

MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL

October 27, 2020

The minutes of the proceedings of a City Council and Urban Renewal work session of the City of Coos Bay, Coos County, Oregon, held at 5:30 pm in the City Hall Council Chambers, 500 Central Avenue, Coos Bay, Oregon.

Those Attending

Those present were Mayor Joe Benetti and Councilors Lucinda DiNovo, Drew Farmer, Stephanie Kilmer, Phil Marler, and Rob Miles. Councilor Carmen Matthews was 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, City Engineer Jennifer Wirsing, Police Chief Gary McCullough, and Deputy Police Chief Chris Chapanar. City staff attending remotely by teleconference were Library Director Sami Pierson and Community Development Administrator Carolyn Johnson.

Flag Salute

Mayor Benetti opened the meeting and led the council and assembly in the salute to the flag.

Public Comments

No public comments were made and no comments were provided online.

Review of the Following Council/URA Agenda for November 3, 2020

Update on Street Light Energy Audit and Upgrade Project

Public Works and Community Development Director Jim Hossley stated the City engaged the services of AMERESCO to undertake a feasibility study of upgrading the street lighting infrastructure to LED technology. On February 18, 2020, the feasibility study was presented to Council and authorized AMERESCO to complete an inventory and audit of the City's street light infrastructure to produce more accurate project cost as well as potential savings.

Jason Carver and Gerry Glynn of AMERESCO presented the audit findings to Council. Mr. Glynn stated the assessment revealed the annual cost to operate the just under 1,200 streetlights in the city was \$200,414. The estimated cost saving if those lights were upgraded to LED technology was over \$55,547 annually. The cost to update the streetlight infrastructure to LED was estimated to cost \$670,054. The simple payback, without maintenance savings, was estimated to be eleven years. Mr. Carver stated the audit of the city's lighting system includes a map of identified lights, the type of streets, who owns the lights, the type of lights, condition of the light, and wattage. After the audit, the new cost savings estimate was roughly \$90,000. City Manager Rodger Craddock stated Pacific Power estimated a 20% reduction in rates which was customer funded special rate

to incentivize the upgrades. Mr. Carver stated there were roughly 100 lights already upgraded to LED and roughly 1,000 Pacific Power owned lights and 300 city owned decorative lights remaining to upgrade. Mr. Glynn stated due to the majority of the lights not city owned the financing rate would be closer to 4%. Finance Director Nichole Rutherford stated the rate was higher than financing the city had received lately, but this would not be debt service, rather a materials and services contract, and the city would not have to go out for financing. AMERSCO would look into separating the financing between the city owned and Pacific Power owned light upgrade costs.

Mr. Carver stated the LED lights were dark sky compliant and would provide 90% reduction in uplighting. An analysis was not done to add lights, only review of existing lights. City staff would share with AMERESCO areas where lights could be added to review the cost.

Discussion on Lockhart Avenue Right-of-Way Vacation Request

Public Works and Community Development Director Jim Hossley stated the City received a right-of-way vacation request from Above All Property Management for tax lot #200, 716 Southwest Blvd. They would like to build a home on the site, the additional acreage would benefit the residential development. The right-of-way requested to vacate is to the north between 1175 S 7th St (Vend West) and 716 Southwest Blvd. The area is 133 feet long by 50 feet wide. Due to nearby topography, it is unlikely this portion of the Lockhart right-of-way would be developed for street purposes. City staff does not oppose the vacation. Pacific Power has a power line within the area to be vacated, they do not oppose the vacation but advise that no building may encroach within ten feet of the overhead lines. It was scheduled to come before Council on November 3, 2020.

Consideration of CBMC Title 17 Development Code Amendments

Community Development Administrator Carolyn Johnson stated in 2019 Council adopted multiple ordinances amending CBMC Title 17 Land Use Regulations which included: addition of drive-through facility options for commercial development; re-write of flood damage prevention regulations; marijuana business criteria and standards; relocating right-of-way requirements out of Title 17 to Title 12 (Streets); and modification to the administration, procedures, definitions, and low density residential district criteria and standards. The proposed amendments are a continuation of Council efforts to streamline the land use permitting process and to maximize Coos Bay development opportunities.

The March 10, 2020 and September 8, 2020 Planning Commission recommendations to eleven sections were provided and included Title 17 sections: 17.130 Procedures, 17.150.020 Definitions, 17.220 Low Density Residential, 17.225 Medium Density Residential, 17.230 Commercial/Mixed Use, 17.235 Industrial Commercial, 17.240 Waterfront Heritage, 17.250 Hollering Place, 17.330 Parking, 17.335 Supplementary Development Standards, and 17.362 Planned Unit Development. The amendments would add new language and/or modify existing language to reflect Oregon Revised Statutes (ORS) verbiage, continue city permit streamlining efforts, and expand development opportunities. A synopsis of the recommended changes was provided and presented.

Ms. Johnson requested feedback regarding changes for marijuana business locations and addition of ORS language for churches to provide limited temporary outdoor RV camping. State restrictions for marijuana-related businesses was only a 500-foot distance from schools. Council discussed not wanting marijuana business in residential zones, but residential mix-use in commercial zones not to be in violation and requested additional public input. Council requested the question regarding church homeless camping be referred back to the Homeless Workgroup to discuss.

A public hearing to consider an ordinance enacting Title 17 amendments was tentatively scheduled for the November 17, 2020 Council meeting.

Discussion Regarding Operation and Maintenance of Wastewater System

City Engineer Jennifer Wirsing gave an update on the wastewater treatment plant issues and working through the process to narrow the cause of the issues. In late 2019, the City contracted with Mark Walter of Waterdude to evaluate the City's wastewater operations and maintenance contractor Jacobs. The investigation determined that Jacobs' service level was below acceptable levels in areas such as meeting budget projections, NPDES permit compliance, biosolids disposal, collections system maintenance, and staffing. In fact, in the previous three audits that the City performed, it was observed that in many areas, Jacobs was not meeting their contractual obligations. As a result of these findings staff directed Mr. Walter to investigate the City's options: continue with existing contractor Jacobs, transition to a different contractor, or self-perform wastewater operations and maintenance. On January 14, 2020, Mr. Walter presented to Council his findings, each of which had pros and cons. The Council directed staff to craft an agreement for fiscal year ending (FYE) 2021, otherwise known as Amendment 3, which addressed the performance deficiencies identified in the City's audits. While the contract generally defines the contractor's responsibilities, it was clear this language was no longer effective. As such, Council directed staff to focus on the following items: provision for a rebate to the City if Jacobs had unfilled positions, provide better benefits to their employees, provide training to their employees, provide punitive damages when contract obligations were not met, provide a plan that increased storage for sludge lagoon and punitive damages if objectives of plan were not met, improve language that placed the responsibility of maintaining the wastewater asset on the contractor, and punitive damages for permit exceedances due to operational error.

Staff has been coordinating with Jacobs' representative, Efrain Rodriguez, for several months regarding Amendment 3 revision with the goal of trying to negotiate a fair amendment that meets the objectives of the Council's direction. Staff approached the negotiations based on a letter dated January 31, 2020 which documented both staff and Council concerns. While the negotiations had resolved some of the items in the letter there were still several items that either have been requested to defer to Amendment 4, such as the collection cleaning program, or have not been agreed to, such as the punitive or liquidated damages for unmet contractual obligations related to the deliverables. Furthermore, the parties cannot agree on language that holds Jacobs responsible for budget and the management of the wastewater asset. During this contract negotiations period, the plants were still not consistently meeting permit. There might be some

instances where the reasons for permit exceedances are out of the operator's controls, but staff feels strongly the majority of the exceedances were preventable.

Jacobs provided to the City a management team that has shown expertise in wastewater treatment, the likes of which have not been observed by staff in several years. As documented in the audits, there were concerns regarding the lack of wastewater knowledge/expertise of some of the past management. Unfortunately, they still struggle with employee/operator turnover, but did hire an outside contractor at their expense to haul a large volume of sludge from the lagoon. They also expended a significant amount of in-house man hours hauling and land applying biosolids to local farms. While there still wasn't the historical capacity in the lagoon, the efforts of this last summer have given the City the capacity it needs so there hasn't been emergency removal. Jacobs also expended numerous hours reducing the work orders that City staff generated as a result of sewer investigations for capital improvement projects, locates for sewer laterals, sinkhole investigations, etc. Up until recently they had over forty outstanding work orders and some of them were over a year old. This list has been reduced significantly and is now at manageable levels.

Staff was concerned in an effort to tighten the terms of the agreement, the agreement turned in to a very prescriptive agreement that may not be effective. The old agreement was more performance based (where the focus was the outcome, i.e. operating and maintaining the wastewater asset at a level of service that is standard in the industry), which for many years worked for both parties. It is very difficult to write a contract that includes every single scope of work and enforceable consequences when that scope is not met. Another concern was the significant cost increase of over 30% from FYE 2020. The reasons cited by Jacobs were additional testing and additional full-time employees (FTEs). When questioned why additional FTEs were required, were told the new Plant 2 needed more labor hours due to the plant being "more technical" and "more things to monitor". Jacobs contended the "more advanced facility results in more labor needs". City staff was confused by this statement since the Jacobs engineers stated that this facility would be more automated and thus may result in less labor required to operate it. Mr. Rodriguez also stated that the old contracts did "not account for costs or (necessary) level of effort" required to run a wastewater asset such as Coos Bay's. He further stated that this Amendment 3 is "realignment of the true costs for the service required by the City". Staff has repeatedly told Mr. Rodriguez that a 30% increase was going to be very difficult to get approved. Mr. Rodriguez understood the sensitivity of this issue and was exploring some ideas internally to give a one-time credit to reduce the 30% increase to a more manageable increase, but no approvals have been given by Jacobs' leadership at this time.

This was the City's largest annual contract that is responsible for the operation and management of the City's most valuable asset. For several years staff has had serious concerns regarding Jacobs oversight and management of this asset. These concerns have been validated in the last three audits. While staff had seen considerable improvement with the new leadership, these improvements have only been in the last year and was after many years of neglect and deferred maintenance on Jacob's part. The positive improvement staff has witnessed as of late, leads staff to believe that Jacobs may be on the right path to righting this wrong, but some damage is

irreversible such as our reputation as good stewards to water quality, our relationship with the local Tribes, DEQ, local oyster growers, and the Oregon Department of Agriculture.

To take over the entire asset, while certainly doable, was very overwhelming. As such, staff proposed to take over the collection system and see if Jacobs could continue to improve the operation and maintenance of the treatment system. There were very few projects Jacobs had where they managed both treatment plants and the collection system, typically the municipality managed the collection system in-house. By only taking over the collection system at this time, the City could develop a work order and asset inventory system, create standard operating procedures, and create all the necessary protocols that are required to take on this new division in Public Works and Community Development. Should Jacobs not be successful over the next fiscal year 2022 and Council decided to operate and maintain the treatment plants in-house, as opposed to hiring another private contractor, the City would have certain protocols in place to help with the transition. If Council saw the recommendation as a viable path forward, would ideally have between now and June 30, 2021 in which to make the transition. Consultant Mark Walter believed this should be ample time. It should be noted this path forward would most likely have a higher initial cost as opposed to taking over both the collection and treatment system; however, the regulatory risks would be lower and this approach had the previously described benefits. Council discussion ensued and requested information to be given to Steve Donovan to review the rate model.

Discussion Regarding Reconstitution of Homeless Workgroup / Committee


City Manager Rodger Craddock stated the Council established a Homeless Workgroup on November 21, 2017 and after holding an application process the Council appointed eighteen members to the committee on February 20, 2018. While the committee has not met since February 13, 2020 due in large part to COVID restrictions, they had met fourteen times in the previous two years. The committee was instrumental in the implementation of the following:

- Housing Receivership Ordinance
- Exclusionary Ordinance
- Creation of a Community Services Officer position
- Vacant Property Registration Ordinance
- Temporary Lodging Facilities Ordinance
- Warming Shelter Policy

A number of the original committee members were no longer members of the committee or no longer in the position of the organization they represented. If the Council desired to maintain the committee, new and/or additional members would need to be appointed. Council consensus to maintain the committee. Councilor Kilmer, Councilor Farmer, and Mr. Craddock will meet and bring back ideas to Council to fill committee member seats.

Adjourn

There being no further business to come before the council, Mayor Benetti adjourned the work session. The next regular council meeting was scheduled for November 3, 2020 in the council chambers at city hall. These minutes were approved as presented by City Council on November 3, 2020.



Joe Benetti, Mayor



Attest: _____
Nichole Rutherford, City Recorder