

WORKSHOP MEETING MINUTES
SISTERS CITY COUNCIL
520 E. CASCADE AVENUE
JULY 17, 2008

MEMBERS PRESENT:

Brad Boyd Mayor
Bill Merrill Councilor President
Sharlene Weed Councilor

ABSENT:

Lon Kellstrom Councilor
Shawna Bell Councilor

GUESTS:

Bruce Bailey HCD Owner

STAFF PRESENT:

Steve Bryant City Attorney
Lisa Young Finance Director
Brad Grimm Public Works Director
Pauline Hardie Senior Planner
Laura Lehman Associate Planner
Kathy Nelson City Recorder

ABSENT:

Eileen Stein City Manager
Eric Porter Comm. Dev. Director

The meeting was called to order by Mayor Boyd at 8:02 a.m.

1. Annexation Law

City Attorney Steve Bryant stated he was in attendance to provide information about the annexation process in general and answer any questions that the Council might have. He stated the process starts long before the Council discusses a particular annexation. He stated it begins with Council discussion on urban growth boundary (UGB) expansion and selecting areas that will be a future part of the city. He stated land use determination on how to grow the City includes how to provide infrastructure, changes to the Comprehensive Plan, and involvement of the Department of Land Conservation and Development (DLCD) and other agencies and is a critical part of the annexation process. The process not only requires approval by the Planning Commission and City Council but by state government also.

Attorney Bryant explained that the annexation process is initiated in one of three ways; 1) by the City Council, 2) by petition of the property owner wishing to have their property annexed or 3) by the state if there is a health or safety issue. He stated that after the decision to consider annexation has been made an election is required per the City's charter to allow citizens to weigh in on the annexation, pro or con. If a majority of the citizens are in favor of the annexation it is advisory in nature as the decision to approve the annexation still rests with the Council. The decision by the Council is subject to appeal to the Land Use Board of Appeals (LUBA) and on to the Court of Appeals.

Attorney Bryant stated that annexation in Sisters is typically done by resolution and consents are approached in one of two ways; 1) by triple majority or 2) half of the owners of the property and half of the registered voters consent to the annexation. He stated that if a property owner petitions for annexation they are required to bring in all the required consents upon filing. He stated when

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the City gets to the public hearing portion of the process the Council can make a decision to set the boundaries and the zones or let the property owner go through the land use process to change the zone. He stated that there is a provision in the statute that lets the Council set a tax ratio but he advises against that as it usually means less revenue for the City. He stated that typically the effective date of the annexation is within a few days after it is filed with the Secretary of State.

Attorney Bryant stated that the City can enter into agreements to annex property that allow the City to set agreements that the City would not normally be able to require during the regular land use planning process. He stated the agreements become binding between the City and current and future property owners.

Attorney Bryant asked for question regarding the annexation process.

Councilor Merrill referred to the League of Oregon Cities (LOC) handbook for councilors and stated the publication states that annexation must be consistent with the Department of Land Conservation and Development (DLCD) or the City's Comprehensive Plan. He stated that it reads that the Council must make findings demonstrating plan compliance. **Attorney Bryant** stated that the statement is accurate and inaccurate in that the Council is not required to make findings. He stated the Secretary of State and Department of Revenue do not care if there are findings and they are only important if the annexation is contested and an appeal goes to LUBA.

Councilor Merrill stated he feels that the City is obligated to follow the Comprehensive Plan and it states the application for annexation must show it won't impact infrastructure. **Attorney Bryant** stated that regardless of the application and what is shown staff will decide whether there is adequate water and sewer capacity for a proposed development. He stated the City would never want to bring in property where inadequate capacity could be an issue. **Councilor Merrill** stated that state goal #14, with regard to urbanization, specifies that the applicant must specify why the property is brought into the UGB and asked if the application for McKenzie Meadow Village was in compliance with that goal. He stated that to him it seemed to be a judgment call. **Attorney Bryant** explained that the level of review to determine if the goal is met can be as detailed or limited as the Council wants and needed if the annexation is contested.

Councilor Merrill read from the LOC handbook that the County Assessor is required upon request to provide a statement on the current assessed value of the property and asked if that was true. **Attorney Bryant** stated that the County Assessor must provide the information only if the Council makes the request and that the Council is not required to make such a request. He stated that typically a Council makes its decisions based on the merits of the annexation. He added that property annexed before March 31st of any calendar year will be included in the tax base beginning in July of that same year.

Councilor Weed stated it would seem the City would want to know what the cost for services to the City would be if an area is approved for annexation. **Attorney Bryant** stated that the costs to

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bring in the sewer, roads and water should be born by the developer and is only a problem if the City is not collecting enough in fees to cover those charges. He stated that there is a set cost for Sheriff's services regardless of the city's size and when new areas are incorporated into the patrol area coverage one can expect coverage to be diluted to other areas of the city. He stated that the City needs to know how the annexation will impact city infrastructure and determine whether it will help or hurt the municipal system.

Councilor Merrill stated that an annexation needs to be done properly. He stated that the Comprehensive Plan approved by the voters states that the City needs to show the rationale for bringing property into the UGB and what purpose it will serve. He stated it seems that it would make sense for the developer to create a master plan to help the City determine the cost and impact to the infrastructure. **Attorney Bryant** stated that there will be a range of impacts and the City will need to determine if the system has capacity. **Councilor Merrill** stated it is the Council's decision as to who performs the impact assessment and that he is trying to determine the proper sequence for an annexation.

Attorney Bryant stated the sequence of events with regard to the annexation process if the Council is requested to bring in property is as follows:

1. The Council determines if it is interested in annexing the property. If yes;
2. The matter goes to a vote of the people.
 - a. If it does not receive a majority vote, the matter goes no further.
 - b. If it receives a majority vote and the property is already inside the UGB, the consents are filed with the City, staff states there is adequate infrastructure, and the Council determines they want to move forward notice of the annexed property is sent to the Secretary of State.
 - c. If there is a problem with the proposed use or zoning the Council will need to address the issues of concern which will be tied to the Comprehensive Plan and DLCD goal requirements.

Councilor Weed asked for additional information on DLCD goal requirements and if they are necessary for any annexation. **Attorney Bryant** stated that the goal requirements are only an issue if the annexation is appealed to LUBA, as LUBA will want to know how the City came to its decision to approve the annexation.

Councilor Weed used the Forest Service property as an example and asked if the Council approved the property to be developed as residential, which exceeds the need identified in the Comprehensive Plan, if that could be appealed. **Attorney Bryant** explained that an overstock of residential units in a city is not normally an issue for appeal to LUBA and that an appeal is usually based on a technical problem.

Councilor Merrill stated that there is no reason to not annex a piece of property in the UGB and then afterwards make a decision on what happens to the property when the applicant applies for a

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zone change. **Councilor Weed** asked whether when the Comprehensive Plan identifies an area as residential and then when it comes time to develop the property, if it is possible to change the zoning to multi-family. **Attorney Bryant** stated that the property could come in zoned as multi-family only if it is not appealed. He stated the issue would not be whether the zoning is consistent with the Comprehensive Plan. He stated that one way to deal with that issue would be to allow the property to be annexed and let the property owner go through the public process for requesting a zone change to receive input from individuals with concerns. He stated this will allow the Planning Commission to approve a zone change with conditions. He stated another way to allow approval is to let the property be annexed but require an annexation agreement, which allows the City to request conditions beyond the typical zoning requirements.

Councilor Merrill stated that with regard to McKenzie Meadows the property is already in the UGB but the property tax is going to Deschutes County. He stated it would seem advantageous to annex the property to receive the property taxes and work out the details later. **Councilor Weed** stated that crafting an annexation agreement in advance of annexing the property might be the only opportunity for the City to ask for certain conditions to be met that would not be available through the normal public process. **Attorney Bryant** stated that property within the UGB but not yet annexed is subject to the Deschutes County development standards which are different than the City's.

Mayor Boyd thanked Attorney Bryant for the information provided on the annexation process.

2. Preview 07/24/08 Meeting Agenda

City Recorder Nelson provided an overview of the upcoming workshop and regular meeting of July 24th. She stated that Planning Consultant Susanna Julber will lead the first of her two planned workshops presentations on the Housing Plan. She stated that one item had been added to the draft agenda; acceptance of a dedication of a street right-of-way on Larch Street for traffic flow with regard to the new Post Office.

3. Other Business

Mayor Boyd asked High Country Disposal (HCD) representatives if they had anything to report. HCD owner **Bruce Bailey** stating his company was anxious to move forward and wondering when the Council might take formal action as the preliminary change over date of September 1st is quickly approaching. He stated that his staff wants to become familiar with the routes and contact customers with regard to the upcoming changes in costs and service. He stated he is pleased with the two acres by the treatment plant that has been identified for lease to HCD that will be used for stockpiling yard debris and container storage.

Mayor Boyd stated the Council is looking for the attorneys and staff to bring the proposal back to the Council. **Attorney Bryant** stated the lease agreement is almost completed and will likely be

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ready to come before the Council for approval at the August 14th regular meeting. **Councilor Merrill** stated that citizens will need to be educated with regard to how yard debris will be collected and suggested that the changeover not take effect prior to citizens understanding all the changes. **Public Works Director Grimm** stated that citizens will also need to be informed on the twice a year large item pickup.

Councilor Merrill stated that with regard to the City's two noise ordinances he wondered what the Blues Festival applicant had submitted and what information the City had provided to the promoters. He asked staff to provide a copy of the completed special event application for the event and **Recorder Nelson** stated she would provide a copy to the councilors. **Councilor Merrill** stated that the reason the event had even come before the Council was with regard to the issue of selling alcohol.

Councilor Merrill requested that staff follow-up on code enforcement for the weed control issues at homes. **Councilor Weed** stated that she had been approached by a citizen concerned with knapweed as it is prevalent and will soon be blooming and felt it should be a priority to get rid of. **Attorney Bryant** stated that in communication with homeowners regarding weed abatement it is important to let them know the estimated cost associated with the City performing the weed abatement work and that a lien will be placed on the property until payment is received.

Councilor Weed asked if council members wanted to discuss the proposal from Outlaw Radio requesting the City pay to install a patch panel in the Council Chamber to allow media to broadcast. The **Council** decided to wait to discuss the issue until the next meeting.

The meeting was adjourned at 9:13 a.m.

Respectfully submitted,

Kathy Nelson, City Recorder

Brad Boyd, Mayor