

REGULAR MEETING MINUTES
SISTERS CITY COUNCIL
520 E. CASCADE AVENUE
MARCH 10, 2011

MEMBERS PRESENT:

Lon Kellstrom Mayor
David Asson Council President
Pat Thompson Councilor
Wendy Holzman Councilor

STAFF PRESENT:

Eileen Stein City Manager
Steve Bryant City Attorney
Pauline Hardie CDD Director
Paul Bertagna PW Director
Lisa Young Finance Director
Kathy Nelson City Recorder

VIA TELEPHONE AFTER 7:20 p.m.:

Sharlene Weed Councilor

I. CALL TO ORDER/PLEDGE OF ALLEGIANCE

The meeting was called to order by Mayor Kellstrom at 7:01 p.m.

II. VISITOR COMMUNICATION

Preston Ferris, 4741 SW Trout, Sisters, OR 97759

Mr. Ferris stated he was in attendance representing the Sisters Skate Park Committee, with support from Sisters Park and Recreation District (SPRD), to request a community grant in the amount of \$2,000 to cover the cost of the site planning fee and review. He stated site plans were complete and the group would be submitting an application for a building permit soon. He reported fundraising efforts were still underway.

City Recorder Nelson reported there was approximately \$2,600 left in community grants funds for FY 10/11.

Councilor Thompson moved to provide a \$2,000 community grant to SPRD for the site plan fee for the Sisters Skate Park. **Councilor Holzman** seconded the motion. The motion carried unanimously.

III. CONSENT AGENDA

A. Minutes

1. February 24, 2011 – Regular Meeting
2. March 03, 2011 – Workshop

B. Bills to Approve

1. March Accounts Payable

C. Oregon Liquor Control Commission Special Event Application for the Three

Creeks Brewing Company, LLC

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

IV. ACCOUNTS PAYABLE NOT ON THE CONSENT AGENDA

Councilor Holzman moved to approve the consent agenda. **Councilor Asson** seconded the motion.

Councilor Thompson stated he would refrain from voting due to a direct conflict of interest.

The motion carried unanimously.

V. STAFF REPORTS

A. Eileen Stein, City Manager

Manager Stein asked for questions on her staff report. **Councilor Holzman** asked how Manager Stein was involved with the Sisters Economic Advisory Committee. **Manager Stein** replied she had answered questions for Economic Development Manager Mac Hay and provided a copy of the Economic Development Strategic Action Plan to Cris Converse, who will serve as Chair of the committee.

B. Lisa Young, Finance Director

There were no questions related to Director Young's staff report.

C. Captain Tim Edwards, Deschutes County Sheriff's Department

Captain Edwards reported on the number of patrol hours provided, incidents, citations, warnings and business checks for February. He remarked the only case of note was a cat that was shot in a residential neighborhood. He reported no suspect had been identified as yet.

Councilor Holzman asked what the procedure is followed when a dog bite occurs and the owner of the dog cannot be located. **Captain Edwards** responded the Sheriff Department quarantines the dog.

VI. COUNCIL BUSINESS

A. **Discussion and Consideration of a Motion** to Apply for a Quick Fix Grant

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from the Oregon Department of Transportation (ODOT) for a Multi-use Path on Highway 20 and if Awarded, Approve Receipt of the Grant and Authorize the City Manager to Execute the Grant Agreement

Councilor Asson moved to apply for a Quick Fix Grant from ODOT for a Multi-use path on Highway 20 and if awarded, approve receipt of the grant and authorize the City Manager to execute the grant agreement. Councilor Holzman seconded the motion.

Public Works Director Bertagna stated the project would be a 10 foot wide multi-use path that would run in ODOT right of way (ROW) along Highway 20 from Space Age gas station to South Valley Bank. He stated it will help with connectivity to the west side of town with sufficient separation between the highway and the path to ensure safety. He reported ODOT is in favor of the project. **Councilor Thompson** asked if the project was consistent with the Transportation System Plan and **Director Bertagna** replied it was.

The motion carried unanimously.

VII. OTHER BUSINESS

A. Public Records Request Regarding Water Production

Councilor Weed joined the meeting via conference call at 7:20 p.m.

City Attorney Bryant stated he had reviewed the records request and email stream and stated there has been a fair amount of misinformation and misunderstanding by the requestor about Oregon public records law. He stated he had also been surprised by the tone of the emails. He explained how the request for information came to Manager Stein who forwarded the request to the City Recorder. He reported the City Recorder prepared the records request from the information included in email, estimated the time it would take to gather the documents and included the estimated time and associated costs on the public records request form. The request form was scanned, emailed to the requestor with the request to make certain the information accurately reflected the information he was seeking. The requestor, Mr. Morgan, indicated it did and later in the day dropped off his deposit check in order for the research to begin. He stated Mr. Morgan was seeking information on water production data and the only place that data is recorded is in the well log books. He explained that the information from the well logs is reported directly to the Oregon Water Resources Department (OWRD) website and maintained by OWRD. He stated the City cannot provide a record of another agency and so the City provided the well logs, the only source of the information Mr. Morgan was requesting. Mr. Morgan took exception to how the material was presented to him.

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City Attorney Bryant stated the City had been responsive and compliant with regard to the records request. He stated this opinion had been vetted by two other attorneys, including a former district attorney. He stated the City had not violated the public records law in any way. He stated Mr. Morgan had threatened to sue the City and if that occurred the City would ask for the case to be dismissed, which the court would do as Mr. Morgan has no cause for the suit. He stated the City would also ask for sanctions to recover its costs, which would be at the very least partially granted. He stated that alternatively, Mr. Morgan could lodge a complaint with the District Attorney or Attorney General and if that occurred, a letter would be sent to the City asking what process was followed, which again when reviewed would find in favor of the City. He summarized that although the City would be successful in both scenarios, in the end it would cost the City far more than the \$65 to continue fighting the matter. He concluded it was a political and financial decision for the Council to decide. **Mayor Kellstrom** stated he felt it was not worth fighting the matter and suggested the City should return the money to Mr. Morgan.

***Councilor Holzman** moved to refund the \$100 deposit Mr. Morgan was charged for his public records request. **Councilor Weed** seconded the motion. The motion passed with a vote of four to one. **Councilor Asson** voted against the motion.*

Mayor Kellstrom stated the overuse and abuse of public information requests by Mike Morgan and Ed Protas has become an issue. He stated the repetitive, never-ending serial demands have absorbed staff time that is far beyond what is reasonable and appropriate. He stated the emails could be characterized as rude, condescending and over the top, especially when given the fact that Mr. Protas serves on the Planning Commission and Mr. Morgan does not live within city limits. He stated he had no choice but to ask the Council to direct staff to ignore all email that originates from Mr. Morgan and Mr. Protas, effective immediately.

***Councilor Asson** moved to direct staff to ignore all email that originates from Mr. Morgan and Mr. Protas effective immediately. **Councilor Thompson** seconded the motion.*

Councilor Weed stated she felt the motion was extreme. She characterized Mr. Morgan and Mr. Protas as trying to get information to help the Council make the best decision for its citizens. She stated answers to crucial questions haven't been answered which has been frustrating. She stated contrary to the tone of their emails they are very reasonable men. She stated there must be a better way of dealing with the issue and stated she felt ignoring their requests would cause a lot more angst and discontent for the City. She suggested meeting with them to discuss the issue or consider setting a certain number of hours per month that staff should respond to their requests. **Councilor Holzman** agreed with Councilor Weed that a meeting was in order for the sake of community building and collaboration.

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Mayor Kellstrom countered that the City had been discussing the matter of serial requests for quite some time and even after changing the process, Mr. Morgan and Mr. Protas have ignored the City's request to limit their email requests. He remarked it has stymied the water rate process since staff has spent so much time responding to their never ending questions. **Councilor Asson** stated Mr. Morgan had stated he was requesting the information to help solve the problem but then remarked in his letter to City Attorney Bryant that his main purpose was to stop misinformation from City Hall, a statement that was only Mr. Morgan's opinion.

Councilor Weed stated that if the well logs are reviewed, it would show that the water consumption hasn't increased by three percent as stated previously. She also noted that some of the safety concerns voiced by staff with regard to chlorine gas and refuted by Mr. Morgan appear to be valid. She stated she doesn't feel the misinformation from staff has been purposeful but wants them to realize there are other options and a better way to look at the situation.

Mayor Kellstrom stated he believed the Department of Environmental Quality (DEQ) had raised some concerns with the City as it relates to chlorine gas and asked Director Bertagna to update the Council on the matter. **Director Bertagna** stated the three percent growth rate he discussed at a previous presentation was regarding growth rates and water production increases and only related to when the City would need to build a new reservoir. He stated that was irrelevant to the discussion at hand. He stated the improvements to Well #1 are not growth related but are maintenance and compliance issues. He reminded the Council that in an email he previously sent regarding chlorine gas, he mentioned the City was out of compliance with the Oregon State Fire Code for the handling of toxic compressed gas. He related it is an antiquated system and the reason the City hasn't come under more scrutiny was because DEQ, the Fire Marshall and OSHA knew the City was planning to switch from chlorine gas to liquid chlorine. He added that if the Council decided not to approve he change-over, he was uncertain how the agencies would respond.

Director Bertagna described the state assessment of the wells that took place in February noting the inspector discussed his concerns with Well #1 with DEQ and the Sisters Fire Marshall Wheeler. His recommendation to house gas masks in the well building and a put a window in the room were discouraged by Fire Marshall Wheeler who voiced concern with vandalism if a window was installed. He also pointed out that gas masks would be useless since the building where the chlorine gas is stored is not contained and any gas leak would permeate the surrounding air. DEQ, Fire Marshall Wheeler and the inspector were satisfied with the City continuing to use chlorine gas as the agencies knew the City was

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planning to convert to liquid chlorine in FY 2012/13. He stated if the Council decides to postpone the project he would need to go to DEQ for advice.

Councilor Weed asked what it would take to become compliant, stating she was uncomfortable with the City being out of compliance. **Director Bertagna** replied that staff was not comfortable either and that was why it was staff's recommendation to switch out the chlorine gas.

Mayor Kellstrom redirected the Council's attention back to the motion on the floor. **Councilor Thompson** stated he felt he was the swing vote with regard to the motion. He asked Councilor Weed if there was a meeting, did she feel a compromise could be reached within the next two weeks. **Councilor Weed** replied she did and **Councilor Thompson** replied that Councilor Weed would need to work towards finding some agreement between the City and Mr. Morgan and Mr. Protas.

City Attorney Bryant reminded the Council that if they were not ready to make a decision on the matter this evening they could table the motion. The **Council** considered the option. **Councilor Weed** stated a meeting could be structured in a way to get to an agreement and figure out a reasonable approach to the matter including stopping serial email.

Councilor Thompson moved table the previous motion until the regular meeting of March 24th to provide an opportunity for a meeting with concerned parties in order to come to an agreement on the use of staff time. Mayor Kellstrom seconded the motion. The motion carried unanimously.

VIII. MAYOR/COUNCILOR BUSINESS

A. Committee Reports

Councilor Asson reminded the Council of the Economic Development of Central Oregon (EDCO) luncheon occurring on Monday, March 14th.

Councilor Holzman reported on the Central Oregon Area Commission on Transportation (COACT) she attended earlier in the day. She stated there was an orientation followed by the regular meeting where the City's work, particularly Director Hardie's, on a Transportation Enhancement Program (TEP) grant were acknowledged.

Mayor Kellstrom reported he attended Mayors Day in Salem last week. He summarized four major legislative actions that are being closely followed by Central Oregon Cities Organization (COCO) and the League of Oregon Cities (LOC). They include a local control referral, adjustments as to how transient lodging tax funds can be used, maintaining

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existing state shared revenue agreements and municipal water rights. **Manager Stein** added that SB 580 prohibiting round-a-bouts on state highways was also an issue to watch as it relates to Highway 20 improvements.

Director Young reminded the Council about a free Oregon budget law training that will be held at the Deschutes County building on March 16th and encouraged the Council to attend.

IX. ADJOURN – The meeting was adjourned at 7:58 p.m.

Respectfully submitted,

Kathy Nelson, City Recorder

Lon Kellstrom, Mayor