

REGULAR MEETING MINUTES
SISTERS CITY COUNCIL
520 E. CASCADE AVENUE.
FEBRUARY 28, 2008

MEMBER PRESENT:

Brad Boyd Mayor
Bill Merrill Council President
Lon Kellstrom Councilor
Sharlene Weed Councilor
Shawna Bell Councilor

STAFF PRESENT:

Eileen Stein City Manager
Steve Bryant City Attorney
Lisa Young Finance Director
Eric Porter Comm. Dev. Director
Brad Grimm Public Works Director
Kathy Nelson City Recorder

I. CALL TO ORDER/PLEDGE OF ALLEGIANCE

The meeting was called to order by Mayor Boyd at 7:02 p.m.

II. VISITOR COMMUNICATIONS

III. CONSENT AGENDA

A. Minutes

1. January 3, 2008 –Quarterly Workshop with County Commissioners
2. February 9, 2008 – Goal Setting
3. February 14, 2008 – Regular Meeting

B. Bills to Approve

1. February Accounts Payable

Councilor Kellstrom moved to approve the consent agenda. Councilor Merrill seconded the motion.

Councilor Weed asked if Well #3 was complete and if the \$2,227.94 payment to HGE represented the last payment. She also asked if the project was on budget. **Public Works Director Grimm** stated that the well was almost complete and was \$300 over budget at present. He stated there could be up to an additional \$1,500 needed to complete the telemetry for the project.

Councilor Weed stated she has noticed that the City spends a lot of money with regard to recycling on the Lazy Z property and stated she would like information as to what is being done. **City Manager Stein** stated that the City Engineer is currently working on the design of the effluent transmission line from the Wastewater Treatment Plant through the 30 foot easement to the property. **Councilor Weed** asked how long the process will take. **Director Grimm** stated that the design work is considered phase one of the project and construction is slated for FY 08/09.

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Councilor Weed asked for clarification regarding the charge from High Desert Gallery for a plaque for Jean Wells. **Manager Stein** explained that it was not a plaque for Jean Wells but rather a plaque for the quilt Jean Wells had donated to City Hall. The plaque was placed in the lobby of City Hall next to the quilt.

Councilor Bell asked for information regarding the charge for a building green membership payable to Central Oregon Builders Association (COBA). **Community Development Director Porter** stated that the City, as the Council had talked about at its goal setting session, is interested in finding out about “green” building practices. He stated that through COBA the City had an opportunity to obtain a membership at a reduced rate. He stated the membership will provide helpful tips the City can pass on to builders, transfer information from one agency to another, educate the City on incentives that are available and allow City staff to attend seminars and workshops on the subject of “green” building practices.

The motion carried unanimously.

IV. STAFF REPORTS

A. **Brad Grimm, Public Works Director**– *(Report Attached)*

Director Grimm asked for questions regarding his staff report.

Councilor Weed asked what the Tyee/Maple Street waterline project will be. **Director Grimm** explained it is the waterline project that will tie into 4th Sister Condominium complex and the Five Pine campus.

Councilor Weed asked for an update on the Highway 242 bike/pedestrian path. **Director Grimm** stated that a meeting was set for the next week between Hap Taylor, Sisters School District, Oregon Department of Transportation (ODOT) and the City. He stated that Hap Taylor was going to describe how he will proceed with the project. **Director Grimm** stated that an intergovernmental agreement (IGA) is also needed between the School District and ODOT that allows the District to construct on the ODOT right of way and between the District and the City stating the City will maintain the path.

Manager Stein informed the Council she had toured the new well and was very pleased with how it had turned out. She stated she would like to have the Council tour the well house during a workshop meeting in the future. She stated she had also received an email from Shane Lundgren complimenting the City on the well house.

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B. Eric Porter, Community Development Director– (Report Attached)

Director Porter stated that since the report was written on February 14th there were some inaccuracies with regard to the Forest Service property due to the recent information received by the City from the Department of Land Conservation and Development (DLCD) about the approach the City had intended to take regarding a rezoning of the land. He indicated the local DLCD staff advised the City to take a more generic approach for now.

Councilor Bell complimented Director Porter for including the graph showing building permit activity by month for both residential and commercial construction. **Mayor Boyd** agreed stating it was easy to comprehend. **Councilor Weed** requested the report also show a cumulative number of permits issued for the year for both residential and commercial and **Director Porter** stated he would add that element to his future reports.

Councilor Weed asked for information on the monthly meetings Director Porter holds with the Realtors Association. **Director Porter** explained that he meets with local realtors on a monthly basis to provide a recap of building activity for the month. He stated the group acts as a resource to his department as they are a proactive and informed group of individuals. He stated he will be receiving input from the group to make a joint recommendation with staff with regard to the upcoming fee update. He stated the meetings are scheduled on the last Thursday of each month at 8:00 a.m. and anyone is invited to attend that might be interested in the information discussed. **Mayor Boyd** stated he feels it is a good use of time in that it provides a set time where the realtors know they can get answers to questions from Director Porter as opposed to several phone calls all about the same issue.

Councilor Weed asked if Director Porter was the lead staff for the Committee for Citizen Involvement (CCI). **Manager Stein** stated that she was the primary staff person and that she was attending all the CCI meetings. She stated that most of the questions from the CCI center on general citizen outreach issues and not land use.

V. COUNCIL BUSINESS

A. Public Hearing and Consideration of Resolution No. 2008-02: A RESOLUTION OF THE CITY OF SISTERS, OREGON ESTABLISHING THE PINE STREET IMPROVEMENT REIMBURSEMENT DISTRICT

Manager Stein stated that the City received an application for the reimbursement district from Three Sisters Partners, LLC in October 2007. She stated the application was received within the allowable timeframe and forwarded to the City Engineer as the first step in creating the reimbursement district. She stated that the City Engineer reported there were

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five properties that benefited from the formation of the district and based the assessment for each property on the frontage footage of each. She directed the Council to the letters from Carol Davis, Jon Hanifin and the Forest Service received by the City regarding the matter and entered them into the record. She stated the evening would allow the Council to conduct the public hearing and receive input. She stated that staff supported the City Engineer's recommendation to create the Pine Street Improvement Reimbursement District.

Mayor Boyd opened the public hearing on Resolution No. 2008-02 regarding establishing the Pine Street Improvement Reimbursement District and asked for anyone wishing to speak on the matter.

James McGregor, 6898 North Pine Drive, Sisters, OR 97759

Mr. McGregor stated that when he received the original letter from the City informing him of the upcoming road improvements there was no mention of the possibility of a reimbursement district. He stated he assumed at the time that Three Sisters Partners, LLC was making the improvements to benefit its development only. He stated he is opposed to the creation of the reimbursement district.

Rod Bonacker, representative for the Sisters Ranger Service, P.O. Box 249, Sisters, OR 97759

Mr. Bonacker stated the Forest Service has no real objection to the idea of creating the improvement district but are concerned by the impediments with federal law that might get in the way of development of the western parcel of the Forest Service property. He stated Ordinance No. 337, the City ordinance authorizing the formation of reimbursement districts, does not apply to the Forest Service, a federal agency. He stated that under federal law local jurisdiction is limited to an advisory role as opposed to a regulatory role. The Forest Service has no legal authority to pay the City or a private developer for these types of improvements. He stated the intent of the reimbursement district is for those properties that derive benefit from the improvements which he asserts the Forest Service will not.

As there was no one else wishing to speak on the matter **Mayor Boyd** closed the public hearing for Resolution No. 2008-02.

Councilor Merrill stated he was curious about the original letter referred to by Mr. McGregor. **Mr. McGregor** provided a copy of the letter he had referred to. It was dated July 10, 2006.

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Councilor Weed asked for an overview of a reimbursement district. **City Attorney Bryant** stated there are several pieces to a reimbursement district and that he would address each aspect. He stated a reimbursement district is allowed by state law and the City's code. He stated the concept for a reimbursement district is to allow reimbursement to the developer who provided improvements off his own property. He stated the developer can ask the City to create the reimbursement district in order to offset the cost for the improvements made that benefit other property owners, and that would be required of those property owners if they were to develop their property at a future time. He stated the application from the developer can come at any time, up to a certain time after the improvements are completed, such as in this case. He stated the assessment for each property is determined by the engineer's report. He added that in this case some of the affected property is outside the urban growth boundary (UGB) and as such could not be included in the reimbursement district. He stated that property owners have to pay the reimbursement at the point where they would be required to make those same improvements because of some change to the use of their property. He stated the balance for this reimbursement district declines 5% in value over a period of ten years before it expires. He stated that in the case of waterline and sewer reimbursement districts, they can last longer than 10 years. He stated that the reimbursement district moves with the property not the owner of the property. He stated that if there is not a more intensive use of the property in the life of the reimbursement district then the assessment will never be collected.

Councilor Bell asked if there is a requirement to inform property owners in advance that there was going to be a reimbursement district. **City Attorney Bryant** responded that it is impossible for the City to know there will be request until the application is submitted by the developer who provided the improvements. **Councilor Merrill** stated he understands the concept but it bothers him that affected property owners aren't told in advance that a reimbursement district is a possibility. He stated he is also bothered by the Forest Service letter and asked City Attorney Bryant to comment.

City Attorney Bryant stated that development of a different part of the Forest Service property with access to that property not on Pine Street will not trigger the need to pay the assessment by the Forest Service. **Manager Stein** added the South Barclay parcel will not be affected by the reimbursement district but the North Barclay parcel could be required to pay some portion of the reimbursement if it is developed in the next ten years.

City Attorney Bryant stated the resolution only creates the reimbursement district but does not obligate payment of the assessment by the property owners unless there is a change in the use of the property and that is what triggers the need to pay into the reimbursement district.

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Councilor Weed asked if the Council should consider SDC credits instead of the reimbursement district. **City Attorney Bryant** explained that the Council can only act on the application for a reimbursement district as that is what the developer requested.

Councilor Kellstrom moved for adoption of Resolution No. 2008-02 establishing the Pine Street Improvement Reimbursement District. **Councilor Weed** seconded the motion.

Councilor Weed stated she feel comfortable with the creation of the reimbursement district but wants to make certain that property owners are given a clear idea of what triggers the need to pay the reimbursement. **Manager Stein** stated that the original letter sent out included information regarding how a reimbursement district works but that additional information can be provided to the property owners if the Council adopts the resolution.

Councilor Merrill stated he felt the questions asked by Mr. Hanifin in his letter should be addressed. **Manager Stein** reported she had a conversation with Mr. Hanifin and his son regarding the reimbursement district but she would follow up to make certain all his questions were answered. **Councilor Bell** stated she found the reimbursement district more palatable once she understood that the property owners would have to pay for these improvements if they made any improvements to their property in the future, adding that it would actually cost the property owner less then if completed in the future.

The motion carried unanimously.

Councilor Weed asked who is responsible for paying for the Engineer's Report. **Manager Stein** replied that the City collects an application fee of \$1,450 but that the City can charge for any cost overruns above that amount for the report.

B. Discussion and Consideration of a Motion to Award a Bid to Tewalt & Sons in the amount of \$47,490 for the Timber Pine Drive Waterline

Director Grimm recommended the Council award the bid to Tewalt and Sons for the Timber Pine Drive waterline.

Councilor Bell noted that the bid came in below the estimate and **Director Grimm** stated it is very good climate to save money at present with the downturn in the housing market. **Director Grimm** informed the Council the project will take the waterline over the bridge and tie into the waterline at Creekside to provide circulation.

Councilor Weed asked if the City Engineer always reviews a bid of this nature and **Director Grimm** stated the City Engineer checks all the bids of this nature for mistakes and changes and then makes his recommendation.

***Councilor Kellstrom** moved to award a bid to Tewalt & Sons in the amount of \$47,490 for the Timber Pine Drive Waterline. **Councilor Merrill** seconded the motion. The motion carried unanimously.*

C. Discussion and Consideration of Resolution No. 2008-03: A RESOLUTION OF THE CITY OF SISTER, OREGON, AUTHORIZING ACCESS TO PUBLIC DOCUMENTS

City Recorder Nelson explained that SB 554 became effective on January 1, 2008 and requires public bodies to respond to public records requests in writing in a timely fashion. She stated the bill also requires public bodies to publish a written procedure for requesting public records indicating the name and address of whom to address the inquiry as well as the amount and manner used to calculate fees that are charged. She stated the resolution and public records request form would bring the City into compliance with regard to SB 554.

Councilor Weed asked if someone walks in and requests a copy of the minutes what amount would they be charged. **Recorder Nelson** stated the individual would not be charged as only research that requires 15 minutes or more of time to complete accrues any charge. **Mayor Boyd** asked if minutes are posted to the website and **Recorder Nelson** stated they are. **Councilor Merrill** stated asked if the resolution met with the City Attorneys approval and he stated it did.

Mayor Boyd suggested that Recorder Nelson's email address be added to the public records request form and she stated she would make that change.

***Councilor Weed** moved to accept Resolution No. 2008-03. **Councilor Merrill** seconded the motion. The motion carried unanimously.*

VI. OTHER BUSINESS

Manager Stein distributed copies of the proposed layout of the Community Garden that was created by Marlys Underwood, Co-President of the Community Garden and professional landscape architect, along with a handout that focuses on the elements and individual garden plots. She stated the Community Garden is proposing two double fences four feet high to deter deer from entering the garden as opposed to one tall fence. She stated she is recommending the City move forward with the site plan modifications and have a joint

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public meeting with the Community Garden and Kiwanis to provide an overall vision for Cliff Clemens Park. She stated that the meeting would prepare the neighbors of the park for testimony with the Planning Commission when the hearing was held.

***Councilor Weed** moved to initiate the application process for the site plan modification for Cliff Clemens Park to begin the public process. **Councilor Merrill** seconded the motion.*

Councilor Weed asked if there would still be room for a soccer field. **Manager Stein** stated there would be and that she had recommended to the Community Garden that they create an overlay that shows where a juvenile soccer field would be placed. She stated it is important that neighbors close to the park are made aware that there is already a master plan for the park, the content of the original approved site plan and the modifications that are being recommended.

Councilor Bell asked what will happen if the community wants the park to stay an open field with no improvements. **Mayor Boyd** stated the City, as the owner of the property, would need to take that under advisement but it is important for the surrounding neighbors to also understand that the park is for all citizens as a whole and they cannot take ownership. He stated the Council will need to weigh its comments to determine the best use of the park as that outcome has not been pre-determined. He stated he sees this as an opportunity to educate the public and receive feedback.

Councilor Merrill stated he feels the Council needs to be explicit and take into consideration the Development Code and Americans with Disability Act (ADA) compliance. He stated he feels it might not be appropriate to have staff presiding over the meeting and it should be a Councilor instead. **Manager Stein** stated she doesn't think it matters so much who presents the information but it is important to convey the history of property. **Councilor Weed** asked if it was a problem to have more than three Council members present at the meeting and **City Attorney Bryant** stated it is fine as long as the councilors do not deliberate on the matter.

The motion carried unanimously.

Manager Stein reminded the Council of the forthcoming Statement of Economic Interest they will be receiving for 2007, due April 15th. She added there is a change so that now it will be necessary to submit the form quarterly.

Manager Stein informed the Council that there are currently three open positions for the Budget Committee and the application deadline is March 5th. She stated that no applications have been received by the City. She reminded the Council that all Budget Committee members need to reside within city limits.

VII. MAYOR/COUNCILOR COMMENT

Councilor Merrill reported that he had a conversation with Phil Gayle, Post Commander for the Veterans of Foreign Wars (VFW) regarding a flagpole for the Veterans Memorial in the Village Green. Post Commander Gayle was somewhat disappointed to not have a permanent flagpole but was satisfied when Councilor Merrill agreed to provide spikes for the flags when there are ceremonies at the park. He stated that the spikes are easy to carry around and that Post Commander Gayle will let him know the number the VFW will be requesting.

Mayor Boyd stated the Council needs to determine a process on how to handle requests from non-profit or government agencies that request letters of support from the City. He provided suggestions on five ways in which to handle the matter; 1) provide no letters of support to any group or agency, 2) give the Mayor or City Manager the authority to write the letters using their discretion, 3) have every request go out to each council member, 4) workshop any request received and 5) ask the requestor to speak at Visitor Communication. He asked the Council what they would suggest, taking into consideration the work load for the City, no shirking responsibility and not wanting to bog down the system of performing work in a timely and efficient manner.

The **Council** discussed the issue and determined the best approach would be to request that agencies and groups requesting a letter of support come and speak at Visitor Communication in order to answer any questions councilors might regarding the subject.

Councilor Weed asked for clarification of using the “reply all” feature in e-mail communication and whether its use would constitute a violation of public meeting law.

City Attorney Bryant stated he feels it does constitute a violation unless the statement is something very innocuous such as “I’m ill and won’t be attending the meeting”. He stated it is safer to never use the “reply all” feature in e-mail, as it can raise the risk of the Council engaging in a deliberative process and that such conversations should be held at a public meeting to allow the public to know how decisions are made.

City Attorney Bryant clarified what the term ‘quasi-judicial’ meant relative to Council deliberations. He stated when the Council sits as judge in a land use planning decision, it is acting in a quasi-judicial capacity. In those cases, it is imperative for the Council to disclose whether any ‘ex-parte’ contact has been made with the parties in the matter. He stated that when the Council is acting in a legislative mode, outside conversations and discussions are acceptable and not considered ex-parte contacts.

Councilor Kellstrom stated he wanted to go on record as saying there should be room for the City Manager and Mayor to use their prerogative and good judgment with regard to letters of this nature. **Councilor Merrill** stated he agrees with Councilor Kellstrom but

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wants to insure that that items don't come back on the Council. He stated he wants to make a decision once all the facts are gathered.

Councilor Weed asked about the letter sent to Bill Anthony, stating she thought the Council would have an opportunity to discuss it before it was sent to the Forest Service, because it included some different points then she thought were already decided upon. **Mayor Boyd** stated that the letter was a moot point with the new information recently received from the Department of Land Conservation and Development (DLCDC) regarding the Forest Service property.

VIII. ADJOURN – 8:55 p.m.

Respectfully submitted,

Kathy Nelson, City Recorder

Brad Boyd, Mayor