

REGULAR MEETING MINUTES  
SISTERS CITY COUNCIL  
520 E. CASCADE AVENUE.  
SEPTEMBER 11, 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  
Eric Porter Comm. Dev. Director  
Brad Grimm Public Works Director  
Lisa Young Finance Director  
Kathy Nelson City Recorder

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

The meeting was called to order by Mayor Boyd at 7: 01 p.m.

**II. VISITOR COMMUNICATIONS**

**Katie Williams, 1425 Mountain View Loop, Sisters, OR 97759**

**Katie William** introduced herself as the coordinator for the Sisters Leadership program. She stated the program is in its second year and explained it was born out of the visioning process. She stated the program provides leadership training over a seven month period by meeting once a month for a total of seven classes. She stated that each month encompasses a different theme. She stated the program is dependent on the support and participation of the entire community and she was in attendance to follow-up on a letter sent to the Council requesting the City become a day sponsor at a cost of \$500. She stated that applications are still being accepted and she expects to have 10 to 15 participants.

**Mayor Boyd** asked Manager Stein if anyone from the City will be participating this year.

**Manager Stein** stated that Finance Director Young will participate in the program.

*Councilor Kellstrom moved to donate \$500 to be a day sponsor for the Sisters Leadership program. Councilor Merrill seconded the motion.*

**Councilor Weed** recused herself from the vote stating she sits on the Sisters Leadership Advisory Board.

*The motion carried unanimously.*

**Mayor Boyd** asked for comment from the Council with regard to the letter and information received from the Sisters Garden Club requesting that the Public Works Department remove the log cabin structure in the city owned garden the garden club maintains. The letter states that due to its deterioration, garden club members feel the log cabin poses a potential hazard

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to the public. Also, the garden club noted, the garden will be in upheaval during the East Cascade re-alignment project. The letter acknowledges that the log cabin is often used as a backdrop to visitor to our community and stated their organization would be interested in providing part or all of the funding for a replacement structure, such as the false store front photo examples they submitted with their letter.

The **Council** discussed the matter and decided to grant permission to have the Public Works Department remove the structure but requested that it not be replaced with any other structure at this time.

**City Recorder Nelson** entered the following correspondence all related to Aspen Lakes into the record:

1. Aspen Lakes Development History
2. Staff Report from Peter Gutowsky, Deschutes County Community Development Department Principal Planner dated 08/11/08
3. Email from Matt Cyrus dated 09/08/08
4. Letter from Tom Davis, Native Fish Society dated 09/11/08
5. Letter from Nunzie Gould and Jim Guild dated 09/11/08

### III. CONSENT AGENDA

#### A. Minutes

1. July 24, 2008 –Workshop
2. August 7, 2008 – Workshop
3. August 14, 2008 – Workshop
4. August 28, 2008 – Regular Meeting

#### B. Bills to Approve

1. September Accounts Payable

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

**Councilor Weed** stated that Christine Lewis of Housing Works was in attendance at the August 7<sup>th</sup> workshop, not Cyndi Cook as noted on the minutes. **Recorder Nelson** stated she would make the correction.

*The motion carried unanimously with the minutes amended as noted.*

### IV. STAFF REPORTS

**A. Eileen Stein, City Manager – (Report Attached)**

**Manager Stein** asked for questions regarding her staff report.

**Councilor Kellstrom** asked about Manager Stein's staff report and previous discussions on water rights and stated his perception is that there are more intricacies involved with water rights than previously thought. **Manager Stein** stated that the City has been involved in attending to the needs of the City's future water supply with the acquisition of the Lazy Z, acquisition of water rights with new developments in town, portions of water rights lost over time and with water rights that are not completely perfected. She stated the reason for preparing the water rights master plan is to determine what the City has, how valuable the water rights are, how relative the rights are and what has been acquired. She stated she is concerned with positioning the City strategically to insure adequate water rights for the City for the next 20 to 50 years and making certain that the proper rights are in place. She stated there have been a number of issues for the City to address that are water related over the last few years but feels the City is on the right path to figuring them out. **Councilor Kellstrom** stated that the City has been working on water rights for some time and it appears the more the City delves into them the more questions that are raised and more money the City is spending. He stated he wants to know about future large problems. **City Attorney Bryant** stated that there have been a number of water rights issues facing the City and that as the City gets closer to the end of the process for finalizing Well #3 there are a number of finer details to be completed. **Councilor Kellstrom** stated he is concerned that the requests for large sums of money will continue. **Attorney Bryant** stated he will discuss the issue with the water rights attorney to find out the timeline and potential for additional costs. **Councilor Kellstrom** stated he would like to see the City finish up with water rights and be done with the process. He stated he doesn't want to find out there are big problems. **Manager Stein** stated the Oregon Water Resources Division (OWRD) has stated it will execute a robust plan review and that requires the City to strengthen its plan to make sure it meets OWRD requirements. **Manager Stein** stated the issue is complicated but she feels the right team is in place to protect the City and help spotlight the issues that need to be dealt with.

**Councilor Weed** asked if this issue is related to the limited license for Well #3 that the Council discussed previously. **Mayor Boyd** stated the limited license for Well #3 has expired and the City will need to use Well #1 and Well #2 until the license for Well #3 is completed.

**Councilor Weed** asked about the timing for the utility rate study. **Manager Stein** stated the City is currently in the data gathering stage and it will be another two to three months before it is completed. She stated it is somewhat dependent on the Water Conservation and Management Plan due by next July which also factors into the water rights for Well #3.

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**Manager Stein** stated the City may be required to perform a more aggressive water conservation study as part of the rate study. **Mayor Boyd** suggested looking at the five year future capital needs, what is system development charge (SDC) eligible and get the rate adjustments done now and address the water conservation study as a later phase of the process.

**Councilor Weed** asked what the next steps will be regarding the Forest Service property. **Community Development Director Porter** reported that the City is mid-process with regard to a text amendment that was approved by the Planning Commission. He stated that the Forest Service approached the City after the Planning Commission approval asking for the City to strike two of the components; the need for a western theme and the requirement for orderly development. He stated the City is currently negotiating with the Forest Service to retain the amendment in its entirety. **Councilor Weed** stated it is the City's decision not the Forest Service and asked why the City would negotiate. **Director Porter** stated the risk is the Forest Service could appeal the decision. **Mayor Boyd** asked if because the Forest Service is a federal agency if it needs to accept the City's decision regarding the property. **Director Porter** stated it is in the Forest Service's best interest as well as the City's to accept the amendment in its entirety as a means of protecting the property. **Manager Stein** stated the Forest Service feels that part of the reason it did not receive bids on the property is due to the language in the text amendment. She stated the Forest Service is still determining what its next step will be taking into consideration the priorities of the agency and several uncertainties.

**B. Lisa Young, Finance Director– (Report Attached)**

**Director Young** asked for questions regarding her staff report stating a majority of her time in the previous month had been taken up with the audit process. There were no questions.

**C. Lt. Myrna Homan – (Report Attached)**

**Lt. Holman** reported on the number of patrol hours provided, incidents, citations, warnings and business checks.

**Councilor Bell** noted that the number of hours worked during the last five months has increasingly gone down and voiced her concern. **Lt. Homan** stated she feels that some of the rotating staff has not been noting the time spent patrolling in Sisters and the department is attempting to remedy that through educating those deputies to record those hours.

**Manager Stein** stated that a planned power outage by Central Electric Cooperative is scheduled from 10 p.m. until 4:00 a.m. beginning September 16<sup>th</sup> and asked for additional patrols during that time. **Lt. Homan** stated the department is aware that there is a planned

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power outage and will provide extra patrols in the City during that timeframe. She stated she will provide Manager Stein with the details of the patrols to pass on to the Council.

**V. COUNCIL BUSINESS**

**A. Discussion and Consideration of a Motion to Adopt Resolution No. 2008-23: A RESOLUTION OPPOSING DESCHUTES COUNTY TEXT AMENDMENT 07-07 TO CONVERT ASPEN LAKES SUBDIVISION TO A DESTINATION RESORT**

**Director Porter** stated that the request for this resolution came from a citizen and it is to send a message from the City to the Deschutes County Commission to oppose the proposal for a text amendment regarding destination resorts to the County Code. He stated there is a public hearing regarding the matter before the Commissioners next week. He stated the City has been asked to formally oppose the text amendment. He stated that staff does not have a recommendation for the Council.

**Mayor Boyd** stated that although the item was not noticed as a public hearing since there were a number of interested parties in the audience he was allowing public comment on the matter. He asked if there was any member of the audience that would like to speak on the matter.

**Paul Dewey, Attorney representing the Rim at Aspen Lakes Homeowners Association**

**Mr. Dewey** stated he is representing the homeowners association for the Rim at Aspen Lakes development and in attendance to encourage the Council to support proposed Resolution No. 2008-23. He stated there are tremendous costs born by cities with the development of destination resorts and the impacts they bring. He cited examples in Central Oregon where cities have not been compensated for these impacts. He stated the impacts include traffic, traffic infrastructure, water rights, emergency services, and affordable housing. He stated it places an unfair burden on developers within city limits for the system development charges (SDC) they pay. He stated there is a need to mitigate impacts to water rights but there are only so many mitigations available. He stated he based his information regarding the proposed development for Aspen Lakes on constructing 300 homes, 150 motel rooms and 100 condominiums which he called a conservative figure, and means that when completed the resort will be the same size as Sisters. He stated when emergency services respond to a call in Aspen Lakes it becomes a matter of providing coverage to the city of Sisters also. He stated the more demand there is in rural areas equates to the more the emergency agencies approach the City for additional funds. He stated the statewide goal for housing that requires cities to provide affordable housing will be even more difficult to meet as more and more people compete for in-city

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affordable housing. He stated there is not an adequate mechanism in place for the City to participate and receive accommodations for resorts of this nature and that the applicant is down-playing the effect of the text amendment. He urged the Council that now is the time for the City to let its concerns be heard. He stated that the developer states that the amendment will only change setbacks and lot density but stated it will also presume that any cluster development can become a destination resort.

Mr. Dewey stated that Aspen Lakes was approved as a cluster development with 65% open space and now the developer is attempting to change to 50% open space with the development of the destination resort. He stated the Aspen Lakes developer claims he is willing to pay for failing intersections but there is no mechanism in place that can make this a binding agreement for the City to insure the developer will provide this. He stated the objective for the text amendment is for greater development.

**Tia Lewis, Attorney with Schwabe, Williamson & Wyatt representing the Applicant**

**Tia Lewis**, attorney acting on behalf of the applicant for Aspen Lakes thanked the Council for allowing her the time to address them. She stated the applicant has not applied for a destination resort but the property owned by the Cyrus family and known as Aspen Lakes is currently zoned as a destination resort. She stated the text amendment that the applicant is requesting will only extend the existing benefits to a cluster development per State Goal #8.

**Ms. Lewis** distributed copies of the existing County Code that relates to destination resorts and a copy of the applicants proposed text amendment. She stated the requested text amendment is a small change in a section of the overall chapter. She stated the only changes the applicant is requesting is for an exception to set-backs as one road developed in 1999 in Aspen Lakes does not currently meet set-back requirements. She attributed this to the fact that it was originally developed as a secondary road. She stated the applicant is also asking for relief from the lot size requirement as destination resorts must meet a maximum average lot size of 22,000 square feet, a requirement that would create the need for a much denser development than the Cyrus family has planned.

**Ms. Lewis** stated the City is being asked to weigh in on the issue prior to the application for a destination resort being filed when it is unclear what the impacts will be. She stated the applicant plans to come to the City after the impacts have been quantified in order to discuss how those impacts can be mitigated. She acknowledges that there will be impacts – both positive and negative and the Cyrus family will discuss these impacts at the appropriate time. She stated the City is being asked to comment on an issue from property owners that do not even reside within city limits. She stated these property owners are asking the City to be involved in a fight between the property owner and their homeowners

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association. She stated that contrary to Mr. Dewey's statement the County does have the ability to condition approval upon the applicants ability to demonstrate how all public infrastructure will not be over-burdened by the development.

**Ms. Lewis** asked that the City take no position on this text amendment. She stated it is the City's job to protect the city of Sisters and determine that impacts, once identified, are mitigated. She stated to decide that the impacts to the city are too great at this time would be strictly speculative. She stated the property is eligible to become a destination resort at this time. She added that Mr. Dewey's comment that there will be a fight for mitigation credits is not applicable as the development already has all water rights necessary to develop the resort as shown on the development history.

**Councilor Weed** stated that Ms. Lewis stated the Cyrus's could apply for a destination resort at this time but it was her understanding that they are not eligible to apply as they are a cluster development. **Ms. Lewis** stated that was incorrect.

**Councilor Bell** asked if the applicant is still planning on filing for a destination resort even if the text amendment is not adopted. **Ms. Lewis** stated the applicant will and will ask for a variance for road standards and build at a density greater than planned.

**Merry Ann Moore, 69225 Hawks Flight Drive, Sisters, OR**

**Merry Ann Moore** stated what is not at issue is that the Cyrus family has contributed a lot to the community and are long time residents. She stated that tonight's focus is about the costs to Sisters and its taxpayers and stated the impacts of this proposed destination resort need to be carefully considered. She stated she is concerned that roads will be impacted even more significantly then they are at present and some intersections will fail. She stated that Sisters has a long history of requiring full payment for impacts from developers but collecting for impacts from the destination resort will not be something the City of Sisters can enforce as Aspen Lakes sits outside city limits. She added there is no requirement or provision for the County to assist with the cost of these impacts either.

**Ms. Moore** stated she wonders why, if Aspen Lakes is able to apply for a destination resort at this time, they have not. She stated the City needs to make certain the County knows the impacts this resort will have on roads in the area and to request the County requires improvements to the roads prior to allowing the resort to be built. She stated she is not reassured that there will not be impacts to water as the resort will be drawing groundwater and stated it will have an impact. She stated she is very happy to hear the developer speak about providing employee housing as that is very forward thinking. **Ms. Moore** asked the Council to consider the policy implications of a small city being built outside the urban growth boundary and stated the City should oppose this type of development. She stated

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the text amendment will set a precedence for developers to exploit other Central Oregon areas.

**Matt Cyrus, 16925 Green Drake Court, Sisters, OR 97759**

**Matt Cyrus** stated that with regards to impacts that the resort will have on City roads, his family has long supported the idea that development should help pay for its impacts. He stated his family has been donating to the Sisters School District capital improvement plan not because they have to, but because it's the right thing to do. He stated that his family will enter into a dialogue with the City on mitigations for impacts after they have been determined but currently there are still many studies in process. He stated that the entire Aspen Lakes development will fall entirely within the Cloverdale Fire District and the Fire District is very excited about the tax implications the resort will bring. He stated the water right permits were acquired in 1991 and in place when calculating water needs.

**Keith Cyrus, 17204 Highway 126, Sisters, OR 97759**

**Keith Cyrus** stated he assisted with building the Cloverdale Rural Fire Department and bringing 911 service to the area. He stated that when developing Aspen Lakes he put in fire hydrants that helped alleviate a significant amount of insurance costs to homeowners. He stated the Cloverdale Rural Fire District has always worked closely with the Sister-Camp Sherman Rural Fire District and has contributed to safety in the entire area.

**Pam Mitchell, 69339 Hinkle Butte, Sisters, OR 97759**

**Pam Mitchell** stated she grew up in Sisters and has seen many changes. She stated she has heard a lot of scare tactics tonight about what will happen but there is simply not enough information to know what the impacts will be. She stated when the Rim at Aspen Lakes was developed people made the same types of grim predictions. She stated her family has a lot of great things in mind for the property and that Sisters has been their home for a very long time.

**Jon Skidmore, on behalf of the Aspen Lakes applicant**

**Jon Skidmore** thanked the Council for the opportunity to speak and stated he wanted to address three items previously discussed. He stated the first is with regard to impacts to the City. He stated the applicant is willing to enter into an enforceable agreement for mitigation of impacts. He stated the second issue is with regard to the scope of the text amendment. He stated he worked with County staff to make this relief very narrow so it will apply only to cluster developments built prior to February 7, 1992 that include an 18 hole golf course and a restaurant. He stated there are no other development that will meet

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this criteria in the region. He stated the third issues relates to why the applicant has not yet applied for a destination resort. He stated it is an expensive endeavor to create a master plan and the applicant would rather develop the property at a lower density. He stated the applicant is happy to work with the City and will be back in a few months with a proposal. He asked that the Council not weigh in on the issue at this time.

**Paul Dewey**, Attorney for the Homeowners Association for the Rim at Aspen Lakes

**Mr. Dewey** stated the comment that the applicant is just asking for a text amendment is opening the door for a far broader issue. He stated that currently County legal staff as well as the Department of Land Conservation and Development (DLCD) have stated that the applicant can not presume that a cluster development can become a destination resort. He stated it is entirely appropriate for the City to provide comment to the County Commissioners at this time as later the City's comments will have no impact.

**Mayor Boyd** closed the public comment session.

**Mayor Boyd** stated there are three versions of the resolution and directed the Council to the version titled Resolution No. 2008-23a. He stated he agrees with Ms. Lewis that the City needs to look out for its citizens and would prefer to error on the side of caution with regard to this issue. He stated there are regional concerns that cities do not have the ability to collect fees for impacts. He stated he feels that Resolution No. 2008-23a best describes the concerns of the City with regard to potential impacts and states the City wants to be involved with decision made regarding these impacts.

**Councilor Weed** asked why he is not in favor of opposing the text amendment entirely. **Mayor Boyd** stated he feels that given where the City is at this point the version of the resolution he discussed is the appropriate response. **Councilor Weed** stated she is in favor of opposing the text amendment. She stated she is concerned with all the destination resorts that are going in and that the text amendment is paving the way for a resort the area does not need. She stated that another large development outside Sister city limits is not right for Sisters and she would prefer to take a stronger position.

**Councilor Merrill** stated that he is not in support of Resolution No. 2008-23. He stated that the decision to grant the text amendment is the County's to make, not the City's. He stated that so far it has been recommended by DCLD and County staff that the text amendment be denied. He stated the City's concern should be with regard to the conditions that are attached if the application is approved. He stated the time for the Council to speak is now and it will not do any harm and it might do some good. He stated the reason he prefers version Resolution No. 2008-23a is that addresses traffic concerns and states the City wants to go on record that it wants to be involved. He stated the Cyrus's have been

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great neighbors and will continue to be great neighbors and that as the process moves forward he is sure the City can obtain agreements in writing regarding mitigations. He stated he feels we owe it to the citizens of Sisters to voice concerns not opposition.

**Councilor Bell** stated she agrees with the language of Resolution No. 2008- 23a as the City will be an affected party of this resort and it is good to enlighten the Commissioners about the City's concerns. She stated she is not in support of outright opposition of the text amendment as a destination resort could bring positive benefits to the City. She stated she feels the resolution is a great compromise and she favors Mayor Boyd attending the public hearing to speak on behalf of the City and voice the City's concerns. She asked if there is a proposal coming before the Legislature regarding destination resorts and if a decision regarding the text amendment could be delayed until after that language is adopted by the State. **Manager Stein** stated Councilor Bell was referring to *The Big Look Committee*, and stated that language is being crafted but will not come before the Legislature until 2009.

**Councilor Kellstrom** moved to approve Resolution No. 2008-23a regarding Deschutes County text amendment 07-07 regarding the conversion of a cluster development to a destination resort. **Councilor Merrill** seconded the motion. The motion carried unanimously.

**B. Solid Waste Franchise with High Country Enterprises LLC**

**First Reading of Ordinance No. 381:** AN ORDANINANCE OF THE CITY OF SISTERS AMENDING SISTERS MUNICIPAL CODE SECTION 8.04 AND SECTION 5.06 AND GRANTING AN EXCLUSIVE SOLID WASTE FRANCHISE TO HIGH COUNTRY ENTERPRISES LLC AND DECLARING AN EMERGENCY

**Mayor Boyd** stated this was a procedurals matter and there would be no public comment period.

**Councilor Merrill** moved for a first reading of Ordinance No. 381, by title only. **Councilor Weed** seconded the motion. The motion carried unanimously.

**City Attorney Bryant** read Ordinance No. 381 by title only.

**C. Discussion and Consideration of a Motion** to Approve a Contract Addendum with DKS Associates in the Amount of \$6,500 for the Transportation System Update

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**Manager Stein** explained that this would amend the contract with DKS for the TSP update in the amount of \$6,500 and re-affirm authorization for previous contract amendments in the amount of \$22,000. She stated this will provide for two additional TSP project advisory committee (PAC) meetings.

**Councilor Bell** stated she was expecting the increase to the contract amount to be \$3,250. **Manager Stein** stated that \$3,250 was the amount listed on the draft agenda but that amount was a cost per meeting and since there are two additional meetings proposed the cost is \$6,500.

**Councilor Weed** asked why the original contract needed to be modified. **Manager Stein** stated that there has been a request for more PAC meetings than originally anticipated.

**Councilor Bell** stated she would like to see the Council approve only one more PAC meeting than the base contract and then negotiate if an additional meeting is needed. She suggested that with a four hour meeting scheduled for September 16<sup>th</sup> the Council could wait to see how much is accomplished before committing to two additional meetings.

**Councilor Kellstrom** asked if the Council needed to make the decision regarding the contract amendment this evening or if it could be postponed until after the September 16<sup>th</sup> meeting. **Manager Stein** stated it could wait. **Mayor Boyd** pulled the item stating the Council can decide how the contract needs to be amended after the meeting on September 16<sup>th</sup> in order to see what is accomplished.

**VII. OTHER BUSINESS**

**VII. MAYOR/COUNCILOR COMMENT**

**Councilor Merrill** asked if the changes to the franchise agreement noted on the August 14<sup>th</sup> meeting minutes have been added to the contract. **Attorney Bryant** stated the changes have been incorporated into the agreement.

**VIII. ADJOURN – 9:05 p.m.**

Respectfully submitted,

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Kathy Nelson, City Recorder

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Brad Boyd, Mayor