

REGULAR MEETING MINUTES
SISTERS CITY COUNCIL
520 E. CASCADE AVENUE
JANUARY 12, 2012

MEMBERS PRESENT:

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

STAFF PRESENT:

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

I. CALL TO ORDER/PLEDGE OF ALLEGIANCE

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

II. VISITOR COMMUNICATION

Holm Neumann, 16825 Delicious Street, Bend, OR 97701

Dr. Neumann voiced support of Mr. Karnecki's business, Wild Mountain Jerky, stating it was a benefit to the Sisters business community.

Kay Patterson, 67750 Highway 20, Sisters, OR 97759

Ms. Patterson stated she had lived in Sisters 38 years and did not understand why Mr. Karnecki was not able to keep his business open. She asked the Council to reconsider the situation. She stated Mr. Karnecki worked very hard and in this rough economic time, he should be supported.

Camille Atkinson, 17840 Plainview Road, Bend, OR 97701

Ms. Atkinson stated she was in support of Mr. Karnecki's bid to stay open. She stated she made the trip to Sisters specifically to buy product from Mr. Karnecki and then would shop at other city businesses.

Aaron Kirkpatrick, 17840 Plainview Road, Bend, 97701

Mr. Kirkpatrick stated he was in attendance to speak on behalf of Mr. Karnecki. He stated the fact that he started the business in these hard economic conditions meant he should be supported and that the business was a valuable asset to the community.

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Melanie Widmer, 287 NE 16th Street, Madras, OR 97741

Ms. Widmer, Mayor of the City of Madras, and was in attendance to voice her support for City Manager Stein. He stated she had been unable to attend the special meeting held earlier in the day to discuss the possible termination of Manager Stein. She described Manager Stein as exceptionally professional.

Jack Nagel, 274 E. Adams Street, Sisters, OR 97759

Mr. Nagel stated it was hard to make a living these days and he saw no reason why Mr. Karnecki should not be allowed to stay open.

Richard Greene, 305 W. Washington, Sisters, OR 97759

Mr. Greene stated he was the owner of Richard's Produce and he was in support of Mr. Karnecki staying open. He stated he would also like the opportunity to be open his business additional days as opposed to the 180 days allowed with a temporary use permit. He stated stifling regulations began at the city level and continued up the governmental chain. He appealed to the elected officials to ask themselves if they were helping the people they represent.

Rick Diener, no address given

Mr. Diener disclosed he built the stand for Mr. Karnecki's business. He stated he understood the need to follow rules but stated situations need to be considered on a case by case basis. He asked the Council to give Mr. Karnecki the opportunity to make his business work.

III. CONSENT AGENDA

A. Minutes

1. December 01, 2011 – Workshop
2. December 08, 2011 – Workshop
3. December 08, 2011 – Regular Meeting

B. Bills to Approve

1. January Accounts Payable

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

IV. ACCOUNTS PAYABLE NOT ON THE CONSENT AGENDA

- A. Bills to Approve
1. January Accounts Payable

*Councilor Holzman moved to approve accounts payable not on 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. Captain Erik Utter - Deschutes County Sheriff's Department

Captain Utter reported on the number of patrol hours provided, incidents, citations, warnings and business checks for December. He stated December had been a quiet month.

B. Mac Hay – Economic Development Report

Mr. Hay provided a recap of his activities from the previous two months. He reported he was currently working with two beverage production companies who were considering Sisters for their plant operations. He stated he was looking to the state for financing and employment incentives for the companies. He reported he continued to work with staff on expanding the enterprise zone to include the airport property and the possibly annexation of the property into the city. **Mr. Hay** reported on other potential businesses he had met with including solar and bio-mass businesses. He discussed the Central Oregon Community College (COCC) classes on starting-up a business that would be held in Sisters beginning in February.

C. FY 11/12 Financial Status Six Month Report

Director Young provided an overview of the City's financial status for the first six months of FY 11/12 indicating the City was achieving at or above its expectation relative to revenue.

VI. COUNCIL BUSINESS

A. Request for Emergency Extension off Operating Permits for Wild Mountain LLC

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Mr. Karnecki stated in light of the e-mail the Council received from the City Attorney indicating that in his legal opinion the Council had no legal authority to grant a temporary use permit extension for his business, he was now requesting permission to obtain a new temporary use permit through March 2012, until such a time the Planning Commission would have an opportunity to provide a recommendation to the Council as how to accommodate his and other temporary use permit business owners. **Mr. Karnecki** provided a recap of the steps he had taken in opening his Wild Mountain Jerky stand and communication he'd had with staff and Council members related to his business and his request to find a way to keep his business open past the expiration of his temporary use permit. He asked the Council to be flexible and amend the Development Code so he could reopen his business immediately.

Councilor Weed asked the City Attorney what options were available to them to help Mr. Karnecki. **City Attorney Bryant** stated the Council could amend the Development Code to provide greater flexibility for temporary uses or for the ability of transient merchants to use approved temporary use structures. He stated since the permit is a temporary use permit there must be a period of time, he suggested somewhere between 30 to 60 days, between permits. He stated the City could not allow concurrent permits since extending a temporary use permit could place not only the City at risk for a lawsuit but could also place individual Council members at risk personally since they do not have the legal authority to provide the extension with the way the Development Code reads at present. He stated the Council did have the authority to amend the Code to permit an extension of a certain period of time through an ordinance. He explained that if the entire Council would unanimously vote in support of an ordinance it could be adopted with an emergency clause at the next regular meeting and go into immediate effect. He stated if that occurred, Mr. Karnecki could be granted an extension on his expired permit.

City Attorney Bryant suggested the ordinance be used as a temporary fix and the Planning Commission should still be given an opportunity to consider the matter and provide a recommendation to the Council at a later time. He stated the Planning Commission and Council needed to consider if they want to allow temporary buildings to be used on a permanent basis.

The **Council** discussed the option of an ordinance agreeing that normally a request to amend the Development Code would go through the Planning Commission as a first step, not through the Council. The **Council** agreed it was important to not circumvent the Planning Commission and provide an opportunity for the commission to review the change at a later time. The **Council** directed staff and the City Attorney to bring back an ordinance with the criteria and language necessary to allow a 90 day one-time only, temporary use permit extension.

Director Hardie asked if it would be appropriate to not be following the process outlined in Chapter Four of the Development Code. City Attorney Bryant replied it would as the ordinance would not be adding or removing anything substantive. He stated the ordinance was not development related and was just a timing change.

B. Discussion and Consideration of Resolution No. 2012-01: A RESOLUTION OF THE CITY OF SISTERS ADOPTING A PROFESSIONAL SERVICES PROCUREMENT POLICY

Councilor Holzman moved to approve Resolution 2012-01 adopting a professional services procurement policy. Councilor Weed seconded the motion. The motion carried unanimously.

C. Discussion and Consideration of a Motion to Approve an Intergovernmental Agreement (IGA) with the Oregon Department of Transportation (ODOT) for the Transfer of Sidewalks on Cascade Avenue to the City of Sisters and to Grant Permission to use an Alternate Route and Authorize the Mayor to Execute the Agreement

Councilor Weed moved to approve and IGA with ODOT for the transfer of sidewalks on Cascade Avenue to the City of Sisters and to grant permission to use an alternate route and authorize the Mayor to execute the agreement. Councilor Asson seconded the motion.

Councilor Weed voiced concerns about the possibility of damage to Barclay Avenue when large loads use it as an alternate route. **Director Hardie** explained a sampling test of the road had been performed and ODOT had committed to putting down a three inch overlay prior to Barclay Avenue being used as the alternate route.

The motion carried unanimously.

D. Discussion and Consideration of a Motion to Approve the T-Mobile First Amendment to the Tower Lease with Option and Authorize the City Manager to Execute the Agreement

Councilor Asson moved to approve the T-Mobile first amendment to the tower lease with option and authorize the City Manager to execute the agreement. Councilor Holzman seconded the motion.

Director Hardie stated there were three major changes to the lease related to the need to relocate the cell tower from its current location with the imminent demolition of the old City Hall building. The changes included allowing a three year term with the possibility of three

successive three year terms, the requirement for future pole co-locators to get a separate ground lease from the City and the increase of rent from \$900 to \$1,150 per month. She added the changes had been reviewed by the City Attorney. **Councilor Weed** voiced concern with the placement of the tower and how it might impede the future installation of a stage if the site were developed as an outdoor stage/water park as she hoped. **Director Bertagna** replied an overlay of the property showed the tower would be located behind the stage.

The motion carried unanimously.

E. Discussion and Consideration of a Motion to Approve the Request for Proposals (RFP) for City Attorney Services

Councilor Holzman moved to approve the RFP for City Attorney services. Councilor Weed seconded the motion. The motion carried unanimously.

VII. CONTRACT REVIEW BOARD

A. Discussion and Consideration of a Motion to Approve the Proposal Scoring Criteria and Appoint a Proposal Review Committee for the Main Avenue Bicycle and Pedestrian Improvement Project

Mayor Kellstrom closed the City Council meeting and opened the meeting of the Contract Review Board.

Councilor Asson moved to approve the proposal scoring criteria and appoint a proposal review committee for the Main Avenue bicycle and pedestrian improvement project. Councilor Weed seconded the motion.

Director Bertagna explained the project was the first to use the new criteria and would be ready to go to bid next week. **Councilor Thompson** asked the estimated cost of the bid and **Director Bertagna** replied it was about \$700,000.

Councilor Thompson suggested lowering the maximum points for work management plan to 10 points and raising the maximum points for use of local resources to 30 points. **Director Bertagna** stated because of the nature of the project he wanted contractors to come up with innovative ideas for keeping impacted businesses open and for providing value engineering. He stated he expected contractors to do their homework and provide a very detailed plan. He added he was holding a mandatory pre-bid meeting. The **Council** discussed the weighting of the criteria and decided to leave it as presented.

Mayor Kellstrom closed the Contract Review Board meeting and reconvened the City Council meeting.

VIII. OTHER BUSINESS

A. Planning Commission Appointment

Mayor Kellstrom appointed Sandy Affonso to serve the remaining open Planning Commission term. The **Council** concurred.

IX. MAYOR/COUNCILOR BUSINESS

Mayor Kellstrom asked the Council whether a meeting to discuss whether a ‘for cause’ or ‘no-cause’ termination of the City Manager was needed, and if so a suggestion for day or time of the meeting. He stated he felt there was nothing more to discuss at this time and was unnecessary. **Councilor Thompson** stated he felt there should be a meeting to further discuss the City Manager’s position. **Councilor Weed** stated she would prefer to continue any discussion of the matter in an executive session and asked the City Attorney if that was a possibility. **City Attorney Bryant** replied it depended on what the Council’s action would be and what was to be discussed. **Councilor Holzman** suggested the executive session would be held to discuss a personnel issue and **City Attorney Bryant** replied that was too vague. He explained the City Manager had the right to decide if the meeting would be an open meeting or an executive session depending on the Council’s intent. **Councilor Weed** stated the heart of the issue was a lack of communication between the City Manager and Council leadership with the rest of the Council.

Manager Stein stated she had taken the opportunity to speak with Councilor Holzman following the Central Oregon Area Transportation Commission (COACT) meeting and reflected afterward that circumstances during the year had caused her to spend more time being technical and project focused rather than focusing on relations with and between City Council members. She suggested continuing her performance evaluation process, in an executive session, with a trained facilitator who can work with the City Council in terms of how they work together, and how she and (by extension) staff work with the City Council. She envisioned the result of this effort would be a set of working agreements between the Council members, and a set of performance goals for her with a short term check-in period to evaluate progress. She asked the Council to please consider this course of action for the benefit of the Sisters community, the stability of the city organization, the numerous projects in progress including many at critical stages, and for the benefit of constituents that had attended and those who had not attended the special meeting earlier in the day.

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The **Council** stated they were willing to look at the process Manager Stein suggested and move forward in a positive manner. **Manager Stein** indicated she would forward information to the Council about possible facilitators with the hope of identifying one as soon as possible.

X. ADJOURN – The meeting was adjourned at 9:03 p.m.

Respectfully submitted,

Kathy Nelson, City Recorder

Lon Kellstrom, Mayor