

MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL

September 20, 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 were present. Councilor Stephanie Kramer attended via telephone. 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 the group from the Daughters of the American Revolution to lead the Council and assembly in the salute to the flag.

Public Comments

Barbara Tower, Representative for the Coos Bay Chapter of the Daughters of the American Revolution (DAR): stated the Coos Bay Chapter of DAR would be celebrating their 100th year on October 4, 2017. The DAR was a patriotic organization that encouraged historic preservation, education, and patriotism. In 1955 the DAR petitioned Congress to set aside the week of September 17th – 23rd of each year to be dedicated for the observance of Constitution Week; a resolution was adopted by Congress and on August 2, 1956 it was signed into law by President Dwight D. Eisenhower. The proclamation would encourage the study of historical events that led to the framing of the Constitution in September 1787; to inform people the Constitution was the basis for American's great heritage and the foundation for our way of life; and to emphasize U.S. citizen responsibilities to protect and defend the Constitution. Ms. Tower stated this week was 229th anniversary of the signing of the Constitution.

Police Chief Gary McCullough: stated Oregon's distracted related crashes had increased 25 percent since 2010. For this reason on September 20, 2016 the City of Coos Bay and the Police Department partnered with Oregon Department of Transportation and AT&T Oregon to bring awareness of the dangers of driving distracted. The proposed proclamation would proclaim September 20, 2016 as Distracted Free Driving Awareness Day.

Consent Calendar

Mayor Shoji reviewed the consent calendar which consisted of 3a: approval of the minutes of September 6, 9, and 13, 2016; 3b: acceptance of the August 2016 accounts payable and payroll check registers; 3c: acceptance of the August combined cash report; 3d: approval of the constitution week proclamation; and 3e: approval of the distracted free driving awareness proclamation. Councilor Groth moved to approve the consent calendar approving the minutes of September 6, 9, and 13, 2016; accepting the August 2016 accounts payable and payroll check registers; accepting the August combined cash report; and approving the constitution week and

City Council Minutes – September 20, 2016

distracted free driving awareness proclamations. Councilor Brick seconded the motion which carried with Mayor Shoji and Councilors Brick, Daily, Groth, Kramer, Leahy, and Vaughan voting aye.

New Council Business

No new council business was presented.

Public Hearing to Consider a Proposed Solid Waste Rate Adjustment – Approval Would Require Adoption of Resolution 16-19

City Manager Rodger Craddock stated staff received a request for a 1.18% rate increase from Coos Bay Sanitary and Les' Sanitary Services. The increase breakdown was equal to 75% of the 2015 consumer price index (CPI) for year 2015, based upon the Portland-Salem index of 1.2%; amount requested was .9% in addition to a .28% increase to offset the \$0.58 per ton increase imposed by the Oregon Department of Environmental Quality's (DEQ) on solid waste tipping fees. The increase would result in a \$0.06 per week rate adjustment for a basic 35 gallon cart effective November 1, 2016. Councilor Daily inquired how long the City had contracted with the two companies and if the franchise had ever gone out to bid. City Manager Craddock stated he did not know for certain but suggested decades and stated it had not gone out for bid that he was aware. City Manager Craddock stated he could not recall the last time he had a complaint about either company; noted the franchise agreement was on a seven year rolling contract. A motion would be required to go out to bid to end the seven year contract. Bill Richardson, Manager of Les' Sanitary Service stated the .06 increase was per month not per week; stated he worked for Les' Sanitary for 36 plus years and the company did not get complaints; stated garbage service was not required, people could elect to haul their own garbage. Councilor Leahy inquired if a person could have garbage picked up once per month whereby Mr. Richardson stated Les' Sanitary provided various different schedules and special services. Councilor Leahy inquired if plastic grocery bags impacted his service. Mr. Richardson stated not at the local level, the real impact was to the machinery at the landfills.

Mayor Shoji opened the public hearing. No comments were given and the hearing was closed. Councilor Groth moved to adopt Resolution 16-19 approving an adjustment in collection rates for the solid waste collection fee franchise holders. Councilor Brick seconded the motion. Councilor Daily stated this was not in the best interest of the citizens of Coos Bay; suggested the contract needed to go out to bid; suggested if Mr. Richardson was acting in the best interest of the community he would let this go out to bid. Councilor Daily stated he believed the reason for the continual contract had something do with Mr. Richardson being a City Councilor in a neighboring town and that he was well connected in the community. Councilor Daily stated he thought it was ridiculous. Councilor Groth stated Mr. Richardson did not have the power to continue the contract, it was the Council's decision; felt there was no reason to go out to bid since the increase was reasonable and the rates were below the comparable average, in addition to the fact the City had not received complaints about the service. Councilor Vaughan urged the City to look into implementing a composting program. Mr. Richardson stated Les' Sanitary did collect food waste from Coos Bay Walmart; suggested there was always opportunity to work with Coos County to implement such a program. A call for the question was made which carried with Mayor Shoji and Councilors Brick, Groth, Kramer, Leahy, and Vaughan voting aye and Councilor Daily voting nay.

City Council Minutes – September 20, 2016

Approval to Authorize Additional Expenditure Authority for the Approved Contract to Retile the Mingus Park Pool Building

Public Works Director Jim Hossley stated on July 19, 2016 the City Council awarded a bid to Tom E. Gayewski Construction, Inc. for \$87,187 to retile the shower area and restrooms, replace plumbing, and replace restroom partitions in the Mingus Park Pool building. Staff made a \$213 error related to the original bid cost. The bid amount and approval should have been \$87,400. Councilor Brick moved to approve the expenditure of an additional \$213 for the contract previously awarded to Tom E. Gayewski Construction, Inc. for total bid amount not to exceed \$87,400. Councilor Groth seconded the motion which carried with Mayor Shoji and Councilors Brick, Daily, Groth, Kramer, Leahy, and Vaughan voting aye.

Continuation of Public Hearing to Consider Approval of the Proposed Engineering Design Standard Ordinance – Approval Would Require Enactment of the Draft Ordinance

Public Works Director Jim Hossley stated at the September 6, 2016 Council meeting, the City Council held a public hearing to consider enactment of City of the Coos Bay Engineering Design Standards ordinance. The Council continued the issue to September 20th to allow time to review written comments provided by local professionals received by the Council at the September 6th meeting. Staff reviewed the September 6, 2016 letter provided to the Council by Mr. Ralph Dunham, P.E., a local consulting engineer regarding the adoption of City of Coos Bay Engineering Design Standards. Mr. Dunham referred specifically to three sections of the proposed engineering design standards along with two standard details within the proposed standards.

Section 1: Mr. Dunham believed the document should not be for private development. He believed the state (building code) covered private development. Mr. Hossley stated the building codes adopted by the City covered work related to structural, mechanical, electrical, and private plumbing. The proposed engineering design standards did not address any of those subjects. The City of Coos Bay did not adopt the state's grading code when it adopted the building code. In addition, the Department of Environmental Quality (DEQ) only regulated grading activity disturbing one or more acres. Additionally, the state's regulations did not regulate storm water, hydrology or hydraulics. Thus, it was staff's recommendation that the language remain unchanged.

Section 2.6: It appeared Mr. Dunham was concerned this section was "onerous" and "wrong". He provided one example regarding Oregon Registered Professional Engineer's Stamp. Mr. Hossley recommended staff update the language to include other design professionals under section 2.4.1.

Section 6.3: Mr. Dunham was concerned the engineering standards required a geotechnical report if a site had fill in excess of 12 inches. Per the 2014 Oregon Structural Specialty Code Section 3304 and 1804 (which the City had adopted) a geotechnical report was required for fill in excess of 12 inches. It was staff's recommendation the language remain unchanged.

Standard Detail G-4 and G-6 - Mr. Dunham was concerned with the pipe zone compaction requirements identified in the draft standards. Mr. Hossley state the comments made sense and staff recommend revisions to the two details consistent with the suggestions.

City Council Minutes – September 20, 2016

Mr. Hossley stated an email dated August 30, 2016 from Mr. Joe Slack, local architect, was also provided to Council at the September 6th meeting. Mr. Slack also raised concerns with a couple of sections in the draft standards.

Section 3.1.6.2: Mr. Slack believed the Clear Vision section was confusing and made suggestions to improve the clarity of this section. Mr. Slack suggested an improved diagram would help. Staff recommended a revised drawing be added to that section of the document.

Section 5: Mr. Slack suggested this section was ambiguous; to require storm water management for every development proposal seemed onerous and excessive. Mr. Slack indicated that, as written, the standards required completing a storm water management plan for a minor addition to an existing building and improved lot. Mr. Slack suggested adding a threshold describing what triggered the need for storm water management. Mr. Hossley stated the rationale for storm water management was to protect adjacent properties and public infrastructure from excess drainage and erosion/sedimentation during and after construction of new development. The Cities of Astoria and Portland had the same requirement as the draft City of Coos Bay Engineering Standards. Other communities had thresholds for when storm water management was implemented and the thresholds varied between communities. If the Council wished to consider a threshold for requiring plans for temporary and permanent storm water management, staff suggested Section 5.1, paragraph 1 be revised to require plans when 1,000 square feet or more of area was disturbed.

Mr. Hossley stated other revisions to the document were discussed at the September 6th Council meeting. The revisions were based upon input from the utility industry and were incorporated in the draft Engineering Design Standards document presented to the Council. The Council was also provided with recommended changes to the definitions section of the draft standards. The revisions provided the same definition for words shared by the proposed standards and the existing Coos Bay Municipal Code (Title 17), Development Code.

Mr. Hossley stated most communities similar in size to Coos Bay throughout the State of Oregon and the nation had adopted engineering design standards. While these standards were a change to the City's relative lack of standards, the draft standards were relatively simple and common sense oriented. They were intended to protect the general public as well as private and public property. They were intended to establish a consistent policy for implementing design of public improvements and related facilities, but did not substitute for competent work by design professionals. These standards could be revised should problems be identified.

Councilor Vaughan suggested the engineering design standards were important to the storm water system and ultimately the bay and everything the storm water carried with it into the bay. Cities of Portland, Seattle, and San Francisco all had bio retention methods as part of their planning development and provided a household with some form of compensation for doing so; suggested it could be done on a residential, neighborhood, regional, or citywide basis. Bio retention, rain gardens, and bio swales slowed the water down and would help to avoid onerous and excessive run off. In the end, not doing something would continue to be onerous and excessive on the bay. Mayor Shoji inquired if the design standards included any incentives or options as suggested by Councilor Vaughan. Mr. Hossley stated there were no incentives. Councilor Vaughan suggested citizens should have a list of standards which they could choose from to address storm water runoff. Councilor Daily suggested installing a French drain to address

City Council Minutes – September 20, 2016

run off from roofs. Mayor Shoji questioned if that was an option. Mr. Hossley stated it depended on the application; the approach could work in some situations as an option. The standards did not state specifically state how to address the issue, just that it needed to be addressed. Councilor Vaughan suggested standards were necessary to prevent over flow of the storm water systems. Flooding occurs during storm events and some of it could be taken care of in the soils that could percolate and absorb the run offs; suggested there should be some incentives for people who recognize that as part of the greater good. Mayor Shoji stated she would also like to see incentives. Mr. Hossley, if a new subdivision or commercial development occurred, the post development run off could not exceed what it was prior to construction in a natural state. It was then up to the engineer to come up with ways to ensure that did not occur. City Manager Rodger Craddock stated part of the Council goals was to also look at a storm water management plan and ordinance; that was where incentives would be written.

Mayor Shoji stated the Council held a public hearing at the September 6th meeting and inquired if there were any further public comments. No public comments were given. It was the consensus of the Council to enact the Coos Bay Engineering Design Standards as first presented September 6, 2016 and to include the following revisions recommended by staff: Revise the definition section to be consistent with definitions in Coos Bay Municipal Code Title 17; Revise Section 2.4.1 to include "design professionals"; Revise Section 3.1.6.2 to revise the drawings for clarity; Revise Section 5.1 to require storm water management plans for development disturbing 1,000 square feet or more; Revise Standard Details G-4 and G-6 to change pipe zone compaction requirement from 95% to 90%.

Councilor Groth moved to enact the ordinance adopting the City of Coos Bay Engineering Design Standards. Councilor Brick seconded the motion. Deputy Finance Director Amy Kinnaman read the ordinance by title only and Ordinance 479 was enacted by the following vote:

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

Consideration of Approval to Advertise for a Membrane Bioreactor Using the Design Build Finance Operate Project Delivery Method

Public Works Director Jim Hossley stated the construction of wastewater treatment plant #2 (WWTP2) was the biggest single capital project the City had undertaken; significant planning and consideration was warranted prior to construction. To change course from a thoroughly vetted and Department of Environmental Quality (DEQ) approved plan should be made based on significant planning and consideration as well. There were numerous issues to consider when contemplating such changes. Health of the bay and cost to the rate payers were two of the issues. However, these were the two major issues that led the Council and selected subject matter experts to choose the sequencing batch reactor (SBR) solution for WWTP2. Now they were the two major issues motivating a majority of the Council to want the City to build a treatment plant using membrane bioreactor (MBR) technology.

Mr. Hossley stated the SBR technology would provide excellent effluent water quality. The effluent discharged into the bay would exceed the quality required by the WWTP2 NPDES permit for the

City Council Minutes – September 20, 2016

20-year planning period. The discharged effluent would typically be cleaner than the surrounding bay water. The MBR technology could also provide excellent effluent water quality. For removal efficiency of some constituents in wastewater, MBR was superior to SBR. The DEQ approved SBR plant originally proposed for construction was designed to be modified to accommodate MBR technology.

Per three evaluations performed by several subject matter experts from various wastewater engineering firms, the incremental improvement in effluent water quality provided by an MBR was offset by its increased construction and operational cost when compared to SBR. The MBR vs SBR comparison project as presented at the September 13, 2016 Special City Council meeting of which the Council voted not to move forward with may have been able to confirm or deny the information regarding cost and performance provided in the previous evaluations.

Mr. Hossley reviewed the following list of other issues the Council should consider before changing course:

1. Charleston Sanitary District (CSD), partner with 25% interest in WWTP2, was involved in every step of the planning and design phase for the new plant. CSD should be involved in the decision regarding the change to MBR technology. The CSD loan and grant (\$3.5 million) may be jeopardized. CSD stated in the past they would not pay costs for planning related to changing course or for construction costs beyond what they would have paid for the SBR plant. This would result in Coos Bay's rate payers having to subsidize the potential increased cost.
2. The City successfully competed for and received a 1% interest rate loan from DEQ's State Revolving Fund (SRF) plus a \$500K grant to fund construction of the DEQ approved SBR treatment plant. The loan package also included just over \$2 million, at no cost to the City, to fund stormwater quality projects. Should the Council choose to pursue the design build finance operate (DBFO) project delivery method, there would be no need for the SRF loan. However, it was unlikely the finance package offered by the firm selected to perform the DBFO would be as advantageous to the City. Loan rates on the private market were more typically in the 3% to 4% range.
3. Violation of deadlines in the City's WWTP2 mutual agreement and order (MAO) with DEQ would occur if the City were to change course from the currently approved plan. DEQ could issue fines up to \$1600/day/violation for violation of the MAO. Should the City change course, it was possible that DEQ would remove/lift the MAO on WWTP2, leaving the City subject to fines up to \$10,000/day/violation for violating the terms of the National Pollutant Discharge Elimination System (NPDES) permit. Additionally, lifting of the MAO would open the City to third party lawsuits for violations of the federal Clean Water Act. These could cost the City \$37,500/day/violation. The City's insurance company, CIS, would not protect the City from these types of "Order to Compel" lawsuits.
4. Delays in the start of construction would also cost the rate payers. In today's economic climate, construction costs would likely increase for each month of delay. The existing WWTP2 was obsolete and substandard, thus there would be the need to expend funds to make repairs to keep it operational. Delays and indecision on what direction to proceed with construction of the new WWTP2 replacement created uncertainty for potential bidders

City Council Minutes – September 20, 2016

on the construction and/or DBFO projects. This uncertainty would likely translate into higher bid prices for constructing the WWTP2 replacement whether it used the SBR or the MBR technology.

5. Per state law, the use of the design-build portion of the DBFO project delivery method by the City was not authorized without receiving an exemption from DEQ. Should the City receive the exemption, the City would have to prepare a Facility Plan (perhaps Facility Plan Amendment only) and pre-design plans for DEQ review and approval prior to start of construction. Staff submitted questions to DEQ staff regarding the scope of and timeframe for the exemption request process.
6. Should the Council move forward with the DBFO for WWTP2 using MBR technology there were details Council would need to consider. Some of those details included, qualifications of a legal firm to assist with preparation of the DBFO request for proposals (RFP), desired qualification of firms/consultants eligible to bid on the DBFO, performance standards of MBR treatment plant with regard to the effluent discharge water, sludge handling at the new WWTP2, sludge handling at the existing WWTP1, demolition of existing WWTP2, the potential of two different firms operating and maintaining the City's WWTP's, and contractual obligations to the City's existing contractor for the new WWTP2 and the current operator of the City's wastewater system.

Staff prepared a flow chart to present what staff believed would be the path forward for implementing a DBFO contract and another if DEQ were to not approve. Mr. Hossley reviewed the chart with the Council. Staff recommended completing a RFP for a consultant to complete a comparison of the SBR vs MBR method in an effort to obtain an unbiased third party opinion as to both the cost and effectiveness of the SBR vs MBR technology.

City Manager Craddock exited the meeting at 7:53 p.m. and returned at 7:56 p.m.

John Chirrick, Coos Bay: representative for the Charleston Sanitary District (CSD) stated the District and Board had a problem with a delay. The proposed Option 1 and 2 would require another two years and their secured \$8.5 million in funding would no longer be available; there were no district funds to help with the project. Rate increases would not help the district; they just proposed a new \$3 per month increase per EDU (equivalent dwelling unit) and a great deal of people had already communicated they could not afford the increase. Mr. Chirrick stated he took part in the engineering evaluation and value engineering process four years ago; the group was comprised of 17 individuals with a collective 175 years of experience in management and design of wastewater treatment plant systems; that group decided the best option for the City of Coos Bay at that time was a SBR. Mr. Chirrick stated he agreed that there was a better effluent produced by MBR, but at a cost and in larger plants the cost was significant. The delays and going that road now would make it highly costly. The CSD board recommended Council move forward with the DEQ approved plan. Mr. Chirrick stated something appeared to be lost was that DEQ was the regulatory agency and the City could not tell DEQ what the City would and would not do; suggested the City could not get a 1% loan anywhere except through DEQ; noted CSD was unable to secure a 1% loan, rather it was at a rate of 2.2% through the USDA. Mr. Chirrick questioned why the Council would consider a change now, the City already had a design, funding, process, construction manager hired, and engineering consultant waiting to start.

City Council Minutes – September 20, 2016

Councilor Vaughan questioned if it was true the SBR system would continue to transport sludge by truck and end up in the lagoon in Eastside, which he understood was filling up, and then transferred to farm lands with toxicity. Mr. Chirrick stated that was a decision the Council or the City's consultant could make; sludge after it was treated could be turned into fertilizer, it did not have to be dumped onto land. Mayor Shoji asked Mr. Chirrick the population of the CSD whereby he responded 4,253 people of which 81% earned less than \$24K a year and could not afford sewer rates of \$80+ per month.

Larry Schoolcraft, Coos Bay: stated he was the environmental and technical manager for the paper mill across the bay; he had worked in environmental engineering for decades, had a degree in chemical engineering and masters in nuclear engineering, was involved in ground water and bay studies. The mill used a lagoon on the north spit as tertiary treatment and never came within 20% of the legal limit. Suggested membrane filtration was absurd; getting the last 1% of something that was going into a bay that had a minimum 65% sweep every day and went into an ocean that had klebsiella and other bacteria that had a lot of more impact than a few extra nutrients in the wastewater. CH2M tried to follow the outfall effluent with dye, could not find it, it mixed with the bay and spread out faster than they could track. Mr. Schoolcraft stated an MBR was not an issue on a bay with that kind of sweep; it was a waste of time and money; stated it would have validity if the effluent was being released into a closed water system—a lake or a river but it was not, Coos Bay was not a closed water system. David Petrie with D.B. Western stated the 1970 study by Oregon Department of Fish and Wildlife (ODFW) indicated the hydrology of the bay took up to 48 days to flush out the bay during the summer months. Mr. Schoolcraft stated he was totally unaware of that; all the studies he reviewed showed that 65% of the water is swept out every day.

Joe Aguirre, Coos Bay: urged the Council to move forward with the DBFO and to explore the MBR system; urged the Council to think further into the future and beyond the next 20 years.

Joseph Hudson, Coos Bay: stated one, decoy; two, red herring; three, Trojan horse; four, corruption. The attempt at the last minute after 13 years of preparation to put the SBR publicly approved, publically funded, and valid binding legal and enforceable public plan into effect, and change course was an attempt to divert an important piece of public funding which the City could hardly afford, into the hands of Mr. Dennis Beetham and D.B. Western Texas, a company which had never built such facility. Mr. Hudson stated he believed this was being done for reasons which were illegal, corrupt, and collusive and for Councilor Daily's own personal benefit. Mr. Hudson stated he contacted Special Agent Jeffrey Gray with the Political Corruption Division of FBI; noted an extraordinary event had occurred in last three days wherein Councilor Daily and Mr. Dennis Beetham placed a call to the Oregon Department of Justice (DOJ) trying to have him (Joseph Hudson) and Mayor Shoji, in her personal capacity held against complaint for attempting to illegally influence and intimidate the Council against its best interest. Mr. Hudson stated Mr. Daily was turned away by the DOJ and sent to the Coos County District Attorney Paul Frazier (DA Frazier), where he (Councilor Daily) also attempted to have the same charges leveled against Mayor Shoji and himself (Joseph Hudson); noted Councilor Daily and Mr. Dennis Beetham was also turned down by DA Frazier. Mr. Hudson stated he contacted the FBI, Assistant U.S. Attorney Peter Sacks in the Political Corruption Unit, and DA Frazier; stated to Councilor Daily this entire thing was a Trojan horse designed solely to benefit Mr. Beetham and himself (Councilor Daily) personally. He urged Councilor Daily, before anything went further, him or anyone in collusion

City Council Minutes – September 20, 2016

with him were on a perilous course. Mr. Hudson asked the group to reverse themselves before it was too late; cautioned if this went too far, it would not be just a matter of hamburgers and pizza.

Councilor Daily stated he believed Mr. Hudson gave lawyers a bad name, his performance before the Council was a joke, Mr. Hudson had no evidence whatsoever and suggested Mr. Hudson bring on any investigation he thought he could bring on. The meeting was disrupted due to heated comments back and forth between Councilor Daily and Mr. Hudson. Mayor Shoji called for order. City Manager Craddock and Police Chief Gary McCullough escorted Mr. Hudson out of the council chambers.

The meeting resumed after a break with Mayor Shoji calling for Council discussion. Councilor Brick stated Councilor Daily came up with an idea a week ago that the DBFO had problems built into it and that Councilor Brick regretted the fact he told the City Manager that was what he was leaning towards because there were things built into a DBFO which made the process more complicated. Councilor Brick stated he now had a better understanding of the MBR and other factors involved in the MBR process and there were other things too that were being proposed. Councilor Brick suggested drafting a request for proposal (RFP) process for a plant with positive things for the bay, like creating class A biosolids which were far superior as well as other systems that would make sure the water was as clean as possible and not the issue of sludge and others. Councilor Brick stated he did not know if DBFO was the right direction; stated he wanted an apples to apples comparison between the SBR system laid out and a MBR system with GE MBR system, class A biosolids, and lime stabilized; a system which would allow the City to move forward. Councilor Brick stated he wanted to throw out the other plant; he wanted citizens to look at the SBR approved plant and another MBR plant; he wanted people to bid on that plant, and then compare the two systems and then let the people decide; suggested this should become a referendum for those who wanted to be on the Council, since the matter would likely be decided by the Council incumbents and others. Councilor Brick stated he had a proposal laid out, but it was not a DBFO because of the limitations and restrictions which slowed down the process, it was a design build own operate (DBOO) because that was the quickest process to get apples vs. apples. Councilor Brick stated he was not trying to undermine anyone at the City; they had done a lot of really great work. Councilor Brick provided the Council with copies of his proposed motion. Councilor Daily suggested Councilor Brick's proposal looked like a contract for services not a DBOO.

Mayor Shoji stated she was not allowed to make a motion on the matter because a couple of months ago there was a motion made by Councilor Daily to suspend any work on the DEQ approved plan and the Council Rules stated a motion to reconsider an action of the City Council must be made by a member who voted with the prevailing side. Mayor Shoji stated she felt the Council was going down rabbit holes and had no direction. The current Council threw out all direction provided by prior Council's, a plan approved by DEQ, the agency in charge. Mayor Shoji suggested the Council needed to do what was best for the City and Charleston, to move ahead and not get into quagmires and fines because the Council was not clear in what they were doing, the Council was not engineers; the Council was not supposed to engineer, the role of the Council was to follow the process. Approval of the SBR under the DEQ plan did not mean a MBR could not be explored later as part of the same system; questioned why the MBR had to be resolved right now while racking up fines and dirtying the waters of bay with the existing plant. Mayor Shoji proposed suspending the council rules so she could make a motion to move forward with the DEQ plan, so that the matter was not left for another Council; suggested part of the motion could

City Council Minutes – September 20, 2016

include an option for adding a MBR if that was what Council wanted or at another point or when city built wastewater treatment plant 1 in a few years.

Councilor Kramer suggested the current Council should not tie the hand of the future council, recommended the new Council deliberate on the decision. Mayor Shoji suggested the new Council would have to be brought up to speed on the matter. Councilor Leahy stated he suspected the reason there were so many people running for City Council was because of this particular issue and if the current Council decided one thing, the new Council could decide something else. Councilor Vaughan stated the new information would help the Council to resolve the issue. Mayor Shoji stated the Council could study new options forever; the Council's job was to follow the proper process; MBR was already explored. Councilor Vaughan stated he did not think they did a very good job.

Councilor Brick stated he did not think his proposal tied anyone's hands. His intention was to provide two possibilities and prices for two systems. Mayor Shoji questioned what was wrong with exploring an MBR after moving forward with the existing DEQ approved plan. Councilor Vaughan suggested the Council did not know the consequences of doing one thing and trying to mix it with another before it was designed. Councilor Brick stated he did not think having two separate proposals was a problem, they could be useful for future councils. Mayor Shoji stated a bid should not be solicited unless it was going to be awarded; the bid process was supposed to be serious because big firms spend thousands of dollars preparing their proposals wherein Councilor Brick stated so they can make millions and millions. Councilor Vaughan questioned if it turned out to be beneficial, why not. Mayor Shoji stated it was wrong if the City was not actually planning on hiring anybody. City Attorney Nate McClintock stated whether the City pursued a DBOO or DBFO, both required the exemption from DEQ if plans were not completed before construction; suggested it was not just as simple as getting a proposal.

City Manager Craddock requested clarification for putting together the RFP. Part of the City's process included putting out a sample contract and DEQ advised a design, bid, finance, own, operate had never been done in Oregon, was incredibly complex and would involve the DOJ for their review of the potential contract along with DEQ. Generally, the City included the contract along with the RFP so those bidders were aware of the contractual obligations. City Manager Craddock stated at one point in time Councilor Daily suggested using an attorney firm to put a contract together; staff concurred, something this complex would require that; noted there would be a cost. City Manager Craddock suggested if the Council was looking for a comparison, only comparing cost was not truly apples to apples, quality difference should also be considered to help determine if the extra cost was worth the quality difference in effort to provide a true cost benefit study. Councilor Daily questioned again if Councilor Bricks proposal was request for services, not a DBOO, DBFO which he thought it put the matter into a whole other ball game. Councilor Brick apologized if he was asking for the wrong thing.

Mayor Shoji moved to suspend the Council rules so that she could make a motion to reconsider the Council's prior action. Councilor Groth seconded the motion which failed with Mayor Shoji and Councilors Groth and Kramer voting aye and Councilors Brick, Daily, Leahy, and Vaughan voting nay. Councilor Vaughan questioned if this was the reason the matter was placed on the agenda again. City Manager Craddock stated it was not.

City Council Minutes – September 20, 2016

Councilor Groth stated she was concerned there was an idea that the MBR had not been evaluated before and questioned if the members believed they were coming up with ideas that had not been considered before. As described by John Chirrick from CSD, the City went through a process which included a number of different engineers and DEQ to evaluate a number of different systems available which included MBR and a decision made at that point that the most cost effective method to create the cleanest effluent was the SBR system. Councilor Groth stated to say we want to evaluate the system again because we did not hear it right the first time was confusing to her and she did not want spend any more money on it; noted the DEQ approved SBR proposal included a MBR addition later on after the SBR system was implemented. The City already had the ability to retrofit to a MBR with DEQ approved course of action. Councilor Groth stated the most prudent course was to go with the DEQ approved plan because she believed the City had completed a rigorous and extensive analysis of the different option which led to that option. Councilor Kramer agreed with Councilor Groth. Councilor Vaughan stated there were several different MBR systems; was unaware if they were identified by the City; questioned their different efficiency rates and ability to produce class A biosolids and effluents; stated the GE system Councilor Daily proposed was never evaluated. Councilor Groth stated she was certain Councilor Vaughan could have attended the many different meetings which discussed and analyzed the many different systems that were evaluated; expressed concern that there were some members on the Council that waited too long in the process to become engaged in the process and now want the information re-analyzed; also expressed concern this was a waste of time for Coos Bay citizens and the Council. Councilor Kramer agreed and added it was also a waste of everyone's money.

Councilor Brick moved to draft a request for proposal for the provision of wastewater and related services for the City of Coos Bay. The proposal must address:

1. Services shall be provided in the Empire district of Coos Bay on Cape Arago Highway on land presently owned by the City.
2. The proposal shall address options regarding the relative responsibilities of the City and the service provider regarding the design, construction, finance, ownership, operation, and control of any land, plant, and equipment that may be necessary to provide the services during and after the service term.
3. The service term for all services shall run 20 years from the first date of service, with options by the service provider to renew for a subsequent 20-year term at the conclusion of each 20-year term, including renewed terms. The proposal shall identify the deadline for the start of the first 20-year term and any criteria that may adjust such deadline.
4. Services shall be based upon DEQ's stated in flow criteria (8.2 MGD), quality specifications, and other relevant criteria.
5. Services shall be based upon providing Oregon Class A water effluent.
6. Services shall include the production of EPA certified Class A Biosolids and their disposition.
7. All questions and proposals should be in writing and addressed to the City of Coos Bay, attention of the Coos Bay Wastewater Sub-committee.
8. Proposals are due to be received within 30 days of advertisement.

City Council Minutes – September 20, 2016

The Coos Bay Wastewater Sub-Committee would be solely responsible for the evaluation of proposals and the qualifications of the respondents. City Manager Craddock questioned if Councilor Brick was proposing that only the three members on the wastewater sub-committee would make a decision of the proposed magnitude on behalf of the Council. Councilor Brick clarified the sub-committee would only make a recommendation on their evaluation of the proposals; not the decision on direction on how to proceed. Councilor Vaughan seconded the motion. Mayor Shoji asked if there was any further discussion.

Councilor Vaughan apologized for his earlier comment about not doing a good job with the SBR and considering the MBR systems; he thought more MBR systems should have been included in the evaluations. Councilor Brick stated he also wanted to apologize to Mr. Hudson for getting upset with him during the last time he addressed the Council regarding the current matter.

Mayor Shoji questioned if staff or other project-related engineers were going to be involved in the evaluation or if the evaluation would be made solely by the sub-committee. Councilor Brick stated yes. Councilor Kramer questioned who on Council was an engineer or qualified to be part of the proposed evaluation. Mayor Shoji stated she did not feel she was qualified to make such a decision and she no longer wanted to be on the committee. Councilor Vaughan stated none of the members of Council were engineers and were making decisions; the committee would make recommendations only, beyond that it would be up to the Council to ask for further evaluation of the committees' recommendation. Councilor Daily called for the question.

Councilor Leahy stated he was not competent to make such a decision and attempted to leave the meeting. City Attorney McClintock stated per Council rules, Councilor Leahy was required to vote yes or no; noted he could not compel Councilor Leahy from exiting the meeting. Councilor Leahy then suggested to suspend the council rules and returned to his chair. Councilor Daily again called for the question. Mayor Shoji told him to wait. Councilor Daily then called for a point of order. Mayor Shoji stated he could not call for order. City Attorney McClintock advised Councilor Daily he could call for the question but that did not necessarily stop the discussion. Mayor Shoji asked who was in favor of the motion which carried with Councilors Brick, Daily, Leahy, and Vaughan voting aye and Mayor Shoji and Councilors Groth and Kramer voting nay.

Councilor Kramer inquired how long it would take to prepare the RFP. City Manager Craddock stated he believed the process was not as easy as it was stated, the proposal itself had jeopardy. If the City were to allow a contract to go out for a 20-year period and auto renew at a 20-year period based on the service provider's discretion and not the City's discretion was worrisome. If the proposal was limited to 30-days, it would limit the response. City Manager Craddock stated that was not what he believed the Council wanted to do, they wanted to look at the best options. This was a very big and expensive project and the Council would probably would want someone to put some thought to it, other than the one firm that already expressed interest in the project. If the Council truly wanted a competitive process, more time should be allowed for the RFP. Councilor Vaughan questioned when the Council would view the RFP that would be written by City Manager Craddock or staff. City Manager Craddock suggested an independent attorney specializing in wastewater was the right course of action to draft the RFP to ensure the Council's legal protection; noted the City did not have to use the special attorney, staff could put the draft together, it was up to the Council.

City Council Minutes – September 20, 2016

Councilor Daily stated it sounded like Mayor Shoji no longer wanted to be on the wastewater sub-committee and suggested resolving the matter. Councilor Daily asked Councilors Groth and Kramer if they had any interest in being on the committee, both replied no. Councilor Kramer stated she did not have the experience and was not qualified. Councilor Daily inquired if Councilor Vaughan was interested. Councilor Vaughan stated he was the committee alternate and would not have been the alternate if he was not interested. It was consensus of the Council for Councilor Vaughan to replace Mayor Shoji on the wastewater sub-committee. Mayor Shoji stated she did not have time to serve on the committee and believed it was frivolous. Councilor Daily suggested the sub-committee meet ASAP in effort to provide direction to Council.

City Attorney's Report

No comments were given.

City Manager's Report

City Manager Rodger Craddock shared Fun Festival highlights which included the Rotary taking over the Cruz the Coos Car Show event and the Downtown Association taking charge of the parade; thanked the volunteer firefighters for their effort to clean up the Prefontaine route along Ocean Boulevard; and commended the Finance staff for their successful completion of fiscal year 2016 audit.

Council Comments

Councilor Daily stated the Fun Festival was awesome, he enjoyed watching the Prefontaine runners arrive to prepare for the race; thought the event was a great representation of the community. Councilor Groth stated she volunteered at the Prefontaine finish line; everyone looked a little less-happy but there were some smiles along with a great sense of accomplishment from everyone completing the event; noted she was working with the save our streets campaign in effort to help pass the \$.04 fuel tax at upcoming election, asked the Mayor, Council, and anyone interested in having their name go on record in support of the fuel tax to contact her. Councilor Brick stated he was looking forward to possibly the most exciting election in his lifetime and urged participation in the election process.

Adjourn

There being no further business to come before the Council, Mayor Shoji adjourned the meeting. The next regular Council meeting was scheduled for October 4, 2016 in the Council Chambers at City Hall.

Attest:



Susanne Baker, City Recorder



Crystal Shoji, Mayor