

CITY OF SUTHERLIN
Regular City Council Meeting
Sutherlin Civic Auditorium
Monday, May 23, 2016 – 7:00pm

COUNCIL MEMBERS:

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

CITY STAFF: City Manager, Jerry Gillham
Deputy City Recorder, Diane Harris
Finance Director, Dan Wilson
Community Development Director, Vicki Luther
Public Works Operations Superintendent, Aaron Swan
Public Works Utilities Superintendent, Brian Elliott
Chief of Police, Kirk Sanfilippo
Fire Chief, Charles Perdomo
Assistant Fire Chief, Lon Dragt
City Attorney, Chad Jacobs (Via Skype)

Audience: Joe Groussman, Pat & Bert Bales, Bertha Egbert, Pam & Denny Cameron, Tami Trowbridge, Travis Tomilson, Susan Osland, Pamela Semas, Brian Burke Sr., Darrin Neavoll, Chris Hunter, Dale Richwine, Aaron Speakman, Jon Erwin

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)

- None

PRESENTATIONS

• **Wastewater Facilities Plan Expert Panel Discussion with Council**

Staff Report – Public Works Utilities Superintendent, Brian Elliott, introduced Dale Richwine from Environmental Review; Erwin Engineering’s, Jon Erwin; and Dyer Partnership’s, Aaron Speakman. Packet delivered May 19th to Council members provided a 12 month history of questions/answers, research, and correspondences. In the last 12 months Staff has done their due diligence investigating delivery methods for the Wastewater Treatment Plant (WWTP). Believe 100% Design/Bid/Build (D/B/B) is the delivery method City should utilize.

Questions and comments:

- Does it cost more to do one process over the other at this stage? *Erwin – There isn’t much of a cost difference at this stage, however with Design/Build (D/B) City would have to give back about half a million dollars to the financiers. Contractor would not use the current plans for D/B/B process; but use their own plans because of liability issues, costing another \$360,000. Would also have to go through DEQ facts and findings, costs would be \$300,000 to \$500,000. It could cost the City a million dollars to switch from D/B/B to D/B. Another method is Construction Management/General Contractor (CM/GC).*
- Is there an accountability issue between the contractor, designer, and builder? *Richwine – It’s how you write your contract. With D/B/B, design engineer is responsible for the design, Contractor is responsible for bidding out equipment. With D/B there is a full performance requirement. If*

looking at the full spectrum you lose control of what you're getting in the end. It all comes down to manage and risk. Typically alternative deliveries are used for very complex projects, do not see this project getting the savings by doing that.

Richwine explained it comes down to constructability, method used and competition. D/B/B gives the City good competition on construction and equipment.

- An email in the report stated CM/GC isn't the best method and neither the contractor, engineer or construction manager has a fixed responsibility. *Erwin – Construction managers have opportunities to purchase equipment prior to a project. When a contractor puts it together, there may be issues involved with the outcome and responsibility. If using D/B/B those things is already specified, the contractor is responsible.*
- Questioning the statement with D/B they wouldn't want to be responsible for the pre-design. *Erwin – City now has about 25% of the pre-design process done. But now it's 14-years later. Design was given the go-ahead last year. We've already paid Dyer for pre-design; talking about the design. Richwine – With D/B/B you continue on, with CM/GC method contractor is brought on earlier and keeps moving with the existing design. With D/B, specifications are given to contractors and designers. They may use same process as Dyer, or may not. Value Analysis is completed and getting ready to go through Value Engineering to protect that. They would be doing the same thing as value engineering, may not be getting anything better, but will cost City in delays and potentially \$300,000. A stipend might be paid up front to several contractors to put together designs, therefore, paying for those different designs to get to 30%. Can't you tell the contractors this is the design we're going to use? Erwin – If you're talking about sending out a set of plans for what you want, looking at D/B/B. CM/CG basically specifies a process, and may not know what it looks like until it's done.*

City Manager, Jerry Gillham, explained Staff came to a decision to examine CM/GC as introduced to them by Mr. Cagle after confirming that DEQ would not allow for DB. A team of staff and experts recommended the D/B/B method. Have discussed the ramifications with City Attorney, Chad Jacobs, if process is changed to D/B, City has a revolving loan for \$18 million and \$500,000 loan forgiveness. Would have to go out on the market, sell bonds and pay it off and return the \$500,000. There are also other limitations; a hold would be put on the project, DEQ would involve their processes, causing 6 months to year delay. City is under an MAO (Mutual Agreement Order) time constraint to have this completed by 2018. For all practical purposes D/B isn't feasible under any scenario.

- Councilor Meier questioned Erwin about a statement he made a year ago his lack of experience with CM/GC process, but does he now? *Erwin – No, not personally.* You also stated if looking at that method should start looking into it immediately. *Correct.* That's my problem; we did not. *City Manager – We began looking at it from day one.* There is talk about risk, but I read the risk is specified in the contract. It has been presented to us D/B/B will warranty the project for 7-years; otherwise risk is on the City. *City Manager – That is true, initially misunderstood this issue. Richwine – But risk isn't free, the more risk you pass on to the contractor, the more his price goes up. That is why, when you select the process, you have to identify risks.* That does not mean the City will be liable for the risk. *Richwine – City is always liable for something.*
- DEQ stated D/B wasn't an option; nothing was mentioned during loan process about that criteria. [Oregon Administrative Rules-OAR] Chapter 49 states three options to build; nothing was said about D/B to us.

City Attorney, Chad Jacobs – Am not defending DEQ, however one of the major benefits to D/B is you start construction before design in finished, providing cost and time savings. Because of DEQ's MAO regulations, City cannot start construction until 100% design is approved. That is the dilemma we have run into, which is why it was never discussed. Don't think there was intent to hide this option; did not make sense to try this process.

- There are conflicting requirements from DEQ. *Jacobs – Need to remember this is a normal construction process of a WWTP. Maybe there should have been more discussion when accepting the loan. However, if City was not under an MAO, would have more flexibility.*
- OAR 137-049-0670 lists several benefits to D/B. *Jacobs – Primary benefit is cost savings, the main concern is to get WWTP needed, at the lowest cost, therefore not raising the rates; that has been staff's focus. There are benefits but does not dictate construction would have to be started before 100% design is done.*

- Are we going to meet the environmental review by the end of May? *Elliott – Environmental review is already completed, believe you are talking about Value Engineering. Had to re-advertise for RFP’s, first response did not provide a qualified agency. Deadline for RFP’s to be submitted is at 3:00pm tomorrow. How much longer before the pre-design is done? 25% pre-design was submitted May 10th to DEQ, and approved within 30 to 60 days. What design are we sending in? Can’t send the design in before they’ve approved 100% of the pre-design. Aaron Speakman – Cannot start construction without a 100% plan review, it will need to be approved. Thought pre-design had to be approved before starting. DEQ requires the pre-design report, then will review a 90% set. Once approved can go forward. Seems like it’s taking forever. Elliott – There have been some hurdles, significant testing had to be completed and re-evaluated, some of which was required by DEQ*
- Concerned with incorrect information from Staff, DEQ and Dyer Partnership. *Elliott – Staff has received conflicting information, as well. Have followed up with DEQ for clarification. Understand this has been frustrating to Council; it has been equally frustrating for Staff. Believe legal counsel, consultants, and staff now has the correct answers to move forward.*

Councilor Meier read a statement for the record, sharing her appreciation for work Elliot has done in answering their questions; however, he works for the City Manager. Meier directed her response to the City Manager, “It is obvious from Page 1 of your response that you didn’t discern the problem that I have with the process that has taken place in the past year. (Quoting City Manager) “It would be apparent that City personnel have effectively done their due diligence in the research and selection of the delivery method for this project”. Meier stated she felt it wasn’t the City Manager’s call; his due diligence was to gather information on the various methods of project delivery and giving an unbiased presentation to Council. Staff was asked to do this over a year ago. Feels City Manager has inserted himself between the people and their government. Two contractors and one wastewater treatment engineer are on the Council, have chosen to shut Council out and proceed independently of Council authority.

Council members question Meier regarding her statement that two contractors are members of Council, and who the second one was. She answered she was that person. Some Councilors disagreed with Meier’s assessment; stating her past experience was not the same as being a contractor for WW systems.

- Mayor McKnight asked Meier to continue reading, and finish her statement.

Councilor Meier continued reading her statement [available on meeting audio] referring to dates and information and City not moving forward as advised. Meier voiced concerns regarding Erwin and James Coffey’s lack of experience with CM/GC process. Richwine and Coffey stated that at this point City would add at least another 6 months to the process to make a change at this time. Councilor Meier feels study was presented to Council at a point where it was too late to do anything. Council did not get any training, feels they have been shut out and City Manager has already made a decision.

- Mayor McKnight asked Gillham if he would like to have time to respond to Meier’s statements.
- Gillham stated he does not agree with Councilor Meier’s statement.
- Councilor Boggs stated for the record Councilor Meier’s opinion is of one Council member and is not speaking for the entire Council, requesting Councilor Meier clarify when she does speak to state it is her opinion only.
- Councilor Meier confirmed she is speaking for herself.

City Manager – Would like to explain the principal role of Council members as policy. The definition of policy is defining an end result. The City Manager’s job is to achieve Councils’ defined end result. He is required to make all kinds of decisions and doesn’t agree it was Council’s decision to determine which method is best; that is why we have our engineers and paid staff. However, Council does have final say in approving the contract.

Elliott assured Councilor Meier he has a 3-inch binder in his office of documents showing research and correspondences related to other delivery method options starting when DEQ stated they could not use the D/B method. ***City Manager – Staff knew we had until 25% pre-design and was methodical in that process. It ramped up getting closer to 25%, it did not make sense to have staff upload the totality of research early in the year until getting closer to making a decision. Fundamentally disagree with Councilor Meier’s statements. Staff’s role is to carry out the details, Council’s job is to carry out resources and give direction, City Manager’s job is to complete that under the resources given.***

Chamber President, Tami Trowbridge – presented budget report ending April 30, 2016 and tally count of Visitor’s Center patrons for years 2014 – 2016 was also presented.

Updates:

- Visitor Center patrons increased in 2015 by almost two hundred from previous year. Have plans to expand the report showing details where people are coming from and why they are visiting.
- Second annual Flag-day event will be held Tuesday, June 14th from 8:30 - 11:00am [at the Visitor’s Center]. Will supply maps showing locations of the flag monuments in town.

Questions:

- Is there still a plan to continue with the Flag Monument walk? *Once the 4 new monuments are in place, making a total of 11; will then put together a flag walk plan.*
- Have any of the monuments been vandalized? *One at Central Park was scratched, artist was able to buff out the scratches. Have been very fortunate.*
- Do you put flags out on all flag days? *Missed Armed Forces Day, was out of town when realized. Plan to get together with the Lions Club to coordinate with their flag days.*
- What are the criteria for receiving TRT (Transit Room Tax) grant monies for event advertisement? *Executive Director, Pamela Semas and I have made a list of groups/businesses that should represent the committee. Criteria will be available to the public after the committee meets. There is supposed to be a Council member on that committee. Yes, Mayor McKnight was on the Committee when he was a Councilor. Groups are putting events together, need that information before advertising. Can send me an email requesting an application, will gladly send one.*
- Chamber budget shows \$6,000 for Blackberry, however actual was \$7,300 and Flag Project Development, \$6,400 was budgeted, actual was \$13,485. *In the report at the top of the page for Flag Project shows \$9,600, offsetting the \$13,485. \$6,400 was budgeted to purchase 2 monuments if none sold, however sold 4. Did not have Blackberry’s budget available when working on this budget, there was also one additional event we provided funds for them.*
- What do most visitors want to see when they come into the Visitor Center? *It is really across the board, have a large supply of information available, we have requests for wineries, what to see at the coast, how to get to Crater Lake, where local churches are, etc.*

COUNCIL BUSINESS

- **Parks Advisory Committee Appointment**

Staff Report – Deputy City Recorder, Diane Harris – City received an application from Vicki Holland for Parks Advisory Committee. There is one vacant seat open, term ending December 31, 2017.

Holland was not available at the meeting for comment.

- Does this committee require a year residency? *No.*

MOTION made by Councilor Luzier to appoint Vicki Holland to the Parks Advisory Committee as presented; second by Councilor Boggs.

Discussion: None

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

Opposed: None

Motion carried unanimously.

CONSENT AGENDA

- **May 9, 2016 Minutes – Regular Meeting**
- **Liquor License Application – Oak Hills Golf Club**

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

Discussion: What is “off-premise” liquor license? *Chief of Police, Kirk Sanfilippo – This allows people to purchase beer or wine in the pro-shop and take it off the premises.*

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

Opposed: Councilor Anderson

Motion carried unanimously.

ACTION ITEMS/GENERAL BUSINESS

- **Resolution 2016.11 – Authorizing Jurisdictional Transfer of Central Avenue**

Staff Report – City Manager – Jurisdictional Transfer Agreement has been reviewed by ODOT and Jacobs, now completed and ready to sign. ODOT made a few minor changes to the agreement. ODOT Representatives, Darrin Neavoll and Chris Hunter are in attendance tonight to answer questions.

MOTION made by Councilor Luzier to approve Resolution 2016.11 – Jurisdictional Transfer of Central Avenue and authorizing City Manager to execute transfer of authority; seconded by Councilor Stone.

Discussion: Councilor Meier – There is supposed to be a second contract for [traffic signal] light maintenance? *Gillham – That is for an annual maintenance agreement City will be executing. That's not a major monetary amount? No, it's well below the \$25,000 limit. Hunter – It is for maintenance of the signal, there are cap limits, as well. If it looks like something is going to exceed that cap, written authorization from the City will be required to perform those repairs.*

Councilor Egbert – Is that for both lights? Just the Calapooia signal. The State maintains other signal, but the monetary piece is between City and County.

Councilor Stone – Will the signal not need replacing at that intersection? At some point will probably need to be replaced, it's functional and can be maintained right now.

Hunter spoke of the minor changes to the contract. There are a couple of easements over the railroad and at Murphy Plywood, and small piece of property just east of Comstock. ODOT doesn't need those anymore and relinquishing them to the City.

Councilor Egbert – Would like clarification regarding portion City will be taking over. The westerly right-of-way line at Sunset Street (east of Comstock) to Calapooia. ODOT will continue maintaining the Comstock/Central intersection.

Hunter presented Council with a large size copy of a check for \$2.15 million.

Neavoll stated that at a previous Council meeting the amount was \$1.9 million, however, at City Managers persistent urging ODOT awarded \$2.15 million. *Gillham – Am continuing to press for an IOU for another \$250,000!*

Hunter – Gillham worked hard for the \$2.15 million, if there is any maintenance on the highway before City does a project have an Intergovernmental Agreement with the City that ODOT will do that work, we bill the City but this extra money can cover that.

Councilor Boggs – Will you be doing anything west of Comstock? Neavoll – Yes, need to do some maintenance on the section, possibly this summer. In addition would like to coordinate with City when doing a project, could possibly come up with some funding when that happens.

Councilor Egbert – Who's in charge of Calapooia at Central? Gillham – City will be, with the County. How about the southern part? Hunter – County abuts up to Central, City owns that intersection. Gilliam – City is actually seeking support from the County for a maintenance agreement.

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

Opposed: None

Motion carried unanimously.

CITY MANAGER UPDATE

- For those involved with the Blackberry Festival or have parades, you will no longer need to apply for an ODOT permit. Will just need to complete City's parade permit application.

CITY COUNCIL COMMENTS

Councilor Anderson –

- None

Councilor Luzier –

- None

Councilor Stone –

- Would like to thank everyone involved in the Public Safety Appreciation event, it turned out great.

Councilor Egbert –

- Understand several emails were going around regarding the WWTP, but didn't receive any of them. *Gillham – Thought we had that fixed by getting you a fax/printer to receive emails. We*

are sending emails but didn't realize you aren't receiving them until after the fact. Will create a mechanism to call or inform you when sending an email, making sure you receive it.

Bertha Egbert – Feels part of the problem is his email address, did a test, has not received emails since March [contact information changed at that time], need to include fax/printer address contact information making it available to others.

Harris – Councilor Egbert and I discussed these issues last week, after informing me his old email address was still on City's website, it was corrected immediately.

Gillham – Need to reactivate the old email address for ability to use both. Would also like to suggest, whenever something is sent out, cc Harris, she will then make sure Councilor Egbert has received it.

Councilor Boggs stated he has seen two versions of Egberts fax/printer address; one has all lower case one has both upper and lower case letters. *Am familiar with both the upper and lower case version, however do not know if this matters, Staff will look into it.*

Councilor Boggs –

- None

Councilor Meier –

- Does City get donations specifically for the Sutherlin Library? *Wilson – The library has received donations in the past, donations are put in the Library Fund. The fund will be expended this current fiscal year. City does receive small donations at times. What do you do with the money? It is added to that fund. If we get donations to our library, how do we separate items out from County? Jacobs – When donations are made, they're for a specific purpose, and are bound to that. Advice is to wait, see what happens concerning the library, can work out details then.*
- Would like to know how the Library Workshop went. *Staff will forward the minutes to Council members, as well as the audio.*

Mayor McKnight – It was decided the committee will wait to see what happens with the County vote.

City Manager – Have proposed MOA (Memorandum of Agreement) to create joint partnership [Library Board, Friends of Library and City] to bring to Council for approval. Will meet again around August.

Mayor – County has not yet decided they are moving forward with placing the measure on the ballot.

City Manager informed library committee members whatever happens will all work together for a library in Sutherlin. They all agreed. Options were discussed about library's possible location change.

- You stated in your [weekly] report that you will work together to seek annexation by Sutherlin voters. The City can't get involved in that. *If it [Library District] passes, can then take a measure to the voters.*
- Money has been budgeted for painting/carpeting City Hall. *Will hold off on paint and carpet until we know what is going to happen with the library.*

Gillham explained possible scenario if library had to move out of their building. Nothing has been planned.

- You have an evaluation due in May, can we schedule that? *Yes, was going to report it will take place in June at either the first or second Council meeting, will coordinate with the Mayor.*
- Councilor Meier asked who on Council felt we should have a say in delivery method for WWTP?

Councilor Luzier – Staff and engineers should present what they think is the right method. Council should make a decision off that recommendation. Don't agree with Councilor Meier's assessment.

Councilor Anderson – Have said before in order for D/B process to function properly and be successful, it takes someone willing to take the reins and believe we will save money. In this case we do not have that. From a Council's perspective don't want to move in a direction of going against the grain.

Councilor Meier – But, do you think we should have been apprised and should have been our call to represent the citizens?

Councilor Anderson – The problem I see, with the limited experience on D/B regarding Staff and DEQ's point of view misinformation was conveyed. See it difficult for staff to say "No DEQ we want to do that method". Yes, or knowing how. Can't say it's going to save us money. It's difficult to say we should have been involved, don't think there was enough information a year ago to relay to Council. The email from April of 2015 Jon Gasik [DEQ] said D/B wasn't going to be approved, so it was dropped. Am afraid if Council makes a decision, forcing Staff to do something they don't want to do and it won't be a success.

City Manager – There is no question Council knew Staff was looking at the other two processes, if at any time got the sense Council wanted to be the final decision maker of those two processes, certainly would have taken a different approach. You said go build a WWTP for \$18 million, stay within the law

and stay within the budget. It is my job to do that, you have an equal obligation to tell me “hold it, we know you’re looking at options, but we want to be the final decision for those two processes”, would have taken a different approach. Assumed it was my call to make and go with professional staff. Staff doesn’t come to Council for every little thing. Details are up to professional people we hire.

Councilor Meier – Think you’re missing the point; we are responsible to our customers and citizens to save them money.

City Manager – Got the point and we’re going to save money, this is the best mechanism for that.

Councilor Stone – We’ve had 20 workshops and D/B wasn’t ever mentioned. It was, in an email when Gasik said we couldn’t do it. Concerned with the conflicting information we received. Believe Jacobs answered very well when explained we are in this situation because of MAO with DEQ.

Mayor McKnight – Agree with Councilor Luzier, as well as, Councilor Anderson’s statement, you don’t want to go against the grain with what staff feels is best. Always open to information and asking questions. Believe in going with what the professionals say.

Councilor Egbert – I think the professionals should make the decision; tonight’s and what was received in the packet is probably the best information so far.

- *On a different subject, feel Planning Commission should be involved with projects in the City, such as the [alternative] school and the Rite-Aid project. If it’s going to impact our public works, sewer and transportation there should be involvement. Am asked, for privacy reasons, to keep silent on some projects, the moment am able to share information provide it in weekly reports. Planning Commission is involved, has already had a Public Hearing for Rite-Aid.*

Councilor Stone asked Jacobs when the deadline for putting something on the ballot is. Deadline is August. There is a ballot title process and 7-day challenge period, and will need to have it on the agenda by second meeting in July. As far as the Marijuana measure, does the State put that on the ballot? No, each city, have prepared a resolution and coordinating with County making sure questions are being asked in the same way.

Mayor McKnight –

- *Was unable to attend the Public Safety event, but talked to both Chiefs and City Manager, hearing nothing but praises. List of those who participated was outstanding. Would like to see this happen every year.*

PUBLIC COMMENT –

- *Resident, Pam Cameron – Provided a list of groups and people involved in first annual Sutherlin Public Safety Appreciation Open House. Numerous clubs, groups and individuals were acknowledged. Cameron thanked Councilors Meier, Egbert, and Stone for attending. Audience joined Council and Staff in a round of applause. Cameron continued stating she would like to express gratitude to Chiefs, Perdomo and Sanfilippo who made themselves totally available doing everything in their power to make this a wonderful event. Cameron read a thank you card thanking the City of Sutherlin for support. Congratulations to Mayor McKnight’s wife, Traci, for receiving the Coach of the Year Award.*

ADJOURNMENT –

With no further business meeting adjourned at 8:40pm.

Jerry Gillham

Approved:

Jerry Gillham, City Manager

Respectfully submitted by,

Diane Harris

Diane Harris, Deputy City Recorder

Todd McKnight

Todd McKnight, Mayor

APPROVED BY COUNCIL JUNE 13, 2016