

REGULAR MEETING MINUTES  
SISTERS CITY COUNCIL  
520 E. CASCADE AVENUE.  
APRIL 24, 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

**GUESTS:**

Rod Bonacker            Forest Service Project Coordinator

**I.      CALL TO ORDER/PLEDGE OF ALLEGIANCE**

The meeting was called to order by Mayor Boyd at 7:00 p.m.

**II.     VISITOR COMMUNICATIONS**

**III.    CONSENT AGENDA**

- A. Minutes
  - 1. March 27, 2008 –Workshop
  - 2. April 3, 2008 –Workshop
  - 3. April 10, 2008 – Regular Meeting
  
- B. Bills to Approve
  - 1. April Accounts Payable

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

**Councilor Weed** asked for clarification on a \$2,379.56 payment to DCBS – Fiscal Services for State building fees. **Finance Director Young** explained this is a quarterly surcharge payment to Deschutes County for the portion the City owes to the State in building fees.

**Councilor Weed** asked for clarification on a \$3,889.28 payment to Dustbusters, Inc. **Public Works Director Grimm** explained this invoice was for the purchase of de-icing agent from the winter of 2006/07 that had inadvertently never been billed to the City.

**Councilor Weed** voiced concern that there was more purchased from Office Max as opposed to the local office supply company in Sisters. **Director Young** stated that price comparisons are made between the two companies and the local company is given the opportunity to meet the same prices as Office Max.

*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 when a crosswalk and striping would be placed at Highway 242 and Hood Street. **Director Grimm** stated the intersection is part of bundle of crosswalks that were to be painted previously but had to be delayed due to the fact that the Oregon Department of Transportation (ODOT) put down de-icer the previous week and at least two weeks must pass for the de-icer to wear off in order for the striping and paint to adhere to the area.

**Director Grimm** introduced Joe and Patty Werner as the new Camp Hosts for the Sisters Overnight Park. He reported they had already done a lot of clean up on the camp sites and the camp would open the next day.

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

**Community Development Director Porter** asked for questions regarding his staff report.

**Councilor Merrill** stated that with regard to the Clemens Park community meeting to be held on May 13<sup>th</sup> he feels it is important that a Council member participates that is knowledgeable on the background issues. **Mayor Boyd** stated he plans on attending. **Councilor Bell** asked if the community meeting was a Council issue because it is a city park or if it is a planning issue because of the Park Master Plan. **Mayor Boyd** stated he feels it is a political issue since some of the surrounding home owners have circulated a petition against the possible relocation of the community garden to the park and previously voiced concern and apprehension on general improvements to the park.

**Councilor Weed** asked for information on the upcoming Housing Plan workshop for the Planning Commission. **Director Porter** stated that Contract Planner Susanna Julber has made great progress on the plan and the workshop will also provide an opportunity for public input prior to the plan moving on to the adoption phase.

**Councilor Weed** asked for a briefing on the McKenzie Meadow Village (MMV) meeting that took place. **Director Porter** stated that in the meeting staff discussed the status of the annexation agreement and what is needed to move forward to ultimately bring the agreement back to the Council for deliberation. **Manager Stein** stated that staff is taking the input

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received from the Council, modifying the agreement and will bring it back to the Council. **Councilor Merrill** stated the City needs to make certain the annexation follows the Comprehensive Plan goals, look at how it will affect the tax base and consider differential taxation. **Councilor Weed** stated the City needs to understand the actual cost of growth.

**Councilor Weed** asked if the Forest Service property was on the market yet. **Manager Stein** stated the sale had been delayed due to staff changes in Washington D.C. **Director Porter** stated that he would continue to discuss and work with the Department of Land Conservation and Development (DLCD) on a draft of the policy text amendment change to the Comprehensive Plan. **Forest Service Project Coordinator Rod Bonacker** reported he expected to put in the task order next week to begin the marketing process for the property with the auction to begin the first week of June. He stated that when bidding appears to have stopped the Forest Service will issue a 72 hour notice to stop the bidding. He stated that if additional bid(s) are received then the process begins again until there are no longer any bids in a 72 hour period of time. **Councilor Bell** asked if there is a minimum bid and **Coordinator Bonacker** stated there is and that information will be included in the bid package. He stated he will provide the City a copy of the sale notice that includes the language from the Comprehensive Plan.

**Councilor Weed** asked why the fee re-evaluation was being postponed until next year. **Director Porter** stated that the City had received many comments of concern regarding the possible raising of some fees. He stated that after preliminary review, he determined that some fees could be raised and some could be lowered but that none of the fees were terribly out of alignment and that the Planning Department would make a through and careful review over the next year.

**Councilor Weed** asked for an update regarding the 98 room hotel that would be located on Hood Street that is currently under review. **Director Porter** stated that the City had received an application on the last day of a ten year old development agreement and it was deemed incomplete. He stated the applicant will have 180 days to resubmit a completed application in order to be reviewed under Deschutes County Code under which the development agreement was made and subsequently grandfathered into the City. He stated if that deadline is not met the applicant will be required to meet current City codes. He stated the applicant needs to furnish the City with a traffic impact study as well as a sewer analysis.

## V. COUNCIL BUSINESS

### A. Discussion and Consideration of a Motion to Endorse a Liquor License Application for Three Creeks Brewing Company LLC

**City Recorder Nelson** introduced Wade Underwood, lead partner of the Three Creeks Brewing Company. **Councilor Weed** asked when the brew pub would open and **Mr. Underwood** stated they hoped to open in mid-July to early August.

***Councilor Weed** moved to endorse a liquor license application for Three Creeks Brewing Company LLC. **Councilor Merrill** seconded the motion. The motion carried unanimously.*

- B. Discussion and Consideration of a Motion** to Accept Two Easements from the United States of America (USFS) for 10' of Additional Right of Way Along Pine Street from the UGB to Highway 20 and for 10' of Additional Right of Way on the North and South Sides of Barclay Drive from Pine Street to Highway 20

**Director Grimm** recommended accepting the two easements from the USFS. **Councilor Weed** asked if the easements were a condition of approval for the partition of the property and **Director Grimm** stated they were. **Councilor Merrill** asked how wide Pine Street will be and **Director Grimm** stated it will go from 60 to 80 feet wide. **Councilor Merrill** asked if the rest of the industrial park on Pine Street is also 80 feet wide and **Director Grimm** stated he was unsure. **Councilor Merrill** stated it would make sense to have the entire street to be 80 feet. **Director Grimm** stated that Pine Street is designated as a minor arterial. **Manager Stein** stated that acquisition of right of way is activity specific and the partition had given the City the opportunity for the easements. She added that along the rest of Barclay Drive there are existing developed situations and the City would need to acquire the additional right of way.

***Councilor Weed** moved to accept two easements from the United States of America (USFS) for 10' of additional right of way along Pine Street from the UGB to Highway 20 and for 10' of additional right of way on the north and south sides of Barclay Drive from Pine Street to Highway 20. **Councilor Merrill** seconded the motion. The motion carried unanimously.*

- C. Discussion and Consideration of Resolution No. 2008-07: A RESOLUTION AMENDING THE MASTER FEE SCHEDULE TO ADD FEES ASSOCIATED WITH THE THREE SISTERS OVERNIGHT PARK**

***Councilor Kellstrom** moved to amend the Master Fee Schedule to add fees associated with the Three Sisters Overnight Park. **Councilor Merrill** seconded the motion.*

**Mayor Boyd** asked if a bicycle is considered a vehicle and **City Attorney Bryant** stated it is not. **Mayor Boyd** stated that since the intent is not to limit the number of bicycles at a site he would like to add "motor" in front of vehicle wherever it appears on the fee sheet.

**Councilor Weed** stated that she also felt the RV Site fee should include the wording “includes dump fee”.

**Councilor Kellstrom** moved to amend the Master Fee Schedule to add fees associated with the Three Sisters Overnight Park as amended. **Councilor Merrill** seconded the motion. The motion carried unanimously.

**D. Discussion and Consideration** of a Code Interpretation for Density Bonus

**Councilor Weed** recused herself from the discussion citing her association with Habitat for Humanity.

**Director Porter** began by apologizing to Habitat for Humanity for the confusion in the process surrounding the density bonus issue and the need to contend with this. He stated that previous action by the Council permitted a density bonus program provision that allows a 1.25% reduction in lot size. He stated the confusion came from incorrect math that was applied to the previous application that stated a 6,000 square foot lot could be reduced to a 4,500 square foot lot using the density bonus program, instead of the correct answer of 4,800 square feet. He stated that the number he had provided previously actually reflected a 1.33% density bonus and after his presentation he was made aware of his error. He stated that staff recommended that the intent of the Development Code is to allow a 1.25% density bonus and asked the Council to clarify this interpretation.

**Councilor Merrill** stated that the Development Code allows for a lot that is 125% as dense as would otherwise be allowed in the district if certain criteria is met. He stated another consideration is lot size averaging which was created prior to the Development Code becoming effective. He stated the Council should leave the current lot under discussion at 4,500 square feet and make correction and fix the language in the Development Code in the future. He stated the difference in the two lot lines is insignificant.

**Attorney Bryant** stated he wanted to make certain the Council understands that the discussion was not about a specific lot but about a code interpretation that will apply to every other application that qualifies for a density bonus. **Councilor Merrill** stated that any other applicant will need to qualify for the density bonus program.

**Councilor Bell** stated she agreed with Councilor Merrill that the City should allow Habitat for Humanity to continue with the lot size the Council approved previously, even if it isn't 125% as dense. She suggested that the upcoming Housing Plan will provide the opportunity to correct any mistakes in the future.

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**Mayor Boyd** stated that what the Council agreed to was a 125% density bonus. He stated that when the Council originally discussed the density bonus the math was applied incorrectly and now that the mistake has been brought to the Council's attention it needs to apply the code properly, fairly and fix the error immediately. He stated the City cannot "do the math" wrong just because it likes the outcome and that in order to allow the lot in question to continue with development, the density bonus must be raised to 133%.

**Councilor Bell** stated that because of a staff error the applicant is well into the project and the minutes from the meeting of February 21, 2008 state the Mayor approved a 4,500 square foot lot. **Mayor Boyd** stated he used the figure of 4,500 square feet because that was the number supplied by staff; a number that the Council now knows is incorrect.

**Attorney Bryant** asked the Council to consider if the density bonus applies in reverse. He stated that Director Thompson allowed the bonus but Directors Adams and Rankin did not. He stated the question is whether to apply a density bonus of 125% and not the math problem. He stated that the issue is density bonus, not the math problem. **Councilor Kellstrom** stated that since the City made a mistake and the code states the density bonus is 125%, what would happen if the application was appealed legally. **Attorney Bryant** stated that if appealed, he could defend 4,800 square feet for the lot size. He stated that until a decision is rendered final it can be changed.

**Councilor Bell** asked how far along the project is and **Director Porter** reiterated the discussion was not about one single project as the Council can not make a land use decision. He stated he was looking for an interpretation of the code. **Councilor Bell** stated she felt it was unfair to the applicant. **Mayor Boyd** agreed that the circumstances were unfortunate but stated that by changing the lot lines the applicant will still get the same number of lots and homes. He stated the Council agreed to a density bonus of 125% and the issue is about how the City applies its Development Code.

**Councilor Merrill** stated that if the density bonus is applied as well as lot size averaging the lot in question would meet the code. **Mayor Boyd** asked if lot size averaging could only be used if there is a master plan and Director Porter stated a master plan was not necessary but the end result must be an average of the minimum lot size. **Mayor Boyd** asked that since the applicant qualifies for density bonus could they also use lot size averaging to get the lot to the 4,500 square foot size. **Director Porter** stated that could be a possibility and that he would need to research the possibility. **Mayor Boyd** stated that since the City wants to properly apply the math and wants to be consistent with the City's Development Code, perhaps this is a means to get exactly what the applicant wants and still be defensible with the Code.

**Councilor Kellstrom** voiced concern that if lot size averaging and density bonus can be applied together the City could end up with smaller lots than it wants. **Mayor Boyd**

suggested the issue could be clarified during the non-emergency Development Code update as it appeared the Council was still in support for allowing a density bonus of only 125%. **Councilor Kellstrom** stated that if the two programs can be used in tandem that is a problem that needs to be addressed in the near future. **Manager Stein** stated that small lot size had been a concern expressed by the Council and community in 2003.

**Sharlene Weed**, 406 Sisters View Place, Sisters, OR 97759

**Ms. Weed** directed the Council to handouts placed at councilors spaces and stated she feels there is more than one way to perform the math problem to determine density bonus. She suggested that a college professor's way of performing the math versus the average person's way of performing the math will bring up different answers and challenged that one was more right than the other. **Mayor Boyd** stated that math is black and white and a person will still have an incorrect answer if they perform the computation in the correct order.

**Manager Stein** stated that she, Director Porter and Attorney Bryant would meet to discuss the issue after additional research has been done and report back to the Council. **Councilor Kellstrom** stated that he wants to insure that the decision is defensible.

**Councilor Merrill** stated that the City needs to look at what is legal and what is right and the City should let the applicant do what they want to do as it is very insignificant. **Mayor Boyd** stated that the Council is bound by law to apply the Development Code uniformly, fairly and properly.

**Manager Stein** stated there can be discussion during the Housing Plan to provide additional incentives for affordable housing.

## **VI. OTHER BUSINESS**

**Councilor Weed** rejoined the meeting.

### A. Budget Committee Appointment

This item was pulled.

### B. Arbor Day Proclamation

**Mayor Boyd** read the Arbor Day Proclamation proclaiming May 1, 2008 as Arbor Day in the City of Sisters.

C. City Manager Update

**Manager Stein** informed the Council that next week's workshop will be a joint meeting with the Sisters Organization for Activities and Recreation (SOAR) Board. She stated as part of the meeting there will be discussion on a Public Facilities Master Plan, a topic of discussion at the Leadership Summit that occurred April 19<sup>th</sup>.

**Manager Stein** explained a current interpretation from the Water Resources Department regarding Well #2 and Well #3. She stated that in order to secure a water right for Well #3 and make it operational, the City must fully exercise its water right for Well #2 which currently is at 50% capacity. She stated the City will need to fully use 100% of the capacity of Well #2 in order to transfer 50% of the water right to Well #3. She stated this will involve removing the current pump, installing a larger pump for four to six hours to fully exercise the water right, and then re-installing the existing pump. She stated the estimated cost for the procedure is \$50,000.

**Councilor Weed** stated she needs more information regarding water rights and how they all relate. **Manager Stein** recommended scheduling a workshop with the City's water rights consultant and at this time was merely giving a heads up to the Council on what the City may face. She stated that when she had asked the City's water rights consultant if there was any other way to proceed with exercising the water rights and was the consultant stated he felt the City cannot afford to not perform this procedure. She stated she is still working with the consultant on researching other ways to procure the necessary water rights. **Mayor Boyd** stated that the water rights are worth far more than the \$50,000 price tag to the City for the procedure.

**Manager Stein** provided a report on the meeting she had with staff and representatives from High Country Disposal where they went through the proposal and rate structure from High Country Disposal. She stated the City has \$190,000 attributed to the Refuse Fund with \$90,000 being staff costs and \$100,000 being overhead that would need to be re-allocated to other funds. She stated the City would need to address the gap if the service is franchised. She stated that High Country Disposal is looking more closely at their proposal also. She stated that if there is a willingness from the Council to consider spreading those funds, staff will review the costs to be spread.

**Councilor Bell** asked staff to bring back information on the effect it would have on the budget taking into consideration the upcoming needed capital expenditures for garbage trucks over the next few years. **Mayor Boyd** asked for highlights on the effect to other funds

be provided. **Councilor Kellstrom** stated that with the current economic forecast he is not interested in franchising refuse service as he feels the City will give up too much revenue. **Councilor Merrill** stated it would be interesting to know how many other cities franchise their service out. He added that in his experience contracting out is typically more cost effective than providing the service in-house. **Director Young** stated the Council will also need to look at the revenue and expense outlay to fully comprehend the fund.

## VII. MAYOR/COUNCILOR COMMENT

**Councilor Weed** asked for an update on the Timber Creek Bridge negotiations. **Manager Stein** stated that the last communication with Mr. Forbes was that he would be doing the rest of the bridge on his own. **Director Grimm** stated that Mr. Forbes is currently getting bids. He stated the City is requiring that a compaction test be performed along the grade that indicates that the fill is correctly compacted or the City will require it to be dug up and redone as there are concerns if the process was done correctly. **Councilor Bell** asked if there was a timeline attached to the bridge project and **Attorney Bryant** reported that Phase 6 of the Timber Creek development cannot be built until the bridge is complete.

**Councilor Merrill** stated that on the field trip to Well #3 he noticed that there are an abundant number of ditches where weeds are growing unchecked and asked that the City determine if the weed removal is the homeowners responsibility or City's. He read from the Municipal Code of the requirements for weed abatement. **Director Grimm** stated he would determine whose responsibility it is to clear the weeds in the ditches.

**Councilor Merrill** stated the City needs to look at the abandoned development by Desert Sun of half built homes and voiced concern of the potential for the homes to become a public nuisance. He stated the City needs to see what can be done to alleviate the problem. **Manager Stein** stated that staff will research the matter.

**Councilor Merrill** stated that the City needs to do a better job of providing consistent enforcement citing the example that public art should be western themed.

**Councilor Bell** asked when the new downtown refuse cans will arrive. **Director Grimm** stated the cans had just been delivered and he planned on having staff place them in the downtown core in the next few days. He stated there will be 14 cans placed in the downtown core area, two cans placed at Creekside Park and four cans placed at Village Green Park.

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**VIII. ADJOURN – 8:50 p.m.**

Respectfully submitted,

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Kathy Nelson, City Recorder

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Brad Boyd, Mayor