

WORKSHOP MEETING MINUTES  
SISTERS CITY COUNCIL  
520 E. CASCADE AVENUE  
OCTOBER 15, 2009

**MEMBERS PRESENT:**

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

**STAFF PRESENT:**

Eileen Stein      City Manager  
Steve Bryant      City Attorney  
Lisa Young      Finance Director  
Pauline Hardie      Senior Planner  
Kathy Nelson      City Recorder

**GUESTS:**

Curt Kallberg      MMV Property Owner  
Keith Sampson      Senior Housing Developer  
David Abbas      West Ridge Development Services

**ABSENT:**

Brad Grimm      PW Director  
Eric Porter      Comm. Dev. Director

The meeting was called to order by Mayor Kellstrom at 8:00 a.m.

1. McKenzie Meadow Village (MMV) Annexation Agreement

**Manager Stein** stated the staff report before the Council was prepared by City Attorney Steve Bryant. She asked the Council to consider City Attorney Bryant's comments regarding the level of community benefit being provided for in the draft agreement. She concurred that there was little community benefit in the annexation agreement at this point. She added contrary to MMV Development Engineer Jeff England's email comments on the staff report, the City has every right to ask for these provisions. She stated there is still work that needs to be completed prior to the agreement being ready to come before the Council for consideration. She stated the language in the agreement, the provision regarding the Parks Master Plan and cost of the water rights mitigation fee still need to be reviewed. She stated relative to the mitigation fee Mr. England has only stated he has a formula in mind but the methodology would need to be reviewed by the City's water rights specialist Adam Sussman prior to acceptance.

**Councilor Merrill** stated he had a procedural question related to the annexation process and the requirement for two votes. He stated the City needs to have a vote by the people and then the Council must also vote. He asked if when the annexation agreement comes back for a vote it then becomes a land use issue. **City Attorney Bryant** stated that annexing the property is not a land use issue but a discretionary action by the Council as long as the property being annexed is within the urban growth boundary and there is no zone change by the City associated with the annexation. **Councilor Merrill** stated that if the Council votes to annex the property it is in essence making a land use decision to change the zone from URA10. **City Attorney Bryant** stated that was not accurate as the developers of MMV clearly understand the property is coming in as URA10 and they must apply for the zone change in order to proceed with their plans. He stated if the developer cannot get the zone change it is their problem to solve.

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**City Attorney Bryant** stated that with regard to Mr. England's comment regarding exactions, there are massive indirect costs to the City and those must be balanced with the benefits that will come to the City once the property is annexed. **Councilor Weed** asked about Mr. England's comment that the City is asking for exactions that are not allowed in the normal land use process and therefore are "*deemed unconstitutional*". **City Attorney Bryant** stated laws have been created to keep developers and community in balance with regard to direct and indirect impacts. He reminded the Council that if the agreement is not equitable either side can decide against the agreement.

**Mayor Kellstrom** asked for an example of indirect costs. **City Attorney Bryant** gave an example of a piece of property coming in where 500 homes are going to be developed. He stated that while the developer will provide the infrastructure for those homes the City could have capacity issues with water and sewer lines in order to serve the property and that could be a burden on the City, or an indirect cost. He stated the City could require the developer to pay for upsizing of lines in an annexation agreement. He provided construction of a park in the area as a second example.

**Councilor Merrill** stated the answer to the question of what constitutes an indirect cost can be found in the publication entitled *The Real Cost of Growth*. He stated the article discusses the subjective and objective costs associated with growth and he stated he has tried to look at the annexation agreement with these costs in mind. He stated that with the passage of Measure 5 and Measure 50, property taxes and system development charges (SDC's) have not keep pace with the actual cost of growth which in turn passes the burden to the taxpayers. He stated taxes are either increased or services are reduced. He stated that Sisters is already designated a severely distressed community and the City won't receive appropriate recompensation from the taxes in the end. He stated it is not the role of the City to provide for the developer.

**Mayor Kellstrom** stated it is his understanding that the City has capacity to serve 131 equivalent dwelling units (EDU's) with the system as it exists. He stated it is understood that when the development surpasses that capacity any additional cost will be borne by the developer. He asked why there are still indirect costs. **City Attorney Bryant** stated that was not an example of indirect costs as it is clearly written that additional costs for capacity for over 131 EDU is the developer's burden. He stated that "soft" costs, such as environmental impacts, have not even been discussed. He stated if the Council leaves everything to the master plan process, not everything will be covered. He stated the Council needs to take the future into consideration when creating the agreement.

**Mayor Kellstrom** stated with regard to the park issue he thought it was already established the developer will build a park with four amenities after the senior living facility (referred to as 'the Lodge') is constructed. **Manager Stein** stated the number of amenities will be based on the number of housing units built. **City Attorney Bryant** stated amenities can be vastly different with regard to cost and the City should tighten up the language in the agreement if it wants

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something specific for the park. **Councilor Weed** stated it sounds like the developer could build a clubhouse and pool that was for residents only and that would qualify as amenities. **City Attorney Bryant** stated those amenities would qualify. He stated he has drafted the agreement as per the Council's instructions but wanted to make certain the Council understands and is not expecting to have something built in the future that will not happen. **Manager Stein** stated that everyone has a vision of what they are expecting and the Council needs to decide if the agreement captures those expectations.

**Mayor Kellstrom** stated that he keeps hearing that not everything is in the staff report even after all this time. He stated there are certain fundamentals to a park such as grass, paths and maybe children's play equipment and the City can decide to accept it as a public park or not. **City Attorney Bryant** stated those details are not tied down and the developer gets to decide on the amenities (from the new Development Code language) and whether the developer will offer the park to the City if it chooses.

**Councilor Weed** asked if the Parks Master Plan spells out what is expected for a park in that area. **Senior Planner Hardie** stated the plan refers to the park as a neighborhood park. **City Attorney Bryant** stated the Council asked that the agreement use the Development Code language with the expectation that it has a set list of amenities for a park but it does not. **Manager Stein** stated since the adopted Park Master Plan states there will be a Westside park it makes sense to include a park in the annexation agreement. **Mayor Kellstrom** stated the Council and developer agreed to a park at the previous meeting and the developer should have a list of six amenities and chose four for the park. **Manager Stein** stated the previous conversation included a discussion about including a public restroom which the developer did not seem agreeable to. She stated the restroom issue could be set aside and the City could pursue grant money for restrooms in the future. **Mayor Kellstrom** stated there was agreement for a park after the Lodge was built. **Councilor Merrill** stated the question is whether it will be a public or a private park. **Curt Kallberg, MMV developer**, stated he and the other developers have no problem donating a park to the City but don't want to maintain a restroom if it is a public park. **Mayor Kellstrom** stated that staff should talk with the developer about the amenities for the park. **Mr. Kallberg** stated he doesn't want to hold the project up over a restroom which isn't a big deal.

**Councilor Merrill** stated the big deal is the overall cost of the annexation and who pays for it. He stated he wants to make certain the annexation agreement does what it is expected to do. **Mayor Kellstrom** stated he doesn't think there is anything substantial that is being forgotten.

**Councilor Thompson** stated he felt the Council was rehashing the same information over and over. He stated the Council needs to go after what it really wants and the annexation agreement shouldn't be a roadblock to anyone. He stated there is a need to focus on types of affordable housing and infrastructure as it relates to sewer, water and road capacity. **Manager Stein** stated in this regard Mr. England's email refers to 146 EDU's not 131, a number of units not previously

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discussed. **Councilor Thompson** stated if the City has previously agreed to 131 EDU's then anything over that is at the developer's cost.

**Councilor Merrill** stated the City can't maintain the roads it has responsibility for already and this development will only increase the City's total road miles. **Councilor Thompson** stated he hasn't seen any staff report that brings up concern with water, sewer (up to 131 EDU's) and roads. He stated the developer has the burden of proof to get a zone change. He stated the areas of question lie with the park and system development charges (SDC's) calculation. He stated if the developer will not be addressing the park in a later land use process then it needs to be addressed in the annexation agreement with specific requirements. He stated the agreement also needs to make clear that the developer will not end up paying water rights mitigation twice.

**City Attorney Bryant** stated the developer only needs to build what is required by the Sisters Development Code without the agreement and a park is not required by the Development Code. He stated the Council has a vision and the developer has a vision but if it is not in the agreement it can be changed. The **Council** agreed to a public park owned and maintained by the City with the amenities to be determined by staff and the developer and included in the agreement.

**David Abbas, West Ridge Development Services**, asked if the park will be considered part of the open space requirement and **Manager Stein** stated it is included as a part of the open space.

**Mayor Kellstrom** stated that relative to the water rights mitigation issue and SDC's the City does not have a value. **Manager Stein** stated the number of EDU's will drive the water usage and determine the dollar amount for that usage. **City Attorney Bryant** suggested that a fee be established per EDU and for each EDU above 131 the calculation will be applied. He stated once the water rights mitigation fee is included in the SDC's it will act as an offset.

**Mr. Kallberg** stated it was his understanding that the mitigation fee will be paid as the permit is pulled and the **Council** agreed. There was discussion on the timing of the mitigation fee and the methodology that will be used. **City Attorney Bryant** stated the amount of water use should play a role in determining the mitigation fee and **Councilor Weed** stated that MMV should be required to pay for MMV water. It was determined the fees would be paid either when the permits are pulled or with the SDC's, dependent on the timing of the development.

**City Attorney Bryant** stated the only remaining issue is the size of the affordable dwelling units and **Councilor Weed** stated what is proposed by the developer is more than adequate. The **Council** concurred.

**Councilor Merrill** stated the City hasn't received objective justification from the developer for the development. He stated it is a matter of integrity. He stated an election for the people was held that stated the property would house an affordable senior living facility and an early childhood development center. He stated with all the changes proposed, the development will be

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nothing like the one the citizens voted to support. He stated he feels it is dishonest to say one thing and do another and that's the reason he will vote against the project.

**Manager Stein** stated she wanted to make certain the Council realizes that the number of living units will drive the number of affordable units that will be built. She stated she also wants to make certain that Exhibit A, referred to in the agreement, will come from the developer. The **Council** also concurred that the agreement should designate the senior living center will be no less than 6.3 acres.

**Councilor Merrill** asked if the Council is satisfied with the taxpayer picking up the tab for the cost to produce the agreement considering the length of time it has taken. He stated he does not think it is the responsibility of the taxpayers to pick up the tab as it is not their fault the process has taken so long. **Councilor Weed** agreed but **Councilor Thompson, Councilor Bogart** and **Mayor Kellstrom** stated they were not in favor of imposing any additional fees on the developer.

**Councilor Weed** asked why the agreement does not specify a timeline for the senior center being built prior to other segments of the development. **Manager Stein** stated that would be a policy decision for the Council. **Councilor Merrill** stated Councilor Weed has a valid point and **Councilor Thompson** agreed. **Mr. Kallberg** stated it is his understanding the senior living facility will be built in phases and it wouldn't make sense to built the single family dwellings first. **City Attorney Bryant** stated that requirement would put pressure to get the Lodge completed before homes are started. The **Council** agreed that an occupancy permit cannot be granted for any other dwelling unit until at least the first phase of the senior living facility is completed.

**Manager Stein** stated that there have been many changes to the agreement at the workshop and there would not be an opportunity to workshop the agreement again if the Council wanted to vote on it at the next regular meeting. After further discussion the **Council** directed staff to include the agreement on the regular meeting agenda if they were able to complete the changes.

**Mayor Kellstrom** called for a break at 10:20 a.m. The meeting reconvened at 10:25 a.m.

## 2. Preview 10/22/09 Workshop and Regular Agenda

**Manager Stein** previewed the upcoming workshop and regular meeting agendas. She stated in light of the conversation earlier in the evening a 5:30 workshop would be added to the agenda to discuss the MMV annexation agreement. She stated the joint workshop with the Planning Commission to discuss the Endangered Species Act (ESA) Risk Assessment was scheduled at 6:00 p.m.

**Councilor Merrill** stated he thought the City should extend an invitation to representatives from other affected agencies such as Deschutes County, Deschutes Land Trust, Oregon Department of

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Fish and Wildlife (ODFW) and the like to attend the workshop as assessing risk is an important issue facing all the agencies. **Manager Stein** stated the invitation would be extended.

**Manager Stein** stated a representative from Central Oregon Community College (COCC) will speak during visitor communication to encourage the Council to support the COCC Bond Measure on the November 3<sup>rd</sup> ballot by adopting a resolution of support.

**Manager Stein** stated consideration of an ordinance to adopt a low income discount for monthly water and sewer costs will also be added to the regular meeting agenda.

3. City Manager Update

**Manager Stein** reported on an Oregon Department of Transportation (ODOT) agreement the City received with regard to the City's commitment to provide \$3,000 for FY09/10 for the Cascades East Transit (CET) program. She stated that while the City's commitment is only for \$3,000, the entire transit agreement is for \$49,000 which is above her spending authority, and she wanted to make certain the Council was comfortable with her signing the agreement. The **Council** stated it was acceptable for Manager Stein to sign the agreement.

**Councilor Merrill** stated it had been some time since the Council has received a ridership report from CET. **Mayor Kellstrom** stated he would be interested in knowing what percentage of seat occupancy there is. **Councilor Thompson** stated an update on the proposed intermodal program would also be of interest. **Manager Stein** stated she would get an update and report back to the Council. **Councilor Thompson** asked when a shelter for the Park & Ride lot would be built. **Manager Stein** stated a permanent location for the shelter has not been identified yet.

**Manager Stein** reported the October 29<sup>th</sup> workshop meeting scheduled for 8:00 a.m. on the Housing Plan was inadvertently noticed as beginning at 6:00 p.m. She asked if the Council wanted to change the workshop time to align with the notice or have the City reprint a corrected time for the workshop. The **Council** preferred the workshop remain scheduled for 8:00 a.m. and **Manager Stein** stated the corrected time would be noticed by the Planning Department.

**Manager Stein** stated the Development Code update will go to the Planning Commission for review prior to coming to the Council for adoption.

The meeting was adjourned at 10:42 a.m.

Respectfully submitted,

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Kathy Nelson, City Recorder

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Lon Kellstrom, Mayor