

JOINT COUNCIL/PLANNING COMMISSION WORKSHOP MEETING MINUTES
SISTERS CITY COUNCIL
520 E. CASCADE AVENUE
OCTOBER 22, 2009

MEMBERS PRESENT:

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

ABSENT:

Pat Jerry Councilor

PLANNING COMMISSION:

Daryl Tewalt Commissioner
Ed Protas Commissioner
Chuck Humphries Commissioner

ABSENT:

David Gentry Commission Chair
Alan Holzman Commission Vice Chair
Dominic Debari Commissioner
Michael Preedin Commissioner

STAFF PRESENT:

Eileen Stein City Manager
Eric Porter Comm. Dev. Director
Lisa Young Finance Director
Paul Bertagna PW Project Coord.
Laura Lehman Associate Planner
Kathy Nelson City Recorder

ABSENT:

Brad Grimm Public Works Director

GUESTS:

John Runyon ICF Jones & Stokes
Joanne Richter Watershed Pro Ntwrk
Katrina Van Dis COIC Program Coord.

The meeting was called to order by Mayor Kellstrom at 6:02 p.m. Introductions were made.

A. Endangered Species Act (ESA) Risk Assessment for the City of Sisters

Katrina Van Dis, Central Oregon Intergovernmental Council (COIC) Program Coordinator began the meeting by explaining that COIC, along with the cities of Sisters, Bend, Redmond and Prineville as well as Deschutes, Jefferson and Crook Counties hired Jones & Stokes to perform an Endangered Species Act (ESA) environmental risk assessment. She introduced John Runyon of ICF Jones & Stokes and Joanne Richter of Watershed Professionals Network to present the findings.

Mr. John Runyon of ICF Jones and Stokes provided background stating the focus of the assessment was on Mid-Columbia steelhead. He stated the species was listed as threatened in 1999 and more recently the Steelhead Conservation and Recovery Plan developed by the Oregon Department of Fish and Wildlife (ODFW) was in response to that ESA listing. He explained the plan includes the Upper Deschutes introduction of the steelhead with the westside population unit inhabiting the Metolius and Whychus Creek and the eastside population unit inhabiting the Crooked River. He stated the stock came from the Round Butte Hatchery stock and the National Marine Fisheries Service (NMFS) is developing an Experimental Population Rule as it specifically relates to the Upper Deschutes.

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Mr. Runyon stated the key questions driving the project were whether the jurisdictions have exposure to ESA “take” liability, what can be done to improve practices and mitigate that liability and whether the jurisdictions should join the Habitat Conservation Plan being prepared under the direction of the Deschutes Basin Board of Control, the irrigation districts in the region. He stated in order to determine the answers six areas of activity were evaluated; 1) land use, 2) stormwater management, 3) pesticides use, 4) routine road maintenance, 5) surface and groundwater withdrawals and 6) wastewater discharge. He stated the evaluation was based on the following approaches:

- Best Management Practices
- Links to Steelhead Habitat
- ESA Case Law Review

He stated each category was scored with one to three stars; one star meaning the policy or practice was inadequate to address ESA risk, two stars meaning there was some ESA risk and three stars meaning the policies and practices were adequate to address ESA risk.

Mr. Runyon stated the evaluation for the City of Sisters was centered on the steelhead present in Whychus Creek and any risks to their habitat, either directly or indirectly. Relative to the assessment, he stated, the City of Sisters has risk in the areas of surface withdrawals and stormwater management; and some limited risk related to land use, pesticide use and routine road maintenance. He stated the City adequately meets standards relative to wastewater discharge and groundwater withdrawals.

Mr. Runyon began discussing the report’s suggestions for the different categories that will allow the City to minimize its “take” liability.

Mr. Runyon stated the area of greatest risk for the City is water withdrawal and stated the City should update its irrigation water intake on Whychus Creek to NMFS fish protection standards.

Manager Stein stated this relates to the water withdrawal from the Uncle John Ditch on the Lazy Z property. She reminded the Council that discussion has occurred about placing a fish screen on Uncle John Ditch to alleviate the problem.

Mr. Runyon discussed the ESA risk associated with land use which he characterized as floodplain and riparian issues. He stated the greatest risk is with new development and making certain to avoid, minimize and mitigate impacts on floodplain habitat. **Joanne Richter, Watershed**

Professional Network stated that chapter four of the Whychus Creek Management Plan deals with recommended changes to the City’s Development Code language to insure better protection.

Commissioner Humphreys asked who would be financially responsible if a house located in the floodplain were to burn down and the homeowner was not allowed to rebuild. **Ms. Richter** stated that was a good question but unfortunately one that does not have an answer at present. **Manager Stein** asked about the situation of uncompleted subdivisions along the creek and what the City’s responsibility is as it relates to allowing development of the lots to continue. **Mr. Runyon** stated that is also an unanswered question at this time.

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Mr. Runyon discussed the ESA risk associated with stormwater stating that adopting the *Central Oregon Stormwater Manuel* would significantly reduce the risk of the stormwater getting into the aquatic system. **Councilor Merrill** asked if stormwater he was talking about relates to just those areas adjacent to Whychus Creek or if it applies to the entire city. **Ms. Richter** stated the recommendation is to minimize any stormwater flowing or absorbing into the aquatic system regardless of its location. **Community Development Director Porter** stated that currently the City requires bio-swales for industrial development but it is hard to enforce in residential areas unless it is a planned community. **Ms. Richter** and **Mr. Runyon** outlined other steps the City can take to minimize liability. **Public Works Project Coordinator Paul Bertagna** stated the City does not discharge any stormwater into the creek because of the *Clean Water Act*. **Ms. Richter** stated that some jurisdictions have begun to make street standards narrower to make them less impervious to run-off. **Mr. Runyon** stated the City needs to consider preparing a stormwater master plan to identify system deficiencies and capital facility needs.

Mr. Runyon stated although the City rarely uses pesticides or herbicides, it should be aware of and employ best management practices with guidance from NMFS.

Mr. Runyon stated the City's road maintenance practices are up to Oregon Department of Transportation (ODOT) standards and the City only need to document those practices in order to comply.

Mr. Runyon discussed the implementation of the NMFS Experimental Population Rule and the timeline associated with the rule where exposure to legal liability will be waived for an as of yet undecided timeframe in order to provide adequate time for jurisdictions to make the necessary steps to minimize its risk. He stated the Mid-Columbia Steelhead Recovery Plan provides an opportunity for the City to obtain funding to assist with the steps it needs to take.

Commissioner Humphreys asked if it is the amount of surface water taken or how that surface water is taken that presents a problem. **Mr. Runyon** stated it is both, but mostly how the water is taken that presents a problem.

Project Coordinator Bertagna asked if there was potential the steelhead will be downgraded on the ESA list and **Mr. Runyon** stated it was unlikely and he did not foresee that happening.

Manager Stein asked what other cities and counties Mr. Runyon has made presentation to are doing next. **Mr. Runyon** stated he is unaware of any specific plans but recommended the next step should be creating an action plan. He stated the City should also work collectively with COIC on identifying funding sources in order to leverage those resources across jurisdictions. **Ms. Van Dis** stated that COIC is looking for input from the participating agencies on what to do with the remaining funds from the study.

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B. City Manager Update

Due to lack of time there was no City Manager update.

The meeting was adjourned at 6:58 p.m.

Respectfully submitted,

Kathy Nelson, City Recorder

Lon Kellstrom, Mayor