

REGULAR MEETING MINUTES
SISTERS CITY COUNCIL
520 E. CASCADE AVENUE
JANUARY 08, 2015

MEMBERS PRESENT:

Chris Frye Mayor
McKibben Womack Council President
David Asson Councilor
Wendy Holzman Councilor
Nancy Connolly Councilor
Brad Boyd Former Mayor

STAFF PRESENT:

Andrew Gorayeb City Manager
Steve Bryant City Attorney
Lynne Fujita-Conrads Finance Officer
Paul Bertagna PW Director
Pauline Hardie CDD Director
Kathy Nelson City Recorder

I. CALL TO ORDER/PLEDGE OF ALLEGIANCE

The meeting was called to order by Mayor Boyd at 7:00 p.m.

II. RECOGNITION OF OUTGOING MAYOR

Council President Womack presented outgoing Mayor Brad Boyd with a plaque and certificate of appreciation and thanked him for his service to the city.

III. OATH OF OFFICE FOR ELECTED COUNCILORS

City Attorney Bryant administered the oath of office to councilors-elect David Asson, Nancy Connolly and Wendy Holzman.

IV. ELECTION OF MAYOR

Council President Womack stated he would accept nominations for the position of Mayor.

Council President Womack nominated Chris Frye. Councilor Holzman seconded the motion. The motion carried with a vote of four to one. Councilor Womack, Councilor Holzman, Councilor Connolly and Councilor Frye voted in favor of the motion. Councilor Asson voted against the nomination.

V. ELECTION OF COUNCIL PRESIDENT

Mayor Frye stated he would accept nominations for the position of Council President.

Councilor Connolly nominated David Asson to the position of Council President. The motion died for lack of a second.

Councilor Holzman nominated McKibben Womack for Council President. Mayor Frye seconded the motion. The motion carried with a vote of three to two. Mayor Frye, Councilor Holzman and Councilor Womack voted in favor of the nomination. Councilor Asson and Councilor Connolly voted against the nomination.

VI. VISITOR COMMUNICATION

Mike Morgan, 15925 Pilot Drive, Sisters OR

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Mr. Morgan stated he was in attendance in follow-up to the letter he sent the Council outlining why he felt the decision on SP14-07 related to food carts at Eurosports, was faulty and should be redone. He stated he felt the decision had three significant conflicts with the City's Municipal and Development Code and provided the high points of each conflict. He stated he felt the City should refund Mr. Boyd's his application fee and begin the process all over. He stated allowing the decision to stand could affect other pending lawsuits such as Celia Hung's and Wild Mountain Jerky who could claim Mr. Boyd was treated differently and therefore provide cause for their lawsuits.

Tracy Stout, PO Box 3500 PMB 225, Sisters OR

Ms. Stout stated she was also in attendance to speak about food carts and that she was delighted to have them in Sisters. She stated besides offering the locals another eating option, she felt food carts would be a large tourist draw. She added she felt the revitalization of the area around Mr. Boyd's business was welcomed and noted she would not stop going to restaurants in Sisters but rather would just have another option with the food carts. She explained that sometimes when she had been up on the trails she was not tidy enough to go into a restaurant and the food carts would provide a welcome option.

Ed Protas, 575 S. Oak St., Sisters OR

Mr. Protas stated he would also like to see food carts in Sisters but he felt there was an appropriate process that should be followed prior to allowing them. He explained he was requesting the Council consider his request for a waiver of the \$300 fee for a Development Code Interpretation. He suggested the Council could make the request for the interpretation as an alternative as it would benefit them. He stated given the interpretation that had been used in allowing the food carts, he asked if a cart was placed on a similar property if it would be allowed to sell tee-shirts, sunglasses or other items. He stated it appeared that as long as a use was permitted in a zone, a cart would be allowed. He stated he would wait to hear from the City for a decision on his request.

Bruce Bowen, 17212 Pine Dr., Sisters OR

Mr. Bowen offered congratulations to the new Council. He stated he was in attendance to speak not on the food cart issue but rather about how once a decision has been made and how objections to that decision are handled. He stated it would make the City look very bad to go back and re-examine a decision that had already been made and would be setting a dangerous precedent. He noted it would very difficult for any future business to consider making an investment in Sisters if it knew a decision could be reconsidered once it had been given final approval.

Chuck Humphreys, 14985 Remuda Rd., Sisters OR

Mr. Humphreys submitted a letter into the record listing his reasons why he felt food carts provided value to the community. He also wished a Happy New Year to everyone

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and stated that as a cyclist, he wanted to thank the Public Works staff for sweeping the cinders off the streets.

Mr. Humphreys announced he was in favor of food carts as they were consistent with the pedestrian friendly community and western theme Sisters embraced. He stated he felt the detractors who stated they were trying to improve the procedural issues were actually using this as a screen to hide behind for their personal motivations and dislike of the applicant. He stated a lot of thought was given to the Development Code and he did not feel the procedures had been violated. He stated he trusted the City's decision as a reasonable approach. He agreed with Ms. Stout that food carts were not an either/or issue but rather an addition. He stated one only needed to look at the patronage and range of options that food carts could offer and noted it was important to encourage entrepreneurship. He stated not doing so would send the wrong message.

Patrick Eckford, 288 W. St. Helens, Sisters, OR

Mr. Eckford voiced his support for the concept of food carts in Sisters. He applauded Mr. Boyd's changes as very innovative and entrepreneurial. He stated he did not feel this would lead to food carts on every corner as asserted by some and that he looked to the Council to work to create a controllable approach to the food cart phenomenon.

Jerry Norquist, PO Box 1421, Sisters OR

Mr. Norquist thanked the Council for the work they have done, will continue to do and work the former Mayor Boyd had done. He reported he had been a resident of Sisters since 1997 and had seen a lot of changes, most of which had been positive. He stated it was wonderful to live in a community where so many people wanted to give back. He noted he had seen real professionalism develop in the Council and City staff over the past 15 years. He remarked that food carts were a reality and a boon to the economy. He noted few people could understand how difficult it was to be a retailer in Sisters and the Council needed to give them every means to be successful.

Karen Kassey, 205 E. Washington, Sisters OR

Ms. Kassey, Mr. Boyd's partner, stated when Mr. Boyd, as a business owner, applied for allowing food carts at his business, he worked very carefully to make certain everything was done correctly. He knew he was under additional scrutiny as Mayor of the City. She reported Mr. Boyd even informed the City two separate times about errors on notices that were mailed. She reported only one business owner submitted a letter stating she would prefer to not allow food carts. She stated Mr. Boyd paid \$2,500 for the application and an additional \$500 for a traffic study. She stated he was responsible to install walkways and street trees and the process had been done correctly. She stated just because something wasn't listed as a specific permitted use, did not mean it was not permitted. She stated she also felt that the term transient was based on the amount of time a business was at a

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location, not the business. She thanked the Council and staff and stated the process and, the decision were made properly and hoped it would stand.

Sharlene Weed, 406 Sisters View Place, Sisters OR

Ms. Weed congratulated the new Council and wished them the best of luck. She stated perhaps the process was done correctly but the reality was the community didn't know about the process and allowing food carts was a huge change for the town. She stated allowing food carts has been a big surprise and people should have been informed. She stated everyone expected there to be a community process. She stated with the stroke of a pen by one staff member everything was decided and that was not okay. She suggested that to make sure everything was done in good faith, she hoped Mr. Boyd would agree to a re-do of the process and work together with the community on the process.

Brad Boyd, 205 E. Washington, Sisters OR

Mr. Boyd stated he wanted to clear up some misconceptions and misunderstandings that were expressed by some this evening. He noted there had been no major Development Code update since 2010, and the process used to make the decision on his application was not new. He stated the notion of a site plan review was also not new and was perhaps not availed of that often due to fact it was expensive. He stated he did not think everyone understood his business model, noting his property was owned by a Limited Liability Corporation (LLC) that would lease the property on an annual basis to the food cart owners, who in turn would get a business license. He stated the comment that the food carts could not be on his property because they were not part of the primary business was incorrect, citing the McDonalds complex. He stated according to that line of reasoning, it would either need to be a McDonalds, a gas station or a mini-mart but couldn't be all three. He stated Ray's Food Place would only be able to have a grocery store and the Space Age gas station wouldn't be able to have the nursery, fresh produce stand and Taco eatery. He thanked the Council for its time.

Bonnie Jacobs-Hallensack, 17045 Fairview Lane, Bend

Ms. Jacobs-Hallensack reported she had owned a retail business in Sisters for 30 years, and had been at her current location for 25 years. She stated she had seen many changes through the years and noted the downtown retailers were finally seeing an upturn again. She stated she felt food carts would be a beneficial and as a retailer through they were a good idea.

City Recorder Nelson entered letters from Ray Kenny and Gary Guttormsen into the record.

Mayor Frye thanked the members of the audience that spoke. He stated the Council did want to give the issue the due process it deserved.

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Councilor Connolly asked if the applicant agreed to do the process over if that was a viable option. **City Attorney Bryant** replied it was if the applicant agreed to it.

Mayor Frye informed the audience it takes three Planning Commissioners to call up the decision made by staff within 14 days and at its last meeting the Council had asked staff to amend the Development Code to make it a requirement that the Planning Commission had to be provided with a copy of every staff land use decision made, as opposed to the current process of typically sending out a copy of the decision to the Planning Commission. He noted in this case, the food cart decision had not been forwarded on the Planning Commission. He stated the Council had also directed staff to make a good faith effort to notify business owners of land use applications as some property owners did not always pass the information along to the businesses renting space from them.

Councilor Asson asked if the Council was going to look into the process that was followed to make sure there was nothing to the allegations and **Mayor Frye** replied the Council would. **Councilor Holzman** stated she was confused as the applicant had the necessary approval and it had not been mandatory to let the Planning Commission know about the decision. She stated she was not sure why the Council would look into the matter.

Councilor Connolly asked about the request to waive the \$300 Code Interpretation fee. **Mayor Frye** replied the \$300 fee was posted on the City's Master Fee Schedule and the cost had been established to offset staff time. He noted it had never been waived in the past but on two occasions the City provided community grants funds to pay for fee for two non-profit organizations. **Councilor Asson** stated he felt the decision on the waiver request could be answered after the Council had its questions regarding the process answered. **Councilor Connolly** asked what a Code interpretation involved and **Director Hardie** explained the process as outlined in Chapter 4.8 of the Development Code. She stated as Director, she had 14 days to decide whether to issue or deny the request. She stated if she denied the request, her decision could be appealed to the Planning Commission. **Councilor Holzman** asked how much time was involved in providing the interpretation and **Director Hardie** replied quite a bit and that the \$300 fee would not actually cover the staff time cost in this instance.

Mayor Frye stated if it was discovered that mistakes were made, the Council would need to determine what it could do and whether it had the legal authority to do so. **Councilor Asson** stated the Council should make the decision quickly as it was unfair to Mr. Boyd not to. **Councilor Connolly** asked what the legal ramifications would be if the Council revoked the approval and **City Attorney Bryant** stated he would need to look into the matter and advise the Council.

Brad Boyd, 205 E. Washington, Sisters OR

Mr. Boyd stated he was unwilling to redo the application as it would delay the process another three months. He stated the land use process was followed correctly and if someone then comes back and says they don't like the project and can cause that approval to be revoked, it would be very chilling to any business owner.

The **Council** decided it would discuss the matter at its workshop on January 15th. **Councilor Asson** stated he would provide City Attorney Bryant with the specific questions he wanted answers to as soon as possible.

VII. CONSENT AGENDA

A. Minutes

1. November 20, 2014 – Workshop
2. December 04, 2014 - Workshop
3. December 11, 2014 – Regular Meeting

B. Bills to Approve

1. January Accounts Payable

City Recorder Nelson reminded the Council there was an additional page of accounts payable for approval at their places on the dais.

***Councilor Holzman** moved to approve the consent agenda. **Councilor Womack** seconded the motion. The motion carried unanimously.*

VIII. STAFF REPORTS

A. January Staff/Council Work Plan

Councilor Asson asked for an update on the website project. **Manager Gorayeb** replied the site was moving along with verbiage being updated and photos being identified for the site. He stated he was planning on providing a live demonstration of the site at the January 15th workshop. He added the project appeared to be on budget.

B. New Business License Report for December 2014 – list included

IX. COUNCIL BUSINESS - none

IX. OTHER BUSINESS

A. City Parks Advisory Board

Mayor Frye appointed Greg Johnson to serve out the remaining term of Jackie Wright on the City Parks Advisory Board. The **Council** concurred.

B. Council Intergovernmental Committee Appointments

Mayor Frye made the following intergovernmental committee appointments:

- Central Oregon Intergovernmental Board (COIC) – *Councilor Asson with the possibility of Councilor Womack taking over schedule allowing. Councilor Connolly to serve as the alternate.*
- Central Oregon Area Commission on Transportation (COACT) – *Councilor Holzman*
- Central Oregon Cities Organization (COCO) – *Councilor Womack*
- Economic Development of Central Oregon (EDCO) – *Councilor Asson*
- Economic Development Advisory Board – *Councilor Connolly*

The **Council** concurred with the appointments.

C. Training

Manager Gorayeb reminded the Council of the free League of Oregon Cities Councilor training scheduled for February 5, 2015.

D. Chamber of Commerce

Manager Gorayeb reported new hardwood flooring had been installed at the Chamber of Commerce building by Public Works staff and had even come in under budget. He stated staff wanted to take that savings and along with additional funds, paint the exterior of the building also. He stated staff would come back to the Council with a formal request once the total cost was determined.

E. Cell Towers

Manager Gorayeb reported BendBroadband had requested permission to use the City conduit out to the cell tower located on the Public Works Headquarters building. He stated staff was determining what the lease cost should be. He added Crown Castle had also submitted a proposal for the cell tower located in Fir Street Park.

F. Urban Renewal Grants

Manager Gorayeb reminded the Council it had two more months to take advantage of the funds available from the refinance of the urban renewal agency debt and asked if the Council was interested in opening up an application period for additional façade grants for downtown merchants. He noted staff had received inquiries from interested business owners. He reminded the Council the decision on which applications might receive grants

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would come back to the Council for approval. The **Council** directed staff to move forward with the process.

G. Goal Setting Session

The **Council** discussed its desire to hold a goal setting session and tentatively set January 23 from 8:00 a.m. till noon.

H. IFA Grant

Manager Gorayeb reported the City, in partnership with Sisters Airport, was awarded a grant for required water and sewer improvements from Infrastructure Finance Authority (IFA), part of Business Oregon. He stated there was a possibility that scope of the grant would be increased to also fund needed road improvements. He explained the grants were awarded based on job creation at Energyneering, headquartered at the airport.

X. **MAYOR/COUNCILOR COMMENT**

Councilor Holzman reported on the Central Oregon Area Commission on Transportation (COACT) meeting she attended. She stated several representatives from the Governor's office had also been in attendance

Councilor Womack reported the Central Oregon Cities Organization (COCO) Video-Television (V-Tel's) would starting back up.

Councilor Asson reported on the Economic Development of Central Oregon (EDCO) meeting he had attended which was held at a high security building under construction that will cost an estimated \$14 million to complete. He reported EDCO project metrics were ahead of schedule and EDCO was anticipating a very successful year. He invited the Council to check out the new website for EDCO also.

XI. **ADJOURN** -8:24 p.m.

Respectfully submitted,


Kathy Nelson, City Recorder


Chris Frye, Mayor