

REGULAR MEETING MINUTES
SISTERS CITY COUNCIL
520 E. CASCADE AVENUE
SEPTEMBER 24, 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 PW Director
Lisa Young Finance Director
Pauline Hardie Senior Planner
Kathy Nelson City Recorder

GUESTS:

Bruce Bailey HCD Owner

ABSENT:

Eric Porter Comm. Devel. Director

I. CALL TO ORDER/PLEDGE OF ALLEGIANCE

The meeting was called to order by Mayor Kellstrom at 7:16 p.m.

II. VISITOR COMMUNICATION

There was no visitor communication.

III. CONSENT AGENDA

A. Minutes

1. August 6, 2009 – Workshop (as amended)
2. August 27, 2009 – Workshop
3. September 3, 2009 – Workshop
4. September 10, 2009 – Regular Meeting

B. Bills to Approve

1. September Accounts Payable

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

Councilor Weed asked for clarification on the invoice from Flint Trading Inc., in the amount of \$4,926.95 for thermo plastic. **Public Works Director Grimm** explained the invoice was for the purchase of crosswalk striping paint. He stated the material lasts seven years as opposed to other paints that wear off very quickly.

Councilor Weed asked for clarification on the invoice from HGE Architects & Engineers in the amount of \$14,324 for water system improvements. **Director Grimm** explained the invoice was for the design work for the water project where old water lines are being moved

from the old water line and reconnected to the front of properties where the new water lines are located.

The motion carried unanimously.

IV. ACCOUNTS PAYABLE NOT ON THE CONSENT AGENDA

Councilor Merrill moved to approve the accounts payable not on the consent agenda. Councilor Weed seconded the motion.

Councilor Thompson stated he would refrain from voting due to a direct conflict of interest.

The motion carried unanimously with Councilor Thompson abstaining from the vote.

V. STAFF REPORTS

A. Brad Grimm, Public Works Director

Director Grimm asked for questions regarding his staff report.

Councilor Weed told Director Grimm that she has received a lot of positive feedback from community members on all the school sidewalk and bike path projects.

Councilor Weed asked if there has been a noticeable increase in stays at the Overnight Park since the improvements were made. **Director Grimm** stated it has been a very successful summer and the number of campers has doubled this season. He added that at the end of the season (generally October 15th) he will compare this year's revenue with last year's season and bring that information back to the Council.

Councilor Weed asked when the sidewalk infill on Main Street and Hood Avenue will take place. **Director Grimm** stated he had received the final design and specifications earlier in the day and expects the project to go out to bid next week. He stated that with the favorable bidding climate an even larger area will receive new sidewalks and parking spaces than initially thought. He stated that barring any extreme weather, the project will be complete before winter sets in.

Councilor Weed asked what streets will be affected by the south side water line improvements. **Director Grimm** stated the street involved are west of Elm Street and south of Jefferson Avenue. He stated the two part project will cost approximately \$250,000.

B. Eric Porter, Community Development Director

There were no questions on Community Development Director Porter's staff report.

VI. COUNCIL BUSINESS

A. Discussion and Consideration of Ordinance No. 389: AN ORDINANCE ADOPTING AMENDMENTS TO THE CITY OF SISTERS DEVELOPMENT CODE TO AMEND TIME DURATIONS FOR PERMIT APPROVALS AND EXTENSIONS

Councilor Merrill moved for the first and second reading of Ordinance No. 389, by title only. Councilor Weed seconded the motion. The motion carried unanimously.

City Attorney Bryant read Ordinance No. 389 by title only, twice.

Councilor Merrill moved to approve Ordinance No. 389 adopting amendments to the Development Code to amend time durations for permit approvals and extensions. Councilor Weed seconded the motion. The motion carried unanimously.

B. Discussion and Consideration of Resolution No. 2009-21: A RESOLUTION DECLARING A DESIRE TO PARTICIPATE IN THE SMALL CITIES ALLOTMENT (SCA) PROGRAM TO REPAIR OR IMPROVE CERTAIN CITY STREETS OF INADEQUATE CAPACITY OR IN DETERIORATED CONDITION

Councilor Merrill moved to approve Resolution No. 2009-21 declaring a desire to participate in the Small Cities Allotment (SCA) program to repair or improve certain city streets of inadequate capacity or in deteriorated condition. Councilor Weed seconded the motion.

Councilor Weed asked for an overview of the SCA program and the project the City is seeking funds for. **Director Grimm** explained that ODOT offers forty \$25,000 SCA grants a year for specific types of projects within small cities. He reminded the Council that a SCA grant was used for the recent sidewalk improvements on Cascade Avenue by the elementary school. He stated if this grant is received it will be used for pedestrian improvements on South Locust Street between East Jefferson Avenue and Tyee Drive and will include ADA compliant pedestrian continuity from Tyee Drive to the Creekside Park parking lot.

The motion carried unanimously.

VII. OTHER BUSINESS

A. Status Report on Garbage Franchise

Manager Stein distributed a garbage franchise status report and stated she needs direction from the Council on how to move forward with delinquent High Country Disposal (HCD) accounts. She stated that recent problems with a commercial and a residential account have brought the problem to the attention of staff. She stated in both cases the City has received complaints and in both cases the garbage cans have been pulled due to lack of payment. She stated that garbage is piling up in one instance and in the other, garbage is being dumped in a neighboring can without permission. She reminded the Council the City has a universal garbage service provision that requires all residential and commercial accounts to have garbage service.

Manager Stein reported that staff and HCD representative met on Tuesday to discuss how the franchise service is going. She stated the consensus was that all aspects of the service are going well with the exception of 36 delinquent accounts.

Manager Stein stated previously, when the City held its own garbage franchise, the City had the ability to turn off the water for non-payment, since any monies received were credited to garbage charges first, sewer charges second and water charges last. She stated shutting off the water at a location normally acts as enough of an incentive that bills are brought current right away. She added that many of the customers that have delinquent garbage accounts are also delinquent on their city utility accounts. **Manager Stein** discussed the following options available to the City to resolve delinquent garbage accounts:

1. *Delete the universal service requirement.*

Manager Stein stated that although the City has a nuisance ordinance if someone lets garbage pile up at a residence, this will not solve the problem and could potentially create a larger one. She stated this option would allow a customer to opt out of garbage service with the assumption that the person would haul their own garbage to the landfill.

2. *Take back the billing function from HCD.*

Manager Stein stated the current billing by HCD for its services is working well for a majority of customers.

3. *Create a low income rate for qualifying customers to relieve some of their financial burden.*

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Manager Stein stated this could ease the burden for some and should be implemented along with a water and sewer low income rate. She stated this is an option the City has discussed for customers before but will require some additional staff time to analyze the water and sewer accounts and requirements to qualify for the program.

4. *Send code enforcement letters.*

Manager Stein reported this option is already being used for delinquent accounts where accumulating garbage has been reported.

5. *Amend the garage ordinance to allow the city to instigate payment to HCD on the customer's behalf.*

Manager Stein explained this option could be used for delinquent accounts but will cost the customer more as the City will need to collect an administrative fee in addition to the monthly refuse fee. She stated it will once again allow the City to shut off a customer's water in the case of non-payment but the City would not be collecting past due amounts owed to HCD. She stated this option would hopefully motivate a customer to reactivate their account with HCD and bring it current in order to stop paying the administrative fee charged by the City.

6. *Code enforcement/citation – fine waived in lieu of proof of reactivating their account with HCD. If not reactivated, the citation will become a fine and the fine will become a lien.*

Manager Stein stated this option is already an alternative that will be used as necessary.

Councilor Thompson asked how many cities have universal garbage provisions. **City Attorney Bryant** stated the City of Redmond does but Bend does not. **Councilor Thompson** stated he feels the City had the universal garbage ordinance in place when the City was hauling the garbage but now that it does not it may not be necessary. He stated there is a nuisance ordinance to take care of that type of problem. He stated amending the garbage collection ordinance to allow the City to instigate payment on the customer behalf is just more work for City staff and doesn't pay.

Councilor Weed asked what recommendation HCD and staff have. **Manager Stein** stated she recommends setting up a low income rate and amending the garbage ordinance to allow the City to instigate payments to HCD from customers. She stated staff is already making use of the code enforcement options.

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Councilor Merrill stated that what is needed is an incentive to pay. He stated that since many of the garbage accounts that are delinquent with their city utility bill also, would it be possible to require that their HCD account also be brought current prior to turning their water back on if it is turned off. **City Attorney Bryant** stated the City can condition that in order for a customer to have their water turned back on they must also pay to bring their HCD account current also. He stated that illegal dumping in forest lands is a very big problem and a good reason for supporting a universal garbage service provision.

Finance Director Young stated that option would work well if customers are not paying either bill but there are some people that pay their City utility bill but do not pay their garbage bill. She added that whenever staff talks with customers they stress the City's universal garbage provision. **Director Grimm** stated there is also a distinction between people that are delinquent versus those that have their water turned off for non-payment, which is only a few each month. He stated a lot of people delinquent on their garbage service would be missed with this alternative.

Manager Stein reminded the Council that it only takes one situation for someone to call the County Health Department on the City for not enforcing its own ordinance, not the customer. She stated obviously the City wants to alleviate any possibility of that occurring.

Councilor Merrill asked what an enforcement violation letter says, how long it gives an individual to comply and who follows up. **Manager Stein** stated those tasks fall to the Planning Department and that each situation needs to be handled on a case by case basis. She stated the City tries to be compassionate and work with people. **Councilor Merrill** stated he was only making the point that code enforcement takes a lot of time to be done effectively.

Councilor Thompson stated Deschutes County does not have a universal garbage requirement all around the county and he feels the City is doing its part by having one. He stated it is up to HCD to collect whatever is owned to them and up to the City to enforce its nuisance ordinance. **Bruce Bailey**, owner of HCD, stated that with cities that have a universal garbage provision, it usually works well. He stated the problem with the choice to not have garbage service is many people don't haul their garbage to the landfill on a consistent basis and it tends to pile up. He stated that providing a low income rate might provide an option for those where the cost of service really does present a hardship. The **Council** agreed the City should implement a low income rate for services.

Mayor Kellstrom asked the Council members for their opinion on options #3 and #5 as recommended by staff. **Councilor Weed**, **Councilor Merrill** and **Councilor Bogart** stated they were in favor of the staff recommendation. **Councilor Weed** stated she was in favor of just paying the overdue amounts for the delinquent accounts as it would be less expensive than

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the amount given away at the discussion regarding the McKenzie Meadow Village annexation agreement. **Councilor Thompson** stated he was in favor of option #3 but voiced concern that option #5 will create more staff work. **Manager Stein** explained the administrative fee will be set high enough to recoup the City's cost. **Mayor Kellstrom** directed staff to move forward with implementing a low income rate and instigating payment for customers to HCD by amending the garbage ordinance.

Councilor Thompson left the meeting at 8:00 p.m.

B. Status Report on Action 31 Area of Whychus Creek

Manager Stein stated staff met with Ryan Houston and Mathias Perle of the Upper Deschutes Watershed Council (UDWC) to discuss Action 31 of the Whychus Creek Restoration and Management Plan. She distributed a handout on Action 31 and discussed the engineering design cost for this action, including hydraulic modeling at an estimate cost of \$125,000. She stated construction cost for this action is estimated to be \$1 million. She stated that UDWC is suggesting the design work be paid for with 50% coming from grants, 25% coming from the City and 25% coming from landowners. She stated UDWC suggested that grant funders will be more likely to fund the construction costs if there has been a good demonstration of local funding for the design work. **Manager Stein** discussed the options for determining the landowner's financial participation and asked the Council if the City should move ahead with the project area and if so, should the City participate financially. She stated she is concerned that if the City does not willingly participate financially that the National Marine Fisheries Service (NMFS) will compel the City to participate due to perceived risks under the Endangered Species Act (ESA). She stated the same holds true for requiring landowners to participate, with the concern it could be construed as an ESA liability. **Manager Stein** stated there is some possibility that the City might ask for participation from the County but that will be unknown until the hydraulic modeling is completed.

Manager Stein stated UDWC would like to begin the preparation of the request for proposal (RFP) and hold another neighborhood meeting by late October. She stated UDWC is looking to the City to make a financial commitment in order to get landowners and grant funders on board with the project.

Mayor Kellstrom stated that if the Council is going to consider the matter a workshop will likely need to be scheduled but there is little open time on the agenda calendar in the coming month. He voiced concern that the information received so far is all based on estimates as opposed to hard data. **Manager Stein** stated UDWC is quite comfortable with the cost estimate of \$125,000 to \$150,000 for the engineering design phase of the project.

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Councilor Weed asked if the City budgeted for the project. **Manager Stein** stated the cost for the project was deferred because the City had no idea of what the cost would be during the budget cycle. It was decided the item would need to be included in a supplemental budget.

Councilor Weed stated that she was comfortable with moving forward and committing to the \$30,000 participation from the City for the design work since there have been so many conversations with regard to this portion of the creek. She added she is concerned about how to inspire affected landowners to financially participate. **Manager Stein** stated she does feel that residents will be more inclined to participate when they know the City is also participating.

Councilor Merrill stated he doesn't feel the City really has much of a choice when one considers the steelhead that have been reintroduced into the creek. He stated he is in favor of the City moving forward with the project and participating financially. He stated it is important to have a discussion with the homeowners in Timber Creek and Creekside about the project. He stated he does not see how NMFS could compel citizens to have to pay for a portion of the fix. **Manager Stein** stated she spoke with UDWC representatives about this matter and was told that cities typically move forward with the assumption that there could be ESA liability. She stated that NMFS would not likely go after an individual landowner, but could come after the City. She stated the Department of Environmental Quality (DEQ) or NMFS will both be concerned with water temperature in Whychus Creek with regard to endangered species and improvements to riparian areas.

Manager Stein stated at present all the UDWC is looking for is a commitment in funding and they cannot move forward until all the funding for the design work is received. The **Council** discussed the matter and all but Mayor Kellstrom were in favor of participating. **Mayor Kellstrom** stated he is skeptical of the projected costs for the design and construction work. He stated Sisters is one of the three cities on the creek but he doesn't think the City is getting good information. He stated there are too many unanswered questions that he wants answered prior to giving any financial assistance to the design costs for Action 31. **Manager Stein** stated that she feels the City will have an opportunity to get answers to some of his questions when the cost for the fix at 370 Timber Creek Drive is determined. She stated that information will allow the City to extrapolate those numbers and determine actual costs for that reach of the creek.

Councilor Weed asked if the City will be asked to participate in that fix and **Manager Stein** stated the City will and thanked Councilor Weed for pointing that out.

C. Agenda Calendar

Manager Stein distributed the latest version of the agenda calendar to the Council and noted it is almost filled up for the remainder of the year. She asked if there were any topics not yet scheduled the Council would like to workshop before the end of the year. The **Council** discussed items and decided that transients merchant permits, the Development Code update, and community grant criteria are matters they would like to address prior to February 2010.

VIII. MAYOR/COUNCILOR BUSINESS

Councilor Weed reported she attended Project Connect at the Deschutes County Fairgrounds last weekend. She stated it was an amazing event considering the range of services offered and that it was very emotional to see the large number of people in need that reside in Central Oregon.

Councilor Bogart reported that Economic Development of Central Oregon (EDCO) has requested that Sisters assist with a list of items for the Strategic Action Plan. **Manager Stein** stated she will assist Councilor Bogart in compiling the list.

Mayor Kellstrom reported that he and Manager Stein attended the Central Oregon Cities Organization (COCO) meeting earlier in the week. He stated one item of concern discussed is that Deschutes River Conservancy (DRC) is required by federal mandate to have four elected officials on its board and for several years has had none. He stated COCO will address the issue with DRC.

Mayor Kellstrom reported that the meeting with representatives from NeighborImpact earlier in the week went very well. He stated discussion centered on how the City can tap into the resources available for home weatherization and rehab. **Councilor Merrill** asked City Attorney Bryant if it was a problem that four councilors had attended the meeting. **City Attorney Bryant** explained that there is no problem with four councilors being at a meeting together as long as no deliberation on City business occurs. He stated the Council cannot ask questions on an issue that will come before them at a later time either.

IX. ADJOURN – 8:30 p.m.

Respectfully submitted,

Kathy Nelson, City Recorder

Lon Kellstrom, Mayor