

WORKSHOP MEETING MINUTES
SISTERS CITY COUNCIL
520 E. CASCADE AVENUE
JUNE 04, 2009

MEMBERS PRESENT:

Lon Kellstrom Mayor
Bill Merrill Council President
Sharlene Weed Councilor
Pat Thompson Councilor
Jerry Bogart Councilor

STAFF PRESENT:

Eileen Stein City Manager
Steve Bryant City Attorney
Brad Grimm Public Works Director
Lisa Young Finance Director
Kathy Nelson City Recorder

ABSENT:

Pat Thompson Councilor

The meeting was called to order by Mayor Kellstrom at 8:04 a.m.

1. McKenzie Meadow Village Conditions of Annexation

Councilor Merrill read from the minutes of the regular meeting of April 23, 2009 where Acting City Attorney Klemp told the Council it could hold a workshop to discuss the annexation of the McKenzie Meadow Village (MMV) property but that there would be a concern if the Council had a workshop for the sole purpose of discussing the annexation of MMV with regard to the assisted senior living facility as that might be construed as a preliminary land use discussion. He asked what the Council can discuss without violating the exparte rules. **City Attorney Bryant** stated the Council should not discuss anything that might come before them as a quasi-judicial body. He stated the annexation agreement can be discussed with regard to the proposed or contractual uses but not land use. He stated the Council needs to have some idea of what is being proposed for the property and discussing a senior assisted living facility can be discussed. He stated land use items related to the facility such as set-backs, conditional uses and zone changes should not be discussed.

Councilor Weed stated it appears a discussion of that nature is like putting the cart before the horse and that if the Council is not going to consider annexing the property why should it go through all of the process. **City Attorney Bryant** likened the annexation agreement to the horse not the cart and stated the annexation in and of itself does not bind the Council to annex the property but rather sets the framework of conditions under which the Council will allow the annexation. He stated the agreement becomes a conditional contract that will contain provisions. He added if the Council is not going to consider the annexation agreement under any circumstances what so ever then it wouldn't be worth the time or money to work on the annexation agreement.

Councilor Merrill read from *The Handbook for Oregon City Councilors* that annexation must be consistent with the goals of Land Conservation and Development Commission (LCDC) or the City's Comprehensive Plan. He stated that since the original plan was for MMV to be developed mostly as residential and currently there is an excess of residential property available within the

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City, what are the chances that LCDC or Land Use Board of Appeals (LUBA) will outright deny the annexation or the annexation will be appealed. **City Attorney Bryant** stated that LUBA and LCDC will not appeal the annexation on their own and that an appeal by an individual will likely be unsuccessful as the usual reason for an appeal is failure to comply with annexation procedure. He stated that any property within the urban growth boundary (UGB) is subject to annexation and that LUBA will not second guess a decision made by a Council.

Manager Stein asked if the City must use up the lands already within the City before adding additional land. **City Attorney Bryant** stated the City does not need to if the new land provides benefit and it is in the UGB. **Manager Stein** that if there is an excess of land within city limits then the market can dictate what occurs. **City Attorney Bryant** stated the Council sets the policy on how the City will grow and what is appropriate to bring into the UGB. He added that bringing a property into the UGB is not a guarantee it will be used in a particular way unless that is spelled out in an annexation agreement. **Manager Stein** asked how an annexation agreement is enforced. **City Attorney Bryant** stated the annexation agreement is contractual between the City and property owner and any changes or deviations from that contract must be agreed upon by both parties.

Manager Stein stated the purpose of the annexation agreement is to set the conditions under which the Council will consider annexation of the property. **City Attorney Bryant** stated the agreement will describe the terms of the City but it must also be agreed upon by the property owner. He stated the agreement allows the Council to require special considerations that it might not otherwise be able to require in the normal land use process. **Manager Stein** stated that staff is looking to the Council to determine if they should to continue with the development of the annexation agreement and if so, what should be incorporated into the agreement.

Councilor Weed stated she needs to see an inventory of lands already within the City and asked how much sewer capacity there is and whether it is sufficient to serve the current land already within the city.

Councilor Merrill stated the staff report lists three options and states there will be no fiscal impact, which is unrealistic. He stated there will be significant fiscal impact. He stated the intent of the 30 acres in question with regard to the Comprehensive Plan was well known at the time it was considered and he supports option #3 to not move forward with the annexation agreement as there is no immediate need for the property. He stated the City doesn't even know if there will be a senior assisted living facility. He stated the Comprehensive Plan is the City's guiding document and it supports his view that there is a more than adequate supply of residential land. He stated there is a cost for the needed infrastructure. He stated the City needs to consider if it can adequately support the objective capital costs for educational, sanitary, storm sewer, transportation, police, fire protection, park land, recreation, open space, library, social services, power generation, power distribution and solid waste disposal needs of this development. He stated that new roads that are built will burden a system that already has inadequate funding for its

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road maintenance for existing roads. He stated the subjective costs of air quality, water quality, natural resources, noise, traffic congestion, pollution, loss of visual beauty and demise of a sense of community also need to be considered. He stated that research shows that even with the additional property tax the City will receive, the burden of the costs will be borne by existing property owners while the benefit goes to those in the newer areas. He stated that growth is not paying for itself. **Mayor Kellstrom** countered that Sisters has grown tremendously but is still fiscally strong and that claiming growth creates deficits is unrealistic without looking at the total picture. **Councilor Merrill** stated a previous senior center feasibility study showed that it takes approximately \$50,000 a year to operate a senior center and a demographic evaluation does not yet support the need for such a center in Sisters. He stated it is premature to spend tax payer funds on the project.

Councilor Weed stated the City does not need to bring in any additional land with its current inventory and the City should not take farm and forest land until the City is built out in the core. She stated it appears there is inadequate sewer capacity to serve all the lots in Sisters. **Public Works Director Grimm** stated that the City does have capacity depending on what in-fills first and that there is adequate capacity for all the buildable lots in Sisters but agreed it does not account for the Forest Service property and however it might be developed in the future. He stated that Black Butte Crossing, Sun Ranch Business Park, and Three Sisters Business Park were calculated as light industrial units during the 2004 capacity study and he will need to check with City Engineer Nored to see if the addition of housing units to those areas has increased or decreased the capacity needs. **Councilor Weed** stated the City cannot depend on data from a 2004 study and needs to look at the reality of the situation. **Councilor Merrill** stated that effluent capacity also needs to be considered. **Manager Stein** stated that conditions can be included in an annexation agreement to require an update of the wastewater master plan to insure there is adequate sewer capacity.

City Attorney Bryant stated that an update of the wastewater master plan is an appropriate condition for an annexation agreement. He stated it will help the City decide if the cost for adequate sewer capacity will need to be borne entirely by the developer of the Forest Service property since it was not included in the 2004 capacity study. **Director Grimm** stated that there is adequate effluent disposal area for that City for the next 50 years since the purchase of the Lazy Z property. He stated that collection will max out prior to disposal.

Councilor Weed stated she is not in favor of moving forward with the annexation agreement.

Councilor Bogart asked if the City moves forward with the annexation agreement if it is staying within the guidelines of the Comprehensive Plan. **City Attorney Bryant** stated the City will still be within its Comprehensive guidelines and there is no violation. **Councilor Bogart** stated he is in favor of moving forward with the annexation agreement.

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Mayor Kellstrom asked if an annexation agreement changes the City's boundary. **City Attorney Bryant** stated it does not change the boundary until the agreement ordinance is adopted. **Mayor Kellstrom** asked if the applicant has a requirement to prove to the City there is a need for a senior facility. **City Attorney Bryant** stated it does not and that the economic vitality of the project is not the City's decision to weigh in on.

Councilor Merrill reminded the councilors that at the pre-election debate that was held at Five Pine Conference Center last October, all five candidates agreed there was not a need to annex the MMV property. **Mayor Kellstrom** stated that facts and circumstances have changed since that time. **Councilor Bogart** stated that the worst economic conditions the country has ever seen has changed how the matter should be accessed. **Councilor Weed** stated that with the economic slowdown to bring in more property will be detrimental for the existing property owners in the City.

Mayor Kellstrom stated since he and Councilor Bogart would support moving forward with the agreement and Councilor Weed and Councilor Merrill are not in support of moving forward what direction should staff take. **City Attorney Bryant** stated that staff does not have clear direction from the Council without Councilor Thompson personally weighing in and will need to wait for him to return. **Mayor Kellstrom** stated the matter will be tabled until a time when Councilor Thompson can weigh in on the subject. **City Attorney Bryant** suggested that since there are such strong feelings regarding the matter he would suggest the decision be conveyed in the form of a motion at a regular meeting in order for the councilors to have their opinion become part of the record.

Councilor Merrill stated it is unfair to both sides of the issue to not provide Councilor Thompson with all the information provided and discussed at today's meeting and it is important for him to review all the materials. The **Council** agreed.

2. Preview 06/11/09 Meeting Agenda

Manager Stein provided an overview of the upcoming workshop and regular meeting. There was additional conversation on upcoming topics of discussion and business coming before the Council.

3. City Manager Update

Manager Stein reported the City was awarded an American Revitalization and Recovery Act (ARRA) grant in the amount of \$94,000 for Larch Street improvements.

Manager Stein reported that conversation continues with High Country Disposal (HCD) with how to handle excess yard debris. She stated the matter will be discussed further with HCD and the City Attorney.

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Manager Stein noted an article in the current volume of the Nugget Newspaper about a new taxi service available in Sisters. She stated that she will follow up with the owner of the taxi service business and alert him of the City's permitting requirement.

Councilor Bogart stated he received complaints about a Deschutes County Deputy harassing owners and patrons of local bars the previous evening. **Manager Stein** asked if he would like to follow up directly with Captain Edwards as he had previously requested, or if he would like staff to follow up. **Councilor Bogart** stated he will follow-up.

The meeting was adjourned at 9:50 a.m.

Respectfully submitted,

Kathy Nelson, City Recorder

Lon Kellstrom, Mayor