

REGULAR MEETING MINUTES  
SISTERS CITY COUNCIL  
520 E. CASCADE AVENUE  
JUNE 25, 2015

**MEMBERS PRESENT:**

Chris Frye Mayor  
Bill Hall Council President  
David Asson Councilor  
Wendy Holzman Councilor  
Nancy Connolly Councilor

**STAFF PRESENT:**

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

**I. CALL TO ORDER/PLEDGE OF ALLEGIANCE**

The meeting was called to order by Mayor Frye at 7:12 p.m.

**II. VISITOR COMMUNICATION - None**

**III. CONSENT AGENDA**

A. Minutes

1. June 11, 2015 –Workshop
2. June 11, 2015 – Regular Meeting

B. Bills to Approve

1. June Accounts Payable

C. **Resolution No. 2015-10:** A RESOLUTION DECLARING THE MUNICIPAL SERVICES PROVIDED BY THE CITY OF SISTERS

D. **Resolution No. 2015-11:** A RESOLUTION EXTENDING THE CITY OF SISTERS WORKERS COMPENSATION COVERAGE TO VOLUNTEERS OF THE CITY OF SISTERS

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

**IV. STAFF REPORTS**

A. Deschutes County Sheriff's Office

Mayor Frye asked the minimum number of hours the city received each month per the contract. Manager Gorayeb replied he couldn't remember off the top of his head and would check the contract and report back to the Council.

**V. COUNCIL BUSINESS**

A. **Public Hearing and Consideration of Resolution No. 2015-12:** A RESOLUTION ADOPTING THE FISCAL YEAR 2015-16 BUDGET,

APPROPRIATING FUNDS, APPROVING A TAX LEVY AND DIRECTING  
STAFF TO FILE THE BUDGET WITH THE COUNTY CLERK

**Mayor Frye** opened the public hearing for Resolution No. 2015-12.

**Finance Officer Fujita-Conrads** explained the resolution was to adopt the FY 015/16 budget approved and forwarded by the Budget Committee.

**Mayor Frye** asked if there was anyone that wished to speak and as there was no one that wished to do so, he closed the public hearing.

*Councilor Holzman moved to approve Resolution No. 2015-12 adopting FY 2015/16 budget, appropriating funds, approving a tax levy and directing staff to file the budget with the County Clerk. Councilor Asson seconded the motion. The motion carried unanimously*

**B. Public Hearing and Consideration of Resolution No. 2015-13: A  
RESOLUTION DECLARING THE CITY'S ELECTION TO RECEIVE STATE  
REVENUES**

**Mayor Frye** opened the public hearing for Resolution No. 2015-13.

**Finance Officer Fujita-Conrads** explained adoption of a resolution was required each year in order for the City to continue to receive State revenue.

**Mayor Frye** asked if there was anyone that wished to speak and as there was no one that wished to do so, he closed the public hearing.

*Councilor Holzman moved to adopt Resolution No. 2015-13 declaring the City's election to receive State revenues. Councilor Asson seconded the motion. The motion carried unanimously*

**C. Discussion and Consideration of Resolution No. 2015-14: A RESOLUTION  
AMENDING THE PAY PLAN CLASSIFICATION FOR THE CITY OF  
SISTERS**

**Finance Officer Fujita-Conrads** explained the resolution was to reflect the 1.7% cost of living adjustment for employees and to change the Finance Officer position to the Finance and Administration Director.

*Councilor Holzman moved to adopt Resolution No. 2015-14 amending the pay plan classification for the City of Sisters. Councilor Asson seconded the motion. The motion carried unanimously*

**D. Public Comment and Consideration of Resolution NO. 2015-15: A  
RESOLUTION OF THE CITY OF SISTERS AMENDING THE MASTER FEE  
SCHEDULE**

**Finance Officer Fujita-Conrads** explained the resolution would add the fees for three and four inch water meters to its master fee schedule

**Mayor Frye** asked if there was anyone that wished to comment on the resolution. There was no one that wished to comment.

*Councilor Holzman moved to adopt Resolution No. 2015-15 amending the master fee schedule. Councilor Asson seconded the motion. The motion carried unanimously*

**E. Discussion and Consideration of a Motion to Approve a Memorandum of Understanding (MOU) between the City of Sisters and Economic Development of Central Oregon (EDCO) for a Forgivable Loan Program and Authorize the City Manager to Execute the Memorandum of Understanding**

**Manager Gorayeb** explained the memorandum of understanding (MOU) was to authorize Economic Development of Central Oregon (EDCO) to make eligible businesses aware of the City of Sisters' forgivable loan program and for EDCO to create a due diligence committee to review applications and provide recommendations to the City Council. He confirmed the City was not obligated to provide the forgivable loans and would only do so with City Council approval.

**Councilor Asson** stated he felt item #7 on the MOU had a redundant sentence that should be removed. He suggested it read "*All loans and grants are subject to the final prior approval of the Sisters City Council, which approval is at their sole and absolute discretion. EDCO shall have no liability to the City of Sisters or any third party in connection with the Forgivable Loan Program*". The other Council members and City Attorney were supportive of the proposed changes.

*Councilor Asson moved to approve the MOU, as amended, between the City of Sisters and EDCO for a forgivable loan program and authorize the City Manager to execute the MOU as amended. Councilor Holzman seconded the motion. The motion carried unanimously.*

**F. Public Hearing for an Appeal of a Planning Commission Decision relating to Clear Pine MP 15-01**

**Mayor Frye** read from the public hearing script for the appeal of Planning Commission Resolution No. Planning Commission. 2015-09 affecting File # MP15-01 and SUB 15-02

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Clear Pine Subdivision, 3 Sisters Partners LLC/Peter Hall. He described how the hearing would be conducted and how to provide testimony. He stated the applicant would be allowed 15 minutes to testify and other testimony would be limited to three minutes. He asked for disclosures from the City 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 to be presented.

**Director Davenport** began by entering two emails from the applicant's attorney into the record. He noted the Council had received the correspondence via email and there was a hard copy for them at their places on the dais. He gave a Power Point presentation outlining the proposal that had come before the Planning Commission at the April 30<sup>th</sup> hearing. He gave a history of the property explaining it was originally part of the Lundgren Mill. He had a map to illustrate the subject property as well as a zoning map and master plan map indicating the area where the multi-family residences would be built. He explained the affordable housing portion of the project was not part of the master plan that had been submitted for approval. The master plan had five phases of development.

**Director Davenport** explained how the number of affordable units had been determined.

**Director Davenport** stated the issue raised was with the 2007 development agreement and affordable housing units. He explained the original agreement did not include any timing mechanism for when the affordable units should be built, so the Planning Commission worked with the applicant to come up with an option that both could agree to. He explained an affordable housing developer was required to submit a site plan within 24 months of the decision. He explained the decision as mentioned in the Planning Commission decision needed clarification and directed the Council to the clarifying phrase suggested. He requested the Council affirm or deny the decision made by the Planning Commission.

**Mayor Frye** asked for questions from the Council.

**Councilor Asson** asked what had prompted the decision to be called up. **Mayor Frye** replied he'd had some questions surrounding the decision and had been unable to get those questions answered prior to the last date the decision could be called up. He stated the decision notice the Council received had not included the conditions of approval which would have answered some of those questions. **Director Davenport** added that staff would now include the conditions of approval with all decisions sent to the Council for review.

**Councilor Connolly** stated she had also had some concerns and felt the information the Council received had not been clear. She stated she had been concerned with the density issues and set-backs. **Director Davenport** replied the setback requirements were from an April 2001 agreement created to protect the view shed of the property owners in the

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Trapper Point development. He explained those terms had carried over from that agreement and it was not appropriate to discuss modifying the setbacks. He stated they were not included in the site plan being discussed but could be addressed through a different application.

**Councilor Connolly** asked that the timeline for building the affordable housing be clarified. **Director Davenport** stated that 24 months after obtaining the first building permit for Phase One, the applicant or developer of affordable housing must submit a site plan for the affordable housing units. Within 24 months of the Planning Commission issuing approval of that site plan, the units must be built.

**Councilor Connolly** stated one letter submitted stated since the Planning Commission wasn't a party to the 2007 agreement they could not amend it. She asked if that was the case. **Director Davenport** replied the 2007 agreement was just one part of the information the Planning Commission received in order to make its decision. **Councilor Connolly** asked if the Council had not called the matter up, it would have implied consent by the Council. **City Attorney Bryant** replied that was correct. He stated unless a Planning Commission decision was called up, that decision was final.

**Director Davenport** informed the Council staff had decided it would begin writing an agenda item summary (AIS) of the issues coming before the Planning Commission, like the Council receives, in addition to the normal staff report. He stated in the future those AIS' could also be included with the decision and conditions of approval sent to the Council.

**Councilor Holzman** asked how the Planning Commission had voted on the matter. **Director Davenport** replied the vote had been six in support, one against and one abstention.

**Mayor Frye** asked the applicant if he would like to provide testimony.

**Peter Hall, 3 Sisters Partners, LLC, Bend, OR**

**Mr. Hall** stated he was the applicant for the Clear Pine project. He reported it had been in the works for several years. He stated the Planning Commission had been concerned with the lack of a trigger to indicate when the eight affordable housing units had to be built. He stated since he wasn't an affordable housing developer and there was no site plan for the multifamily units, he knew he needed to find a partner. In order to find one, he requested two years to line that partnership up. He stated he knew financing for affordable housing was quite complex and so he had requested an additional two years to complete that process and get the units constructed. He noted he and staff had worked very hard and felt a solid program had been established. He reported he had a contractor lined up for Phase I which would include 14 single family lots. He stated he hoped to break ground the middle of July and record lots in October. He stated permits would be pulled sometime in the last

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quarter of the year. He stated after researching the needs of the community it was determined the homes would range in price from the mid \$200,000 to \$400,000 range. He stated he had hired great talent and stressed he was not the developer of the housing; there would be a builders guild. He stated he was happy with the compromise he and the Planning Commission had agreed upon.

**Councilor Connolly** asked Mr. Hall if he thought he could meet the 24 month timeline for the affordable units. **Mr. Hall** reiterated he was not the developer, as that was a specialized field, but felt it was a reasonable timeframe and it was doable. He stated if the timeline wasn't met, further construction of other phases would not be able to occur.

**Mayor Frye** asked if there was anyone that would like to testify in support of the application. There was no one that wished to testify.

**Mayor Frye** asked if there was anyone that would like to testify in opposition to the application.

**Ed Protas 575 S. Oak Street, Sisters**

**Mr. Protas** stated there was a lack of affordable housing in Sisters and the Planning Commission decision would only exacerbate the problem. He stated he had three pages of detailed comments and would be unable to complete his testimony in the allowed three minutes. **Mayor Frye** replied he was sorry, but he had only three minutes to present his testimony. **Mr. Protas** stated that was not sufficient time for him to raise his concerns and it was not necessary for his testimony to be limited. He stated failure to raise an issue with enough specificity to afford all an opportunity to respond to the issue might preclude an appeal to the Land Use Board of Appeals (LUBA).

**Mayor Frye** asked the City Attorney Bryant if not allowing additional time was an issue and **City Attorney Bryant** replied three minutes was sufficient time to raise any issues Mr. Protas might have. **Mayor Frye** asked how much time Mr. Protas felt he needed and **Mr. Protas** replied he would be as brief as possible but anticipated it would take 10 minutes. **Mayor Frye** replied he could have five minutes to testify and **Mr. Protas** stated that was insufficient and left the lectern.

**Mike Morgan 15925 Pilot View Drive, Sisters**

**Mr. Morgan** stated there was nothing in the agreement that suggested affordable housing could be pushed out and it was apparent the affordable housing was meant to be built concurrently with the other units. He stated he did not agree with the clarification on the decision that Director Davenport had requested. He stated there was still nothing in it to require building of the affordable units. He stated there was another problem in that the official minutes of the Planning Commission meeting did not reflect the same information and that presented a procedural problem. He stated the 2007 agreement was between the

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City Council and developer and the Planning Commission could not change it. He ended his comments by stated there had been too much information presented in too short a period of time to allow anyone to be adequately prepared.

**Ed Protas 575 S. Oak Street, Sisters**

**Mr. Protas** stated he did want to comment on the original 2007 agreement between the City and applicant. He read from the agreement noting item 13 of the agreement stated *“this agreement may be amended or terminated by the mutual consent of the parties or their assigns or successors in interest. Any amendment which is related to the uses, development limitations, or monetary contributions shall require a public hearing before the parties may execute an amendment.”* He stated the conditions of approval in the current application stated the 2007 conditions of approval remained in effect and that was a false statement as the conditions of approval, as they relate to affordable housing, had been significantly altered. He stated the Planning Commission was not a part to the 2007 agreement and had not been authorized to amend the agreement during the land use process.

**Mayor Frye** asked if there was anyone that would like to provide neutral testify of the application. There was no one that wished to testify. There was also no one that wanted to provide rebuttal testimony.

**Mayor Frye** asked if staff had anything to add in response to the testimony. **Director Davenport** replied he did not but could answer questions the Council might still have.

**Mayor Frye** asked for clarification on the concurrent building interpretation. **Director Davenport** replied there was no mention of ‘concurrent building’ in the development agreement.

**Councilor Holzman** asked if the Planning Commission could legally amend the agreement. **City Attorney Bryant** replied the original agreement did not have any timing requirements for the building of the affordable housing units so the addition of those timing requirement was not an amendment but rather setting out a timeframe in which the affordable unit would be built. **Mayor Frye** asked if Mr. Hall had been required to agree to that provision and City Attorney Bryant replied Mr. Hall had not been required to do so.

**Mayor Frye** closed the public hearing.

**Councilor Asson** moved to affirm the Planning Commission decision with the modification as presented by staff for Clear Pine MP 15-01. **Councilor Holzman** seconded the motion. *The motion carried unanimously.*

**G. Discussion and Consideration of a Motion to Approve an Immediate Opportunity Fund Agreement between the State of Oregon and the City of Sisters for the East Barclay Drive Project**

**Manager Gorayeb** stated the agreement was for the Immediate Opportunity Fund grant for street improvements on Barclay Drive by the airport in conjunction with the Infrastructure Finance Authority Loan approved at the May 28<sup>th</sup> regular meeting.

*Councilor Holzman moved to approve an Immediate Opportunity Fund agreement between the State of Oregon and the City of Sisters for the East Barclay Drive project. Councilor Asson seconded the motion. The motion carried unanimously.*

**H. Discussion and Consideration of a Motion to Accept Public Improvements for Adams Street Commons**

**City Engineer Erik Huffman** explained as a final step in the construction of public improvements, the City Council formally accepts the improvements. After a one year warranty period, the operation and maintenance of the improvements become the responsibility of the City.

*Councilor Holzman moved to accept the public improvements for the Adams Street Commons. Councilor Asson seconded the motion. The motion carried unanimously.*

**I. Discussion and Consideration of a Motion to Approve a Conduit License Agreement with TDS Baja Broadband LLC, dba BendBroadband and Authorize the City Manager to Sign the Agreement**

**Manager Gorayeb** stated the conduit lease had been discussed at the June 18<sup>th</sup> workshop. He explained that TDS Baja Broadband dba Bend Broadband was paying the City \$10,000 for an initial term of 10 years with the possibility of renewing the term for two five year terms at a cost of \$5,000 per term.

*Councilor Holzman moved to approve a conduit lease agreement with TDS Baja Broadband dba Bend Broadband and authorize the City Manager to sign the agreement. Councilor Asson seconded the motion. The motion carried unanimously.*

**J. Discussion and Consideration of a Motion to Approve an Agreement with the Oregon Department of Transportation for the Cascade East Transit Program**

**Finance Officer Fujita-Conrads** explained the grant program for the City, administered by the Central Oregon Intergovernmental Council (COIC), for the Cascade East Transit Program was expiring on June 30<sup>th</sup> and this would extend the agreement until June 30, 2017.

**Mayor Frye** stated he was pleased that after speaking with COIC Executive Director Andrew Spreadborough, a stop was being added to the route between Sisters and Redmond at the Little Cloverdale School for students participating in the Heart of Oregon Youth Build program. **Councilor Asson** encouraged the Council to continue its support of the program noting it was receiving \$100,000 in funding from three different sources.

***Councilor Holzman** moved to approve an agreement with the Oregon Department of Transportation for the Cascade East Transit Program. **Councilor Asson** seconded the motion. The motion carried unanimously.*

## **VI. CONTRACT REVIEW BOARD**

**Mayor Frye** opened the Contract Review Board

- A. Discussion and Consideration of a Motion** to Approve a Contract with Bryant, Emerson LLC for City Attorney Services and Authorize the City Manager to Execute the Contract

***Councilor Holzman** moved to approve a contract with Bryant Emerson LLC for City Attorney Services and authorize the City Manager to execute the contract. **Councilor Asson** seconded the motion. The motion carried unanimously.*

- B. Discussion and Consideration of a Motion** to Approve a Contract with McKenzie Cascade Excavation in the Amount of \$74,767.00 for the Barclay Waterline Improvement Project and Authorize the City Manager to Sign the Contract

**City Engineer Huffman** stated the City received two bids for the project and McKenzie Cascade Excavation was the low bidder. He reported there had been no protest to the notice of bid award and the proposal had come in under the estimate. **Councilor Connolly** asked if the past record of contractors was taken into consideration when awarding a bid. **City Engineer Huffman** explained that as part of the bid process, contractors were required to provide a lot of information including proof of completing five similar projects within the past five years, providing references and have the ability to bond for the project.

***Councilor Holzman** moved to approve a contract with McKenzie Cascade Excavation in the amount of \$74,767 for the Barclay Waterline Improvement Project and authorize the City Manager to Sign the Contract. **Councilor Asson** seconded the motion. The motion carried unanimously.*

**Mayor Frye** closed the Contract Review Board

**VII. OTHER BUSINESS**

A. Planning Commission Appointment

**Mayor Frye** appointed Daryl Tewalt to serve as the in-side city limits Planning Commissioner and Roger Detweiler to serve as the out-side city limits Planning Commissioner. The **Council** concurred.

B. Recreational Marijuana Discussion

The **Council** discussed whether the decision to allow commercial and retail operation of recreational marijuana should go to a vote of the people. City Attorney Bryant reminded the Council it currently had a provision in place that required all businesses had to comply with federal regulations so unless that was changed, marijuana growing operations or retail sales would not be permitted. He explained there was still a great deal that was unclear at the state level and he would do some additional research once the legislators made some final decisions on what options might be available to the city.

**VII. MAYOR/COUNCILOR BUSINESS**

**VIII. ADJOURN** – 8:40 p.m.

Respectfully submitted,

  
Kathy Nelson, City Recorder

  
Chris Frye Mayor