

# MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL

June 15, 2021

The minutes of the proceedings of a regular meeting of the City Council of the City of Coos Bay, Coos County, Oregon, held at 7:00 pm in the Council Chambers, 500 Central Avenue, Coos Bay, Oregon.

## **Those Attending**

Those present were Councilors Drew Farmer, Stephanie Kilmer, Phil Marler, Carmen Matthews, and Rob Miles. Mayor Joe Benetti and Councilor Lucinda DiNovo were absent. City staff present were City Manager Rodger Craddock, City Attorney Nate McClintock, Finance Director Nichole Rutherford, Deputy Finance Director Melissa Olson, Public Works and Community Development Director Jim Hossley, Library Director Sami Pierson, Fire Chief Mark Anderson, Police Chief Chris Chapanar, and Police Captain Mike Shaffer.

## **Flag Salute**

Council President Marler opened the meeting and led the council and assembly in the salute to the flag.

## **Public Comments**

No public comments were made.

## **Public Comment Form**

No public comment forms were received.

## **Consent Calendar**

Council President Marler reviewed the consent calendar which consisted of:

- 3a: Approval of May 25, 2021 Minutes
- 3b: Approval of June 1, 2021 Minutes
- 3c: Acceptance of May 2021 Financial Reports and Check Registers
- 3d: Approval of Revisions to the Emergency Operations Plan
- 3e: Acceptance of Grant from Oregon Community Foundation  
The Extended Services Office received a grant from the Oregon Community Foundation to support a summer reading activity program including distribution of books and activity kits throughout the county during two months of the summer.
- 3f: Approval to Issue Letters of Support for Grant Funds for Contract Services to Meet HB 2003 Housing Goals  
The city had the opportunity to apply for Oregon Department of Land,

Conservation and Development (DLCD) grant funding to further the city's housing goals and comply with State directed housing local legislation. A cash grant match was not required for the applications; however, staff time would be included in the value of each project for grant application purposes. Three letters of support have been provided, one for each grant application associated with different HB 2003 related local housing legislation types, for council approval to submit with the applications.

Councilor Kilmer moved to approve the consent calendar as presented. Councilor Matthews seconded the motion which carried. Ayes: Farmer, Kilmer, Marler, Matthews, Miles. Absent: Benetti, DiNovo.

### **Presentation of Retirement Plaque to Michael Boothe from the Police Department**

Police Captain Mike Shaffer stated the Coos Bay Police Department wanted to recognize and present a plaque to Disabled Parking Officer Michael Boothe for his nearly six years of service to the Citizens of Coos Bay and North Bend. During his tenure, Michael Boothe served both cities as a Disabled Parking Enforcement volunteer and assisted the Coos Bay Police Department with abandoned vehicles. Mr. Boothe's volunteer hours were quite impressive averaging over 400 hours of volunteer service per year, totaling over 2,764 hours during his six years of service with the City of Coos Bay.

### **Recognition of Service on the Library Board of Trustees**

Library Director Sami Pierson stated the Coos Bay Public Library wanted to recognize Kathy Erickson and Steve Metz for their service to the Coos Bay Public Library Board of Trustees. Kathy Erickson served from June 2013 to June 2021 and Steve Metz served from June 2017 to 2021. All their hours of hard work were very appreciated.

### **Approval of Pride Month Proclamation**

Finance Director Nichole Rutherford stated June was designated as Pride Month to commemorate the liberation movement that exploded with the Stonewall Inn incident in June 1969 and had continued with several historic Supreme Court rulings overruling regressive laws, affirming marriage equality, and enabling workplace protections for members of the LGBTQ+ community. It was the City of Coos Bay's desire to acknowledge the importance of diversity, equity, and inclusion in our community, committing to the support of equality for all and promoting Pride Month in the City of Coos Bay. Ms. Rutherford read the Pride Month Proclamation.

Councilor Kilmer moved to approve the proclamation designating June 2021 as Pride Month. Councilor Farmer seconded the motion which carried. Ayes: Farmer, Kilmer, Marler, Matthews, Miles. Absent: Benetti, DiNovo.

### **Approval of the 2021-2023 Intergovernmental Agreement with the State of Oregon for the Regional Hazardous Materials Emergency Response Team**

Fire Chief Mark Anderson stated city staff received the proposed Intergovernmental Agreement (IGA) from the State of Oregon for the Regional Hazardous Materials (Haz Mat) Emergency Response Team. The current agreement was scheduled to expire at the end of June 2021. The Oregon State Fire Marshal's office had agreements with thirteen agencies,

strategically located around the state, for the provision of regional hazardous materials emergency response services. The City of Coos Bay had been the primary agency for Haz Mat response on the South Coast since the formation of the regional team program in 1993. The Coos Bay Haz Mat team responded from Florence to the California border, east to Scottsburg on Highway 38 and to Bridge on Highway 42. In the agreement, the State of Oregon provided the equipment and training, and the City provided the team staffing. The proposed IGA for the Regional Haz Mat Emergency Response Team was a biennial agreement. It had been reviewed by staff and the City Attorney, and other than minor language and formatting changes, the proposed agreement was similar to the last agreed upon IGA. One of the new state issued Haz Mat trucks was available on-site for view after the meeting.

The State of Oregon provided funding for the reimbursement of approved training, equipment procurement and employee physicals, totaling \$36,000 annually. Larger items (vehicles, personal protective equipment, monitoring equipment, etc.) were replaced as needed, in addition to the reimbursement funds. Maintaining a Haz Mat team on the South Coast ensured prompt response and access to equipment and resources the city would otherwise not be able to purchase or maintain. The city historically paid approximately \$8,000 annually to firefighters in non-reimbursed overtime for monthly training and \$12,000 annually for certification incentive. Costs associated with emergency responses were reimbursed, in whole, by the State and/or responsible party.

Councilor Miles moved to approve the 2021-2023 Intergovernmental Agreement with the State of Oregon for the Regional Hazardous Materials Emergency Response Team. Councilor Matthews seconded the motion which carried. Ayes: Farmer, Kilmer, Marler, Matthews, Miles. Absent: Benetti, DiNovo.

### **Consideration to Approve the Construction Contract Change Order for Safe Routes to School Project**

Public Works and Community Development Director Jim Hossley stated the project engineer and contractor had completed the final closeout of the Eastside Safe Routes to School Project and the final pay application and change order display that the project slightly exceeded the initial contract amount. The original Knife River Materials construction contract amount was \$2,925,738.00, and the final project total is \$2,959,912.54, reflecting an increase of \$34,174.54.

The city, Coos Bay School District #9, and Oregon Department of Transportation (ODOT) partnered on a Safe Routes to School project in Eastside to provide safer pedestrian access to and from Millicoma School. The project improvements included storm infrastructure, sidewalks, ADA ramps, marked crosswalks, and rapid flash beacons. The city applied for and was awarded a \$2 million Safe Routes to Schools grant from ODOT to help fund the project. Civil West Engineering Services was obtained to provide design plans and project construction oversight. The construction contract in the amount of \$2,925,738 was awarded by council to the low bidder, Knife River Materials, March 3, 2020. Over the course of the project, there were several change orders. The initial change order was for a deduction due to revised retaining wall design. Additional change orders followed which included further deductions as well as increases. The overage amounts can be explained due to a couple of change orders processed during the project. Quantities on bid forms were nearly always a rough estimate, and during the project, both value engineering and field engineering often took place.

The engineer was able to use these to ultimately bring the project costs close to the original contract amount while providing an even better finished product to the city than was initially planned (such as expanding paving limits where necessary), but there were two change orders processed due to external factors. These two could not be calculated in advance as they were on a time and material basis. One is in the amount of \$25,693.50 to provide additional traffic control in the vicinity of the school. Initially, children were absent from school due to the COVID-19 pandemic, and the Eastside Elementary School was under construction. Along with a fairly wide roadway and limited proposed improvements, it was anticipated simple traffic devices such as cones and signage would be sufficient for this section; however, as children started to return for part-time, in-person instruction, the decision was made additional traffic control (flaggers) would be essential to provide the necessary level of safety and would be paid for on a time and materials basis. The other change order represented a total of \$5,203.71, and was processed to account for a large stump removal at the intersection of 6th Avenue and H Street. While installing a catch basin and storm line, the contractor found a very large stump buried directly in the way of the pipe. It was decided that the stump would need to be fully removed to prevent a future sinkhole in the road. While these stumps can stay preserved for a long time while encased in the clay soils, they begin to rot quickly once exposed to oxygen. These two change orders account for a total overage of \$30,897.21, leaving only \$3,277.33 in overages to be accounted for by contract quantities that were not fully agreed upon until project closing. The source of funds for the \$34,174.54 change order is the Jurisdictional Exchange Fund.

Scott Frasier, Coos Bay expressed his appreciation for the Safe Routes to School project as it was a great improvement, it was much safer to walk and aesthetically pleasing, and thanked the City and State for the tax dollars spent on the project.

Councilor Matthews moved to approve a change order to the construction contract with Knife River Materials in the amount of \$34,174.54 for the Eastside Safe Routes to School project bringing the total construction contract amount to \$2,959,912.54. Councilor Kilmer seconded the motion which carried. Ayes: Farmer, Kilmer, Marler, Matthews, Miles. Absent: Benetti, DiNovo.

### **Consideration to Approve Amendment for Englewood School Brownfield Project**

Public Works and Community Development Director Jim Hossley stated the city was remediating a brownfield site at the old Englewood School property. The Englewood School Brownfield project had completed 60% design, environmental cross cutters, and the public review period. The Dyer Partnership was preparing plans and specifications for construction and it was the intent to bid this project late summer. Because the project site was greater than one acre, the Department of Environmental Quality (DEQ) National Pollutant Discharge Elimination System (NPDES) 1200-C permit was required. This was a construction permit regulating stormwater runoff to surface waters from construction activities. The project was being funded by Sponsorship Option (SO) dollars, a loan from DEQ's State Revolving Fund program, and the scope of work for development of a 1200-C permit application was eligible for reimbursement under this loan and had been approved by the project's DEQ program manager. The Dyer Partnership could prepare the 1200-C permit for the city and had provided an amendment for council's consideration of \$3,700. This amendment would increase the total contract amount to \$110,500.

Councilor Farmer moved to approve an amendment for the Englewood School Brownfield

project for an amount of \$3,700 which would bring the total contract amount to \$110,500. Councilor Kilmer seconded the motion which carried. Ayes: Farmer, Kilmer, Marler, Matthews, Miles. Absent: Benetti, DiNovo.

**Consideration to Rebrand the Wastewater Division to the Water Quality Division - Approval Would Require Adoption of Resolution 21-17**

Finance Director Nichole Rutherford stated at the January 5, 2021 Council meeting, direction was given by the Council to provide notice of intent to terminate the contract with Jacobs, the contractor tasked with operations and maintenance of the city's wastewater asset. Jacobs (previously CH2M, OMI) had managed the city's wastewater asset for over twenty-five years, with the last several year's management not meeting the City's expectation or contract obligation, and often, resulting in correspondence from DEQ requiring immediate action to avoid fines. The decision to take the operations and maintenance of the city's wastewater asset was not taken lightly, and was deliberated on for several months. With the assistance of a transition consultant, Mark Walter of Waterdude Solutions LLC, a cost analysis was completed which shared that city managed wastewater asset could be done for approximately the same cost as an outside consultant. Staff had worked with Mr. Walter over the last six months, developing several required elements necessary for a successful transition, such as salary structure, job descriptions, interview materials, and procedure and policy manuals, etc. As part of this process, discussions have centered around rebranding of the Wastewater Division to the Water Quality Division. This rebranding meets three objectives. First, providing a fresh, clean slate for management of the wastewater asset which for the last several years has had a number of interactions with DEQ regarding failures by the system (or operators) to avoid contamination of the environment. Second, use of Water Quality, versus wastewater, is more of an industry standard and ultimately speaks to the overarching goal of managing such a system: Water Quality. Third, the terminology of Water Quality holds a stronger, more positive connotation than Wastewater, and is believed to encourage more "pride of ownership" for those staff members charged with the daily operation of the city's asset.

Councilor Kilmer moved to adopt Resolution 21-17 which rebrands the Wastewater Division to the Water Quality Division, including the renaming of three City Funds: Wastewater Fund 3, Wastewater SDC Fund 20, and Wastewater Improvement Fund 29. Councilor Matthews seconded the motion which carried. Ayes: Farmer, Kilmer, Marler, Matthews, Miles. Absent: Benetti, DiNovo.

**Consideration to Adopt Resolution 21-18 Amending the 2020-2021 Budget**

Finance Director Nichole Rutherford stated the City of Coos Bay has complied with the provisions of ORS 294.338(2) which allows for adoption of a resolution appropriating unforeseen specific purpose funds. It was anticipated during the fiscal year that supplemental budgets, appropriation transfers, or resolutions to appropriate unforeseen resources would be brought forward to council for consideration to adjust the originally adopted budget based upon operational needs. Reasons for a change to the budget could include appropriating grant funding not included in the budget, appropriating additional carryover balance from the prior fiscal year that was more than budgeted and was needed to meet operational needs, reallocating funds within categories, and appropriating new unexpected resources. The resolution must state the need, purpose, and amount of the appropriations.

This resolution contained changes to appropriations in the General Fund and Library Fund. The City was allocated a portion of CARES Act funding which was unanticipated at the time of the original budget adoption. Those funds were previously received in this fiscal year, but had been set aside until need arose to appropriate. As was presented within the consent calendar at this meeting, the Library had been awarded a Oregon Community Foundation grant to help support a summer reading and activity program.

Councilor Kilmer moved to adopt Resolution 21-18 to approve a appropriation of unforeseen funds at the time of the originally adopted budget. Councilor Miles seconded the motion which carried. Ayes: Farmer, Kilmer, Marler, Matthews, Miles. Absent: Benetti, DiNovo.

### **Discussion Regarding Upcoming Council Vacancy**

Council President Marler stated he would be stepping down from the Council as he and his family would be moving later this summer. His last official meeting was August 17, 2021. City Manager Rodger Craddock stated given the pending position vacancy, the Council would need to decide how best to fill the vacant position. The relevant sections of the City Charter which address filling a vacant position, as well as, how vacancies have been filled in the past:

#### 1. Relevant Sections from the City Charter:

Section 3.6 Qualifications. A person who at the time of election or appointment is a qualified voter within the meaning of the state constitution and has resided within the City one year immediately preceding the election or appointment to fill a vacancy shall be eligible to fill an elective office of the City. No elective office holder of the City may be employed by the City in a position that is not substantially volunteer in nature. Before the names of candidates for elective office are placed on the ballot and before the appointment of an elective officer to fill a vacancy, the candidate for elective office shall present proof of qualifications to the municipal judge whose decision shall be a final determination of both fact and law, but if there is no municipal judge then such determination shall be made by the city attorney.

Section 6.8 What Creates a Vacancy. An elective office shall be deemed vacant by declaration of the Council upon the incumbent's death, adjudicated incompetence, convictions of felony, resignation, recall from office, ceasing to possess the qualifications necessary for the office, the failure of the person elected or appointed to take the oath of office within three weeks after the time for the term of office to commence, which shall be the first regular council meeting following election or appointment, or absence from meetings of the council for 30 days without the consent of the Council.

Section 6.9 Filling Vacancies. Vacancies in elective offices of the City shall be filled by appointment by a majority of the entire membership of the Council holding office at the time of the appointment. The appointee's term of office shall begin upon taking the oath of office following appointment and shall continue until a successor has been elected and qualified following the next regular city election. The successor to a council member appointed during the first two years of the term shall serve for the unexpired term of two years.

#### 2. History of those who have resigned from the council or whose position has been vacated though their election to another position and how those positions were filled:

1992 Joanne Verger ran for Mayor in 1992 while still serving as City Councilor. Her councilor term was for 1990- 1994. Verger was elected to the position of Mayor in November 1992. In

this election, Benetti, Combs, and Williams were elected to the three open councilor positions. Melton received the fourth highest votes. The City Council filled Verger's unexpired councilor term by appointing Gene Melton to the position on November 24, 1992. Melton served the remainder of the unexpired term until November 1994.

1994 Councilor Bill Grile resigned from the City Council July 19, 1994 to apply for city manager's position. August 2, 1994 Mayor Verger recommended the Council appoint Gene McCabe to the vacant seat. The vote passed and McCabe was sworn in as councilor.

2002 Councilor Don Spangler resigned in May 2002. Applications were accepted and the Council interviewed several citizens for the position on June 12, 2002. Among those interviewed for the position were John Eck, Roger Gould, John Muenchrath, Howard Forte, and Steve Schneiderman. Gould was appointed to fulfill Spangler's position on June 18, 2002. At that same meeting, Judy Weeks resigned from the Council. The Council then appointed Eck to fulfill the remainder of Week's term.

2006 Councilor McKeown was elected as Mayor in November 2006 while he had still had two years left on his term as Councilor. The Council chose to take letters of interest and interview applicants for appointment to the remaining two years, rather than take the fourth highest vote count at previous election. Through this process Michele Burnette was appointed as Councilor on December 12, 2006 to serve the remainder of the unexpired term until November 2008.

2008 Councilor Roger Gould resigned from the City Council on January 17, 2008. The City Council chose to appoint Gene Melton to fill the vacancy on February 5, 2008 and oath of office was given at that meeting.

2011 Councilor Eck resigned from the City Council on May 17, 2011. On June 7, 2011, the City Council decided to appoint Mike Vaughn who had received the fourth highest votes during the previous election, to fill the vacancy.

2012 Councilor Joanie Johnson resigned from the City Council on December 27, 2011. The Council chose to use an application/interview process to select a person to fill the vacant office. As a result of the process John Hansen was appointed to fill the office for the remainder of the unexpired term.

2014 Councilor Gene Melton resigned from the City Council on March 13, 2014. The Council chose to use an application / interview process to select a person to fill the vacant office. As a result of the process Tom Leahy was appointed to fill the office for the remainder of the unexpired term.

2014 Councilor John Muenchrath resigned from the City Council on May 20, 2014. The Council chose to use an application / interview process to select a person to fill the vacant office. As a result of the process Brian Bowers was appointed to fill the office for the remainder of the unexpired term.

2016 Councilor Tom Leahy resigned from the City Council on September 19, 2016. The Council chose to leave the position vacant until the November 2016 general election. Based on the election results, Phil Marler was appointed to serve out the remaining term of office.

Based on the City Charter and as the relevant history has shown, the Council can use any of the following options to fill the position:

1. Use a process, such as accepting letters of interest, interviewing applicants, and appointing one of the applicants to the open position.
2. Appoint the candidate, Jim Kingsley, who received the fourth highest votes in the last election.
3. The Council can simply appoint a new councilor through a majority vote without holding an application process or using the results from the last election.
4. Leave the position vacant and wait until the next general election, November 2022, to fill the vacancy.

Whatever process is used, other than option 4, the appointed Councilor shall serve until the next biennial general election which is in November of 2022. The person appointed would then stand for election, if he or she so desires. After that the seat would be up for election every four years. Council discussion ensued and consensus to move forward with option one to accept letters of interest, interview applicants, and appoint one of the applicants to the open position.

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

City Manager Rodger Craddock thanked Police Chief Gary McCullough for his service, welcomed Police Chief Chris Chapanar, and thanked Captain Lindahl and Captain Shaffer for the Change of Command ceremony; the LED light conversion project was on schedule to be completed August 2021 with period lights currently being changed; a new light pole and lights were up on Highway 101 and would be in service soon; Water Quality Division to be taken in-house in three weeks with all the positions filled; would introduce the new Superintendent and Operations Administrator at the June 22, 2021 work session meeting; and Juneteenth event was scheduled on June 19, 2021 at the Coos History Museum at 10:00 a.m.

### **Council Comments**

Councilor Miles thanked Chief McCullough for his service and congratulated him on his retirement, welcome Chief Chapanar and congratulated him on his promotion, welcomed new Police Officer Ryan Scoville who will be sworn in June 21, 2021, and thanked Michael Boothe for his service and volunteer hours. Councilor Kilmer congratulated Chief McCullough and Chief Chapanar with great respect for them, stated Councilor Marler would be missed, and hoped the community would attend the Juneteenth event on June 19, 2021. Councilor Matthews congratulated Chief Chapanar, thanked Chief McCullough for his years of service, honored to attend the Change of Command ceremony, and would miss Councilor Marler. Councilor Farmer congratulated Chief Chapanar on his new position, congratulated Chief McCullough on his retirement, noted Councilor Marler would leave big shoes to fill, and sent a letter regarding mental health in the state to House Representative, State Senator, and individuals at the State Legislature. Councilor Marler congratulated Chief Chapanar, congratulated Chief McCullough on his retirement, and thanked everyone for their kind words.

### **Adjourn**

There being no further business to come before the council, Council President Marler



adjourned the meeting. The next regular scheduled meeting was scheduled for July 6, 2021. These minutes were approved as presented by City Council on July 6, 2021.



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Joe Benetti, Mayor

Attest: Nichole Rutherford  
Nichole Rutherford, City Recorder