

**CITY OF SUTHERLIN**  
**Regular City Council Meeting**  
**Sutherlin Civic Auditorium**  
**Monday, July 11, 2016 – 7:00pm**

**COUNCIL MEMBERS:**

Wes Anderson, Wayne Luzier, Forrest Stone, Frank Egbert, Tom Boggs, Karen Meier,  
**MAYOR:** Todd McKnight

**CITY STAFF:** City Manager, Jerry Gillham  
City Recorder/HR Manager, Debbie Hamilton  
Deputy City Recorder, Diane Harris  
Finance Director, Dan Wilson  
Community Development Director, Vicki Luther  
Community Development Director, Brian Elliott  
Public Works Operations Superintendent, Aaron Swan  
Police Chief, Kirk Sanfilippo  
Fire Chief, Charles Perdomo  
City Attorney, Chad Jacobs (via Skype)

**Audience:** Mandi Jacobs, Cindy Hazelip, Tami Trowbridge, Frank Morby, Pam & Denny Cameron, Terry Prestianni, Gayla Holley, Beth & Jim Houseman, Brian Burke Sr., Bill Cagle, Nanette Haley, Nancy Anderson, Sam & Gladys Robinson & granddaughter Marissa

Meeting called to order by Mayor McKnight at 7:00pm.

**Flag Salute:**

**Roll Call:** All present

**Introduction of Media:** None present

**PUBLIC COMMENT** (agenda items only)

- Resident, Pam Cameron – Spoke in favor of City Charter amendment referral requiring Finance Reports to be available online. Although reports are already available on the website, concerned with issues in the past. Public would appreciate it and would show transparency in government.
- Sutherlin Schools Superintendent, Terry Prestianni, introduce himself to Council. Prestianni, the Middle School Principal for the past 4 years, has been hired as the new Superintendent. Is excited for the opportunity to work with the City and planning to periodically attend Council meetings to keep informed.

**PRESENTATIONS**

• **Special Recognition**

Director of Public Safety for Police/Fire and Chief of Police, Kirk Sanfilippo, will be showing a video acknowledging Sam Robinson's recent actions during the July 1<sup>st</sup> fire at Soft Winds Mobile Park. His wife Gladys and granddaughter Marissa were also present at the meeting.

Sanfilippo took moment to also thank the community. As a result of the recent tragic Police Officer shootings in Dallas, Texas, Sanfilippo reported the community has brought in flowers, food, and various items including a cord of firewood showing support and appreciation. On behalf of the Department the firewood has been donated to a local church to aid a family in need.

Tonight's recognition for Robinson began with interview footage concerning his heroic efforts for driving a front end loader through the fire, cutting a trail around Soft Winds Mobile Park, saving homes. Sanfilippo read and presented the certificate of appreciation to Robinson followed by a round of applause.

- Robinson referred to the US Flag in the corner of the room that represents a Christian nation. Although many have different religions, there is one common goal; to help others. Robinson spoke of the incident and expressed his appreciation for the award.

## COUNCIL BUSINESS

- **Resolution 2016.17 – Marijuana Tax Referral Discussion**

Staff Report – City Attorney, Chad Jacobs – Discussion tonight is to see if Council would like to place a referral on the November ballot for a 3% tax on the sale of Marijuana. A Marijuana Ban will be on the ballot however, if voters reject the ban, this resolution would be in place imposing a tax for dispensaries located within the city. If not on the ballot at this election, would have to wait until the November 2018 election to place a tax again. Many cities who are banning marijuana are putting this on the ballot.

Questions and concerns:

- If this is placed on the ballot and the ban fails, can a future council change that? *Yes, they could change either vote without having to go back to the voters.*
- All these businesses would be licensed through the state? *Yes, tax would be imposed on retailers who are licensed through OLCC.*
- Is there record of increased crime around these retail stores? *Information not available.*
- Is there an estimated amount of taxes to be collected? *Have not done an analysis. Would only be able to collect if the ban is voted down and a dispensary is located in Sutherlin. City would receive the 3%, the state collects 17% overall and cities will also receive a share of that based on the number of retailers in the city.*
- Do you know what the estimated cost of collection would be? *No, however Dept. of Revenue is willing to collect taxes for cities and charge 2% of everything collected by that city. Most jurisdictions are doing that. It is up to the Council.*
- Would the funds be set aside for safety officers? *Right now it would go into the general fund; it would be up to discretion of the Council to dedicate it to a particular use.*

Mayor McKnight confirmed the resolution would be brought before Council for decision on another agenda [next meeting]. *That is correct.* Council consensus is to bring it before Council. Councilor Meier was not in favor, Councilor Stone and some members of Council felt it needed to be brought before the voters. *Approval of the first reading of an ordinance proposing the tax is also before Council tonight, second reading and adoption will take place at the next meeting, after which Council will then adopt this resolution to formally refer it to the ballot.*

- **Wastewater Engineering Procurement Process**

Staff Report – City Manager, Jerry Gillham – We will be going into the Value Engineering (VE) process and need to move into the next phase of Final Design. As what was previously planned in determining the best approach, the City Manager asked the City’s Wastewater Engineer, Steve Major, to present an overview of the pre-design. The intended expectation was to hear the pre-design report from Major, discuss with our consulting team, the satisfaction or dis-satisfaction and examine our options to include the potential willingness to negotiate the Final Design phase of the project as we go into the VE process.

Questions and concerns:

- Councilor Meier expresses concerns about how the [state] law reads regarding the RFQ process. Meier referred to direct appointment and read a portion of [ORS] 279C.115, adding she couldn’t find anything in our contract law addressing this. Meier also read an excerpt from “model rules” [OAR] 137-048-0200, stating she is not sure if what we are doing is legal. *Jacobs –We haven’t got into this level of detail yet, initial discussions were about what process City wanted to use. Existing contract’s scope is broad enough to encompass additional required work. Have had preliminary discussions with City Manager and Staff; that is the path we are proceeding down. It’s not that we are avoiding the process as Councilor Meier is describing, but using the existing contract because of the broad scope. Right now we are still trying to get direction from Council.*
- Councilor Meier – Think we need to understand what is legal before deciding to go down any path. We have a contract for pre-design for a certain amount of money, didn’t know the scope went any further than that. *Jacobs – It is my understanding the contract is not just for pre-design but for additional services. Have been going on the presumption that if in fact we want to go with Major again, we would look at that contract to see if that is enough to do a direct award or have to go out for an RFQ (Request for Qualifications) using the QBS (Qualifications-Based Selections) process.*

*City Manager – As mentioned at the last meeting and in Staff report, we left the window open because we weren't sure which direction Council wanted to go. The VE analysis will be able to give direction, as well. Councilor Meier asked that this be brought to the Council level. In general, how it would have been done is Steve Major would have come in and made his presentation on the pre-design report. This would then be followed by a candid conversation with our hired consultants, some members of VE and the Pre-Design Engineering Group deciding the best approach for the City. If satisfied with results, would then sit down with Major for negotiating. If determined it is best for the City to move forward, would have then brought that contract to the Council. After review, if there were reservations, or was unable to negotiate a satisfactory cost, would then bring that back to Council with legal counsel to determine whether or not we could use the preliminary RFQ criteria list or start a new one.*

Councilor Anderson – Believe Council is all in agreement that what has been done so far is moving us in the right direction. Feels the qualification part in this is complete, we know what we're going to do, pre-design is complete. The concern is more along the lines of how can we, as Council, answer to the people and say we are doing our due diligence and we got a good competitive price as stewards of this loan money. *City Manager – Don't disagree at all, do believe we have people on the VE team who can do that assessment for us and recommend a range that is reasonable and fair to negotiate criteria needed in the next phase. Would hope Council will rely on their expertise and move into negotiating.*

Councilor Stone – Isn't it normal if the bid is over by 10%, we have to go out and have it re-bid? *Jacobs summarized the process, adding that QBS process has to be used. Do not get to ask any questions about costs until selection is made based on qualifications of the engineer. Once that selection is made, then price is negotiated. If agreement can't be reached, would move to the next person on the list, if not on the list would have to start the process over.*

Councilor Anderson – Are we required to follow the QBS in moving forward? *Yes, for any contract of this amount this has to be used.*

Discussion continued regarding QBS requirements for clarifications purposes.

*City Manager – Have followed City Attorney all the way through this process; have viewed the QBS everything is preliminary. Councilors Luzier and Stone participated in that process and interviewed and selected Major. City Attorney has laid out that process and we've been following it.*

Councilor Meier – Just asked Jacobs if that was a continuation of the contract. Do not remember if the contract stated that.

*City Manager – Not arguing with that, we have a handle on the options and what we can and can't do.*

Discussion continued regarding required processes.

*City Manager restated the intended process:*

- *Reason this (next stage of engineering) was left open, wasn't sure if we were going with CM/GC (Construction Manager/General Contractor) or stay with Design/Bid/Build (D/B/B) method;*
- *Didn't want to make a commitment that locked us into Dyer Partnership [Major] if we decided to go a different direction;*

*Have brought it to this point, next process:*

- *Value Engineering*
- *Receive recommendations from Engineering Consultants for direction to move and price range*
- *City Attorney is looking at options to either continue under the additional services element in the contract, doing Sole Source or going out to bid while in the VE process.*

*All has been planned to this point to do these things, and we're right on schedule.*

Councilor Anderson – Personally feel the qualification portion is complete; there is no doubt Dyer Partnership is qualified. Next step is more of an RFP or RFQ; can lay out a matrix with all the criteria for a competitive process. From a Council position, can say we've gone through the competitive process and have the best value.

*Jacobs referred to State Law [OAR] 279C.100–125 regarding implementing regulations, stating if the project is over \$100,000 don't get to ask about price during that process, can only look at qualifications.*

Councilor Anderson – Would like to know where that is coming from, what I read doesn't state that.

*Jacobs stated he would put together an email to Council outlining State Law.*

Councilor Meier – But you can have a competitive bid without numbers, the way I read the law is it has to go out again and be publicized as either an RFP or RFQ.

*Jacobs stated the purpose of discussion tonight is to get feedback from Council. The contracting process is generally delegated to the City Manager, however in this particular situation, because Council has*

*expressed concerns regarding their responsibility to the community, City Manager and the Mayor thought it best to have this discussion with Council at this preliminary phase. What I think I'm hearing is that going through the RFQ process through the QBS is the way to insure the best price. If that is Council's direction then we won't explore other ideas City Manager, Staff and Engineer Consultants regarding if there is a way to go directly with Dyer. That is the discussion and feedback Staff is looking for. It's not that we've made a decision; have not gone as far in the contract analysis process in order to bring this to you for that direction. If you don't want to do the analysis, there is no sense in using Staff time and paying the engineers, consultants, and City Attorney. We did not want to go down that path this last two weeks before having discussion with Council.*

Councilor Boggs asked Councilor Meier what she finds so unreasonable about that.

Councilor Meier – Concerned if we do have to go out for an RFP or RFQ, with the time it takes may not meet December deadline for pre-design. There is no doubt in my mind Dyer is qualified to do the job. However, do have some concerns from the original MAO and numbers put into the VE for things that aren't required. Since he's earning a percentage, unnecessary expenses would add to that.

Councilor Egbert – Once pre-design and Value Engineering is complete, if we move to a different engineer, do we have to re-do pre-design or do they have to accept ours? *We don't know until we get there, each engineering firm will be different. Some have stated they wouldn't accept the design.*

Councilor Anderson suggested telling them they have to accept the pre-design.

*City Manager – Can work on creating an RFP/RFQ with Jacobs, when the VE is completed will have it ready.*

## CONSENT AGENDA

- **June 27, 2016 Minutes – Regular Meeting**

MOTION made by Councilor Boggs to approve Consent Agenda; second by Councilor Stone.

Discussion: None

In Favor: Councilors Boggs, Meier, Anderson, Luzier, Stone, Egbert and Mayor McKnight

Opposed: None

Motion carried unanimously.

## ACTION ITEMS/GENERAL BUSINESS

- **Ordinance – Marijuana Tax Referral**

Mayor McKnight asked Deputy City Recorder, Diane Harris provide the first reading of the ordinance by title only. “An ordinance of the City of Sutherlin repealing and replacing Chapter 3.16 of the Sutherlin Municipal Code to impose a three percent tax on the sale of Marijuana items by a Marijuana retailer and referring ordinance to November 8, 2016 Ballot”.

Staff Report – Jacobs – Ordinance implements the ballot referral resolution discussed earlier. Recommend Council approve first reading tonight, and second reading and adoption would be at next meeting.

MOTION made by Councilor Stone to approve first reading, title only of ordinance – Marijuana Tax Referral; second by Councilor Egbert.

Discussion: Councilor Stone – When it refers to Marijuana retailer is that just sales, or is that packaging, growing; does “retailer” classify all licenses? *Jacobs – Under State Law there are 4 types of OLCC licenses, the retailer is a dispensary type of store sells to the user.*

Councilor Meier – This refers to the *transfer of marijuana*, what do they mean by “transfer”? *This only applies to OLCC licensed retailers.*

Councilor Boggs – Can we do more than 3%? *No, that is all State allows.*

In Favor: Councilors Stone, Egbert and Mayor McKnight

Opposed: Councilors Boggs, Meier, Anderson and Luzier

Motion failed.

- **Resolution 2016.13 – Finance Policy**

Staff Report – Finance Director, Dan Wilson – City's current policy was adopted in 2013. It has since been reviewed, revised, and approved by the Finance Committee this year.

**MOTION** made by Councilor Luzier to approve Resolution 2016.13 – Finance Policy; second by Councilor Boggs.

Discussion: Councilor Meier – Section 5.4 states actual budget report be available quarterly, would like to see it available monthly. Asked for consensus of Council regarding her request.

Councilor Boggs withdrew from seconding the amended motion

**AMENDED MOTION** made by Councilor Luzier to approve Resolution 2016.13 – Finance Policy as amended to state monthly rather than quarterly; second by Councilor Anderson.

Discussion: None

In Favor: Councilors Meier, Anderson, Luzier, Stone, Egbert and Mayor McKnight

Opposed: Councilor Boggs

Motion carried.

- **Resolution 2016.14 – Marijuana Ban Referral**

Staff Report – Jacobs – Previously passed a ban allowing Marijuana Facilities in the city. As part of the State Law requirements permitting us to pass that ban, it has to be referred to the voters this next election. This resolution refers it to the ballot.

**MOTION** made by Councilor Anderson to approve Resolution 2016.14 – Marijuana Ban Referral; second by Councilor Stone.

Discussion: Councilor Stone – Don't understand the last decision regarding the marijuana tax, this would be revenue for the City. If the ban doesn't pass will be kicking money out of our city. I'm for having businesses in our community.

Councilor Meier – This is for the people to decide.

Councilor Egbert – That is what the other one would have been for too.

Councilor Meier – If it had been written that revenue would have gone for Police enforcement, would have voted in favor. Don't agree with putting it in the general fund without knowing how much it will be and costs involved.

Councilor Stone – Have plenty of time for Council to decide. People should be able to vote on everything.

Councilor Anderson – Can vote on a tax in 2018, didn't want it to be confusing voting on the ban and tax.

In Favor: Councilors Boggs, Meier, Anderson, Luzier, Stone, Egbert and Mayor McKnight

Opposed: None

Motion carried unanimously.

- **Resolution 2016.15 – Charter Amendment Referral – Finance Statements**

Staff Report – Jacobs – Resolution would refer a City Charter amendment to the ballot as requested by Councilor Meier. This would require certain financial records to be available online.

**MOTION** made by Councilor Egbert to approve Resolution 2016.15 – Charter Amendment Referral - Finance Statements; second by Councilor Stone.

Discussion: Councilor Meier stated reasons for requesting this because of actions to repress this information in the past. Meier read an excerpt from a 2012 statement made by an Interim City Manager. Feel people would support this Charter amendment. Wasn't happy Council could change the reports and method of presentation if not important to them.

***Jacobs – Reason proposed language is included is to provide some flexibility if the type of information or technology changes. It does state either equivalent or greater information has to be provided.***

Councilor Boggs – Spoke of his concerns to Councilor Meier regarding her lack of trust and requiring everything being written out on paper.

Mayor McKnight – Does not have an issue with the two [Charter Amendments] topics, but does have an issue with the overall process Council may be taking. Feels the Charter is the Constitution of the City. The proposed requirement for all financial statements to be on the website does not fit Charter amendment criteria. In fact this practice is already being done by Staff. The second issue regarding appointment process is an overall governance issue. Am not totally against that idea; however have never been in favor of a Council trying to tie the hands of another Council. Citizens should be able to have input, find out how

they feel before putting it on the ballot, a more transparent process. There are other issues Council can spend time and resources on other than this.

Councilor Stone – In favor of being able to find things online vs. having to contact Staff for information.

Discussion continued regarding Council's various viewpoints.

In Favor: Councilors Meier, Anderson, Stone, and Egbert

Opposed: Councilors Boggs, Luzier, and Mayor McKnight

Motion carried.

- **Resolution 2016.16 – Charter Amendment Referral – Council Appointments**

Staff Report – Jacobs – Resolution will replace current policy, this would change it to vacancies occurring within 6 months of the election, rather than 3 months. After that 6 month period it would be much like the current policy, leaving it up to Council's discretion for filling that vacancy.

**MOTION** made by Councilor Stone to approve Resolution 2016.16 – Charter Amendment Referral – Council Appointments; second by Councilor Egbert.

Discussion: Councilor Meier referred to political problems in past; would like to appoint next vote getter.

Councilor Luzier felt there were no political issues Meier was referring to. Does Charter tie Council to appointing individual if between election and appointment if something detrimental to character is found?

***Jacobs – It would have to be something that would make them ineligible as stated in the Charter.***

Councilor Stone – Feels this is the fair way to do it, and more specific.

Councilor Egbert agreed stating it should go to the next vote getter rather than someone off the street.

In Favor: Councilors Meier, Anderson, Luzier, Stone, Egbert and Mayor McKnight

Opposed: Councilor Boggs

Motion carried.

### **CITY MANAGER UPDATE**

- Would like to propose a project, recently supported by Council that unfortunately City did not receive the grant Staff applied for. Would like to discuss moving forward with building the proposed kiddie play area and splash park in Central Park. City had \$120,000 as a grant match set aside for the project. Tourism "product portion" of the Transient Room Tax (TRT) revenue could be used. Propose to Council that we take the money set aside for the match and find a way to borrow the other \$200,000 and building it this summer. Plan could be to pay that back over a 5-year period with about \$25,000 per year. Community Development Director, Vicki Luther, has already done all of the preliminary work. Would Council like to proceed with making that project happen this summer? Or could put money aside over a 5-year period, then do the project, but costs may be 25% more. Gillham confirmed with Wilson the amount available. ***Wilson – There is about \$100,000 in the account now, City receives approximately \$50,000 per year into the fund.*** This will be a great tourism attraction and a wonderful benefit to the children in this community.

Questions and concerns:

- What do we have in our Parks Construction Fund? ***We adopted the budget but it did not include the full \$300,000 because we were waiting for the grant. Will need to amend it, get the rest of it back in, \$120,000 match was approved. Need to look at financing sources to make this happen.***
- Not in favor of borrowing money for the project, would rather see it scaled back and work on it over the next couple of years. ***City Manager – Believe most of that money will be for building that infrastructure and can't scale that back, it would then just sit there.***
- Would everything, including interest come out of tourism? ***Yes, not the General Fund.***
- What is the interest on these loans? ***Wilson – Not sure, it would be a short-term loan, the rates are still pretty low, would need to research.***

***City Manager – We know of some possibilities of borrowing the money, there is a chance could get almost 0% interest from i.e. State Parks and Recreation Department. In addition some of our Staff can do some of the work that was to be contracted out per grant requirements. Could potentially get this done for less than what we originally thought.***

Council's consensus is for Staff to bring back information to Council regarding financing plan options and costs. ***Could bring a feasible plan back to Council the first meeting in August.***

## CITY COUNCIL COMMENTS

### **Councilor Anderson –**

- None

### **Councilor Luzier –**

- Would like to congratulate the Sutherlin Fire Department on the great job putting out the fires [Soft Winds Mobile Park].

### **Councilor Stone –**

- Would like to say the same and appreciate Safety Officers service to the community.
- Sign Ordinance progress? *Luther – An email was sent out to update Council, timeline set for the end of August.*
- Flag near I-5 is in need of replacement? *PW Superintendent, Aaron Swan – Staff is aware, a new flag is on order.*
- Concerned about the pothole at Central and Calapooia. *Will look into that.*

### **Councilor Egbert –**

- Brought up at a previous meeting that a Street light is needed at Church and Hwy. 138, has anything happened with that? *City Manager – Swan has contacted PP&L and asked them to do an inventory. Community Development Director, Brian Elliott – Finally received the last quote form PP&L, have not brought a Staff Report forward yet, there are some other things being discussed. But can report the one light at Ft. McKay & Church Rd. has been quoted at around \$5,000 and for Church Rd. and Hwy. 138, and the parking area at Ford's Pond where between \$5,000-\$6,000 for both.*

### **Councilor Boggs –**

- None

### **Councilor Meier –**

- None

### **Mayor McKnight –**

- Would like to acknowledge the Lions Club for putting up flags up around town and all of the other things they do, they put a lot of time in, it's a lot of work. Would also like to recognize the Chamber of Commerce. Cannot emphasize enough what these groups and other area volunteers do in this community; very nice, everybody is working together.

## PUBLIC COMMENT –

- Resident, Dennis Riggs – Would to see the community and Council to come together showing appreciation for our law enforcement. Would like to show that appreciation by having a “Law Enforcement Appreciation Day”. *Mayor – We had our first event last month, a Public Safety Appreciation Day which will become an annual event.* I'm sorry I missed it. *Mayor – Thank you for your suggestion, it's a very nice thought.*
- Resident, Pat Bales – On behalf of the people at Soft Winds, would like to show appreciation for the hard work from the Fire Department and employees during the Fire [July 1<sup>st</sup>].

## ADJOURNMENT –

With no further business meeting adjourned at 8:41pm.

Approved:

*Jerry Gillham*

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Jerry Gillham, City Manager

Respectfully submitted by,

*Diane Harris*

*Todd McKnight*

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Diane Harris, Deputy City Recorder

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Todd McKnight, Mayor

*APPROVED BY CITY COUNCIL JULY 25, 2016*