

REGULAR MEETING MINUTES
SISTERS CITY COUNCIL
520 E. CASCADE AVENUE
JUNE 23, 2016

MEMBERS PRESENT:

Chris Frye	Mayor
Nancy Connolly	Council President
David Asson	Councilor
Amy Burgstahler	Councilor
Andrea Blum	Councilor

STAFF PRESENT:

Rick Allen	City Manager
Jeremy Greene	City Attorney
David Allen	MMV Attorney
Patrick Davenport	CDD Director
Joe O'Neill	Finance Officer
Paul Bertagna	PW Director
Kathy Nelson	City Recorder

I. CALL TO ORDER/PLEDGE OF ALLEGIANCE

The meeting was called to order by Mayor Frye at 7:08 p.m.

II. VISITOR COMMUNICATION

Suzanne Pepin, Sisters, OR

Ms. Pepin stated she was speaking on behalf of a growing number of Sisters Country residents concerning the negative impacts of the Sisters Airport and in particular the noise and safety issues surrounding the new skydiving operation. She stated surrounding residents were also concerned with an even greater possibility of negative impacts due to the proposed expansion of other commercial activities at the airport. She requested the Council carefully scrutinize any further operations at the airport that includes a thorough and unbiased cost/benefit analysis for the quality of life consideration beyond the future economic benefit for a very few at a cost for many. She stated she was pleased the City had taken a stand against light pollution in the night skies and asked for the same consideration to be given in the dawn through dusk skies.

Bruce Mason, Sisters, OR

Mr. Mason state he was also concerned with the new skydiving business and the degradation to quality of life for anyone living in Sisters Country during hours of operation. He stated concerns brought to the attention of the airport had been met with the response to "get used to it". He noted the airport had been upgraded at public expense and the airport was now asking for additional funds. He stated beside the noise concerns there were real safety issues that should be addressed regarding the landing of the skydivers and plane. He stated with the drop site for the skydivers so close to Barclay Road there was the possibility of a skydiver landing on the road which often has heavy traffic. He stated with a sports parachutes, divers were able to execution dramatic acrobatic stunts which were extremely distracting to drivers. He noted he had dodged a distracted driver and it was only a matter of time before an accident occurred. He stated Sisters had always made efforts to keep its small town feeling and one small business from out of state had come in and diminished the quality of life for many.

City Manager Rick Allen reported he had met with airport personnel and members of the neighboring homeowners association. He stated he would be meeting with the owners of the skydiving operation the following week to discuss the issues raised. He reminded the Council that many of the issues raised were out of the City's control and the City would be unable to solve a lot of the problems. He explained the City had no authority to control planes once they were in the sky where pilots were required to follow the rules and regulations of the Federal Aviation Administration (FAA).

III. CONSENT AGENDA

A. Minutes

1. May 12, 2016 – Regular Meeting
2. June 09, 2016 – Workshop
3. June 09, 2016 – Regular Meeting

B. Bills to Approve

1. June Accounts Payable

Councilor Blum moved to approve the consent agenda. Councilor Connolly seconded the motion. The motion carried unanimously.

IV. STAFF REPORTS

- A. Deschutes County Sheriff's Office – No questions

V. COUNCIL BUSINESS

A. **Public Hearing and Consideration of Resolution No. 2016-20: A**

RESOLUTION OF THE CITY OF SISTERS ADOPTING A SUPPLEMENTAL BUDGET AND ESTABLISHING APPROPRIATIONS WITHIN THE FY 2015-16 BUDGET

Finance Officer O'Neill explained the supplemental budget was to increase Personnel Services for the severance payment for the former City Manager.

Mayor Frye opened the public hearing for anyone that wished to speak regarding Resolution No. 2016-20. As there was no one that wished to speak, **Mayor Frye** closed the public hearing.

Councilor Blum moved to approve Resolution No. 2016-20 adopting a supplemental budget and establishing appropriations within the FY 2015-16 budget. Councilor Burgstahler seconded the motion. The motion carried unanimously.

B. **Public Comment and Consideration of Resolution No. 2016-21: A**

RESOLUTION OF THE CITY OF SISTERS AMENDING THE MASTER FEE

SCHEDULE FOR SOLID WASTE COLLECTION FEES WITHIN CITY
LIMITS PROVIDED BY THE SOLID WASTE FRANCHISEE

Finance Officer O'Neill stated High Country Disposal (HCD) was requesting an 8.5% increase to their rates for both residential and commercial accounts that would be effective August 1st. He stated that equated to approximately a \$1.68 increase for residential customers regardless of the size of their refuse container. He reported HCD would also begin waiving the \$12 per month charge to commercial businesses for a cardboard recycling container. He stated staff had reviewed the financial statements and found the request to be reasonable. He added that even with the increase, Sisters would still have the lowest rates in the area.

Mayor Frye asked if there was anyone that wished to comment on Resolution No. 2016-21.

Brad Bailey, High Country Disposal

Mr. Bailey introduced himself as owner and president of HCD. He stated Finance Officer O'Neill had summarized HCD's submittal well and noted Sisters provides a high level of service for its citizens, of which the City should be proud. He stated removing the cost for a commercial business to have a cardboard recycling container would take some pressure off of not only the businesses but the recycling depot where some businesses transported their cardboard for recycling.

Councilor Connolly asked if Sisters was the only city receiving the fee increase and **Mr. Bailey** confirmed it was.

***Councilor Burgstahler** moved to adopt Resolution No. 2016-21 amending the master fee schedule for solid waste collection fees within the city limits provided by the solid waste franchisee. **Councilor Blum** seconded the motion. The motion carried unanimously.*

C. Continued Public Hearing and Consideration of a Remand by the Land Use Board of Appeals (LUBA) of Case No. 2015-063 in Reference to Findings Previously Approved by the City Council Associated with City Land Use File # AP 15-02, MOD 15-05 and SP 15-01, and Remanded Back to the City Council by LUBA for Additional Findings of Fact. The subject project is known as McKenzie Meadow Village and the appeal is associated with a proposed assisted living facility within the project site.

Mayor Frye read from the public hearing script for LUBA Case No. 2015-063 in reference to findings previously approved by the City Council associated with City Land Use File # AP 15-02, MOD 15-05 and SP 15-01, and remanded back to the City Council by LUBA for additional findings of fact. He called the hearing to order. He described how the hearing would be conducted and how to provide testimony. He asked for disclosures from the City

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Council and there were none. There were no members of the audience that wished to challenge the ability of any member of the Council to hear the matter. He asked for the staff report and items being submitted into the record.

Director Davenport submitted a letter from Attorney Seth King attorney for the appellant, dated June 23rd, requesting the Council deny the applications. He stated he was deferring to Attorney David Allen to discuss the items in the record.

Attorney David Allen recapped how the previous year the Council had taken up the appeal on the Planning Commission decision on the site plan and master plan. He stated there were a number of exhibits including two items that were previously not in the record. They included the June 23rd letter from Attorney Seth King submitted into the record by Director Davenport and the letter from Laura Craghead dated May 6, 2016 that initiated the remand procedure. LUBA remanded the appeal back to the City due to confusion as to which staff report and findings the Council had intended to adopt. He explained LUBA did address some additional issues with the appeal to the site plan and modification. He noted while the original plan called for 82 units, the modified plan called for 45 units of senior assisted living facility and 12 units of memory care and while common sense would lead one to understand that a total of 57 units versus 82 units would have less impact, LUBA had recommended providing additional findings and facts to support the assumption. **Attorney David Allen** stated staff was recommending the Council vote to deny the appeal and reaffirm the Planning Commission decision.

Mayor Frye asked if the appellant would like to testify. **Attorney David Allen** noted there was not a representative present and Attorney Robinson had indicated to him the submitted letter would be in lieu of testimony.

Mayor Frye asked if the applicant would like to testify.

Laura Craska Cooper, Brix Law LLP
Laurie Craghead, Attorney at Law

Ms. Cooper introduced herself and her co-counsel Ms. Craghead noting they were not law partners but were working together on the case representing MMV. She stated it was unfortunate to have the important and much needed project delayed by the procedural maneuvers of Pinnacle Alliance Group. She stated she and Ms. Craghead agreed with the draft findings with some modifications which they would review with the Council. She explained it was much easier to have all the findings included in one documents and she knew this was LUBA's preference also since it was less confusing for everyone. She stated there were a number of items not challenged by Pinnacle but in order to make certain they would not be raised in the future, those issues would also be addressed. She stated she wanted to clarify Attorney David Allen statement there would actually be 57 units for senior

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assisted living care per the definition of Sisters Development Code Section 1.3.300. She noted while 12 of the units would be designated for memory care they also qualified as senior assisted living units per the definition in Sisters code. She stated some items had been included in the record but not specifically listed. They included:

- Original Application and all Burden of Proof Materials
- 05/26/16 Staff report to the City Council on the Matter
- 06/23/16 Proposed Findings to the City Council
- 06/08/15 Letter from Kevin Cox of Ageia Health Services
- 03/19/15 Letter from City Engineer Erik Huffman
- 06/15/16 Letter from Kevin Cox of Ageia Health Services
- 2010 Water System Impact Statement
- 05/06/16 Letter Commencing the Remand Proceedings

Ms. Cooper stated the Kevin Cox draft letter initially referenced as 04/26/16 in the previously submitted material was actually signed on June 15, 2016 and the correct copy was submitted on June 17th to the City. She noted the letters dated June 14, 2016 and June 16, 2016 along with the June 15, 2016 Kevin Cox letter constituted the impact study for parks and noise. She stated letters from Jim Frost and Scott Ferguson, both licensed engineers, indicated there would be fewer impacts with the modified plan as opposed to the original plan submitted for senior assisted living units. She stated the appellant's claim there could be more impact since some of the rooms would have two beds was incorrect in that, as indicated in Mr. Frost's letter, each unit, regardless of the number of beds, was measured by equivalent dwelling units (EDU's) and all the units were considered to be .7 EDU's.

Ms. Craghead stated that besides recommending the appeal be denied and the Planning Commission decision be affirmed, she was requesting the Council also adopt the resolution with findings before them. She explained each of the edits to the final findings which included changes on pages 6, 9, 13, 16 and 81.

Kevin Cox, Ageia Health Services

Mr. Cox stated he wanted to clarify the letter he received from the State with regard to licensing. He explained a letter was issued by the State once it had accepted the market study and determined the need. He stated a potential license was granted but the actual license was only issued once the facility was built and the State was certain all safety regulations had been met.

Mayor Frye asked if there was anyone else that wished to testify in support of the appeal and no one stepped forward. **Mayor Frye** asked if anyone would like to testify in opposition to the appeal and no one stepped forward. **Mayor Frye** asked if anyone would like to provide neutral testimony and no one stepped forward. There was no rebuttal testimony. **Mayor Frye** closed the public testimony and asked if staff had any additional comments.

They did not. **Mayor Frye** asked if any Council members had any questions or clarifications they would like to ask staff.

Mayor Frye asked for a recap of the appeal and asked if there could be any further appeals forthcoming. **Attorney David Allen** replied the remand could be appealed to LUBA. He stated there was a separate LUBA appeal regarding MMV relating to an extension of time for the subdivision that was unrelated to the remand the Council had just heard. He explained LUBA appeal decisions could be appealed to Circuit Court and were required to be heard. After Circuit Court, petitions to appeal could be made to the Oregon Supreme Court but the Supreme Court would need to grant the petition before it would hear any case.

Mayor Frye closed the public hearing and asked for additional questions from the Council. **Councilor Connolly** stated she was pleased to see the issue regarding the surrounding neighbor and traffic was being addressed as a separate issue.

***Councilor Connolly** moved to approve Resolution No. 2016-22 denying the appeal regarding City land use files, MOD 15-05 and SP 15-01 as stated in the finding of facts and conclusions of law as stated in Resolution No. 2016-22. **Councilor Burgstahler** seconded the motion. The motion carried unanimously.*

VI. OTHER BUSINESS

A. Server Upgrade

Finance Officer O'Neill reported server upgrades had been recommended by Velox, the City's contracted IT service provider. He noted the appropriations had already been budgeted.

B. Legislative Priorities

City Manager Rick Allen reported the League of Oregon Cities (LOC) had sent out a list of 29 legislative objectives and were requesting each city identify its top four legislative priorities it would like to see LOC address in the next legislative session. The **Council** discussed the issues and chose the following four as their priorities:

- ❖ Housing Assistance Program
- ❖ PERS Reform
- ❖ Transportation Funding and Policies
- ❖ Water/Wastewater Infrastructure

VII MAYOR/COUNCILOR BUSINESS

- A June 30th workshop was scheduled to discuss the criteria to be used for a permanent city manager.
- Review of the Request for Proposals (RFP) the City received for City Attorney services will also take place at the June 30th meeting.
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- The need for an urbanization study was discussed. **City Manager Rick Allen** cautioned the Council from jumping around and trying to have staff focus on too many issues at one time. He stated there were many important issues that all required staffs time and they needed to be prioritized. He suggested the urbanization study could be postponed until some of the issues identified during the joint workshop with the Planning Commission were addressed. He stated updating the outdated Municipal Code was more important in his opinion.
- **Director Davenport** provided an update on the Housing Policy Advisory Board stating sufficient applications had not been received to fill the seven member board so far. **Mayor Frye** stated if there were insufficient applications the board would not be appointed. **Councilor Burgstahler** stated she was concerned with the inherent conflict of interest by having individuals that oversee affordable housing programs involved in the board. **City Manager Rick Allen** questioned what the job of the Housing Board would be since the Planning Commission was already working on the issues of small houses and small lots and staff was working on affordable housing and SDC waivers. He asked what the board's mission would be and who the board would report to.
- System Development Charge (SDC) waivers were discussed. **City Manager Rick Allen** noted there were currently a minimum of 10 affordable housing units from Housing Works and Habitat for Humanity that would or had already requested the waivers. He stated the Council needed to discuss if the SDC's would be waived versus the City paying the fees. **City Attorney Green** reminded the Council to not engage in discussion with the Planning Commission or people in the community regarding SDC waivers since they could be the appellant body to make a final decision on the matter.
- **City Attorney Green** discussed the City Charter's mandate that required a 50 year period of affordability in order to qualify for SDC's waivers. He explained it was the Council's prerogative to interpret its Charter, and while he agreed the Charter was somewhat unclear on the matter, he felt the Charter could be interpreted to mean homeowners would be required to meet the eligibility requirements when they purchased the home but their income would not need to be monitored after that. He stated any successor moving into the home would also need to meet eligibility requirements. He stated that practice would be consistent with other similar programs. He stated a ground lease that would articulate the policy would be drafted and brought to the Council for approval and a land use document would spell out the requirement the housing unit's needed to stay affordable for the 50 year period.
- **City Attorney Green** stated he would email the memo he had written relating to residency requirements and length of term for an Interim City Manager to the Council.
- **City Manager Rick Allen** stated he had met with Sisters Economic Development Manager Caprielle Lewis to discuss the creation of a local Economic Development Advisory Board to provide local perspective and oversight.

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- **City Manager Rick Allen** advised the Council edits to the current Agenda Item Summary (AIS) form would be forthcoming. He stated it was not necessary or prudent to have all directors sign off on all staff reports since requesting concurrence from a director on a topic they were not involved with served no purpose.

VIII. ADJOURN – 9:00 p.m.


Kathy Nelson, City Recorder


Chris Frye Mayor