the non-point source (Sponsorship Option) loan agreement. At the March 15, 2016 meeting, Council directed staff to move forward with the 20-year loan agreement including the sponsorship option. The agreement was reviewed by the City Attorney and no cause for concern was noted.

Mr. Hossley stated the City was under a mutual agreement order (MAO) and mandated by DEQ to update the existing wastewater treatment plant #2 (WWTP 2) facility. Staff completed the facility planning, value analysis, pre-design, value engineering for WWTP 2, final design, and environmental approvals. Council approved a zero cost contract with the construction manager/general contractor (CM/GC) Mortenson Construction to commence forward with the bid packages for the project. Staff recommended entering into the SRF point source and non-point source loan agreements with DEQ.

At 7:52 p.m. Councilor Leahy asked to speak with the City Attorney in confidence whereby Councilor Leahy and City Attorney Nate McClintock exited the meeting. Councilor Leahy and City Attorney McClintock re-entered the meeting at 7:54 p.m. whereby Councilor Leahy recused himself declaring an undisclosed conflict of interest.

Councilor Groth moved to adopt resolution 16-07 to authorized and approve the SRF loan agreement for financing the WWTP 2 project for the amount not to exceed \$26.1 million and to adopt resolution 16-08 to authorize and approve the SRF loan agreement for financing non-point source special option projects for an amount not to exceed \$2.2 million. Mayor Shoji seconded the motion. Councilor Vaughan inquired if acceptance of the proposed loans would lock the City into a commitment to move forward with WWTP 2. City Manager Rodger Craddock stated yes, the City would be locked into to building WWTP 2; should Council not move forward the City could lose the funding opportunity; noted City was advised by DEQ that 60-days from the time DEQ approved the design plans, DEQ would fine the City \$250 per day until the City became compliant the mutual agreement order (MAO). City Manager Craddock stated, should the Council consider an alternative such as the North Spit, could take up to eight years or more to build which result in close to a quarter of a million dollars in fines; estimated cost to keep existing WWTP 2 running was \$3.2 million but City would not be in compliance with National Pollutant Discharge Elimination System (NPDES) permit and MAO; noted nothing precluded the City from looking at a future option to place a plant on the North Spit; issue with moving to the North Spit today was the City did not have any partners, did not have land, City could not expand past the City's urban growth boundary, and the City did not have funding, planning, or permits. Mr. Craddock noted the City had the third-party proposal for the North Spit evaluated who determined the proposal was a good process but was not adequate for a city the size of Coos Bay due to exceeding inflow and infiltration capacity. Mayor Shoji stated she did not want to see the City of Coos Bay working under fines and moratoriums, she wanted to see Coos Bay progress. A call for the question was made which failed with Mayor Shoji and Councilor Groth voting aye and Councilors Brick, Daily, and Vaughan voting nay. Councilor Kramer was absent. Councilor Leahy having abstained from

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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 denied the motion.

City Manager Craddock advised the decision would likely place the City in violation of the MAO and noted there would be a timing issue with the S. Empire Boulevard project. Councilor Vaughan expressed concern about the status of wastewater treatment plant #1 (WWTP 1). City Manager Craddock stated there was misinformation disseminated by a third party which stated there was going to be a \$103 million dollar upgrade to WWTP 1; stated the information was completely false and it was unknown where those figures were derived from; stated WWTP 1 was in need of approximately \$15.1 million in upgrades.

Councilor Daily moved to schedule a Council work session to discuss the matter further. Councilor Vaughan seconded the motion which carried with Councilors Brick, Daily, and Vaughan voting aye and Mayor Shoji and Councilor Groth voting nay. Councilor Kramer was absent. 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.

### **Approval of the Financial Management for Federal Award Policy**

Finance Director Susanne Baker stated receiving and spending federal funds over \$750,000 required a single-audit process which was a more in depth testing of documents for compliance with Code of Federal Regulations (CFR) rules beyond what the City already complied with for the regular annual audit. One of the requirements was acceptance of accountability throughout the City of federal terms and conditions, how the City monitored grants, classified expenditures, and accountability of staff and others for use of federal funds. Ms. Baker noted not adopting the policy would result in an audit finding for the City. Councilor Groth moved to adopt the policy on Financial Management for Federal Awards. Councilor Daily seconded the motion which carried with Mayor Shoji and Councilors Brick, Daily, Groth, Leahy, and Vaughan voting aye. Councilor Kramer was absent.

### **Approval of the Project Loan Administration Contract for Wastewater Treatment Plant #2**

Consideration of approval for the project loan administration contract for wastewater treatment plant #2 was removed from the agenda due to the Council not approving the state revolving fund (SRF) point source and non-point source loans to fund the project.

### **Approval of Addendum #1 to Contract with Construction Manager/General Contractor Mortenson for Wastewater Treatment Plant #2**

Consideration for approval of addendum #1 to contract with the construction manager/general contractor Mortenson for wastewater treatment plant #2 was removed from the agenda due to the Council not approving the state revolving fund (SRF) point source and non-point source loan to fund the project.

Public Works Director Jim Hossley stated non-approval of the addendum #1 would likely result in additional costs to the City for the S. Empire Boulevard project; per agreement with the Oregon Department of Transportation (ODOT) the City was responsible to cover cost for all change orders for delays caused by the City.

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### **Approval of Addendum for Design Services for Blossom Gulch Sewer Pipe Replacement Project**

Public Works Director Jim Hossley noted on September 1, 2015 Council approved infrastructure finance authority (IFA) loan 1 project for replacement of Blossom Gulch pipe. The Blossom Gulch project was designed by HGE; design was 90% complete; completion of final design was anticipated for April with construction to commence in summer 2016. Mr. Hossley noted prior to the project commencing, staff learned of a deficient segment of pipe (240 feet in length) located on S. 10<sup>th</sup> Street immediately south of the Blossom Gulch project. HGE investigated and due to the size and large limit of the deficiencies recommended a temporary repair to allow time to design an permanent fix. Mr. Hossley advised the temporary repair was made and HGE had completed the design fix. Staff presented the project to the IFA manager and proposed the possibility of combining the Blossom Gulch project and design fix on S. 10<sup>th</sup> Street. Staff reviewed the remaining projects and budget associated with IFA loan 1 and believed the additional construction costs required for the emergency project could be incorporated with loan 1. Combining the projects into one bid package would result in additional work by the engineer at an estimated cost of \$7,840. Councilor Vaughan stated he would like to see Blossom Creek daylighted. Mr. Hossley advised Curtis Street would have to be widened and the City would have to purchase homes to accommodate daylighting. Councilor Brick moved to award the addendum for design services for the Blossom Gulch sewer pipe replacement project to HGE, Inc. for an amount not to exceed \$39,606 without prior approval from the Council. Councilor Daily seconded the motion which carried with Mayor Shoji and Councilors Brick, Daily, Groth, Leahy, and Vaughan voting aye. Councilor Kramer was absent.

### **Approval of Bid for the 2015 Timber Sale**

Public Works Director Jim Hossley stated the City proposed a timber sale of 47 acres located within the Pony Creek watershed. The sale was advertised on March 4, 2016 and the City received two responses; Swanson Group bid \$542,203.10 and Scott Timber Company bid \$412,468.80. Mr. Hossley noted the total amount received would be based on actual board feet harvested; bid estimates were based on the quantities of lumber identified by Stuntzner Engineering and Forestry cruise survey of 1,406 thousand board feet (MBF). The selected logger would be required to submit a payment of \$25,000 to the City upon contract signing to be applied as a credit toward the final payment. Mr. Hossley noted there would be additional costs estimated at \$52,800 associated with the 2016 timber sale. Additional costs consisted of: seedling procurement, reforestation, and the reimbursement fee for the original construction of the Loop Road and the annual road maintenance cost. Councilor Vaughan inquired if both bidders were local companies. Mr. Hossley stated Swanson was not local. Councilor Daily moved to award the 2016 timber sale to Swanson Group and approve the additional costs required to complete the 2016 timber sale in the amount for an amount not to exceed \$52,800. Councilor Brick seconded the motion which carried with Mayor Shoji and Councilors Brick, Daily, Groth, Leahy, and Vaughan voting aye. Councilor Kramer was absent.

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

City Attorney Nate McClintock provided a brief summary of marijuana laws in Oregon; noted under federal law use, possession, and growing marijuana was illegal. Marijuana was a Schedule I controlled substance with high potential for abuse and had no currently accepted medical use in

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the United States. Measure 67 in 1988 approved medical use of marijuana which entitled card holders the ability to grow up to six mature plants and 24 ounces of usable marijuana. Medical marijuana growers could grow plants for up to four medical marijuana card holders. In 2013 the Oregon Legislature adopted a change to allow dispensaries; growers provide to dispensaries that then provided to card holders; medical marijuana was not subject to tax. Measure 91 in 2014 allowed for commercial retail for recreational use; now that recreational marijuana was legal in the State of Oregon, citizens could grow their own marijuana but there were limitation on how much could be grown. City Attorney McClintock stated medical marijuana was controlled by Oregon Health Authority and recreational use was controlled by Oregon Liquor License Commission (OLCC); noted OLCC had not issued regulations on recreational use. Currently dispensaries were allowed to sell a limited amount of recreational marijuana. City Attorney McClintock reviewed the various license requirements for growers, processors, medical dispensaries, and medical marijuana card holders. Recreational marijuana producers/growers also had to be licensed and were limited on how much they could grow; regulations were still being developed.

Under state law dispensaries could not be located within 1000 feet of each other or within 1000 feet of a primary or secondary school (private or public). Dispensaries, processors, wholesalers, and retail licensees could not be located in areas exclusively zoned residential. House Bill (HB) 3400 allowed local governments to regulate recreational marijuana in terms of hours of operation, location of facilities, and other restrictions. City Attorney McClintock stated HB 3400 also allowed the City the right to prohibit producers, processors, wholesalers, retailers, medical marijuana processors, and dispensaries; noted the City had not issued an ordinance to ban the various distribution method but they were restricted due to the City's business license requirement to be compliant with federal law. There was a process if the City wished to eliminate one of the six previously mentioned distribution methods. City could refer to the voters the issue of taxing recreational marijuana; vote would be to approve up to a 3% tax on recreational marijuana in addition to the state imposed tax. City Attorney McClintock stated once regulations were implemented by OLCC, state tax distribution would be based on the various types of license holders within a city. Current rules did not prohibit land use regulations; Coos Bay did not provide for agricultural uses within the City so large scale growers would not be allowed. Marijuana was not allowed to be imported or exported to or from the state; recreational users can give up to one ounce of marijuana with no consideration (cannot sell unless you have a license). Councilor Vaughan inquired if there were additional requirements required by drivers transporting or having marijuana in a vehicle whereby City Attorney McClintock stated he was not aware of any restrictions but noted the driver should not be under the influence.

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

City Manager Rodger Craddock reminded the Council the Urban Renewal Agency and City of Coos Bay Budget Committee meeting for fiscal year 2016/2017 was scheduled to take place at 7:00 p.m. on April 12<sup>th</sup> and April 14<sup>th</sup> in the City Hall Council Chamber.

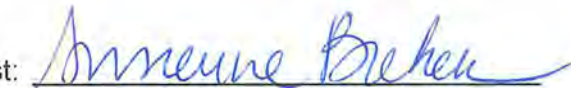
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**Council Comments**

Councilor Groth announced installation of posts for the Coos Bay waterfront walkway on the Boardwalk; thanked everyone who helped with the project. Councilor Leahy stated the Lady Washington and Hawaiian Chieftain were scheduled to arrive next month; the Coos Bay Boat Building Center and Coos Bay Downtown Association had several different activities planned for the ten days they were scheduled to be in port. Councilor Vaughan stated the Sea Shanty group would be performing at the Coos History Museum; stated he had taken on a role in an upcoming play and invited the Council and community to attend the “In to the Woods” play at the Liberty Theatre. Mayor Shoji stated she attended an open house at the Nancy Devereux Center which offered support systems for the homeless, mentally ill, and veterans; stated she was very impressed with the organization and noted importance of supporting social service organizations in the community.

**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 19, 2016 in the Council Chambers at City Hall.

Attest:   
Susanne Baker, City Recorder

  
Crystal Shoji, Mayor