

**CITY OF SUTHERLIN**  
**Regular City Council Meeting**  
**Sutherlin Civic Auditorium**  
**Monday, October 10, 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  
City Recorder, Debbie Hamilton  
Deputy City Recorder, Diane Harris  
Finance Director, Dan Wilson  
Public Works Superintendent, Aaron Swan  
Community Development Director, Brian Elliott  
Police Chief, Kirk Sanfilippo  
City Attorney, Chad Jacobs (via Skype)

**Audience:** Amber & Taylor Luzier, Connie Luzier, T.A. Robertson, Yvonne Solberg, Joe Groussman, Bertha Egbert, Pam & Denny Cameron, John & Patricia Klassen, Beth & Jim Houseman, Seth Vincent, Marjorie Creacy, Wendi Stinnett, Gayla Holley, Scott Richardson, Travis Tomlinson, Justin Peterman, J. Lindeen Brown, Pat & Bert Bales, Rick Murphy, Pamela Semas, Tadd Held, April Ehrlich, Brian Burke, Dennis Riggs, Ralph Lumell

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

**Flag Salute:**

**Roll Call:** All present

**Introduction of Media:** Amber Ehrlich, News Review

**PUBLIC COMMENT** (agenda items only)

- None

**CONSENT AGENDA**

- **September 26, 2016 Minutes – Regular Meeting**

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

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

Opposed: None

Motion carried unanimously.

**ACTION ITEMS/GENERAL BUSINESS**

- **Resolution No. 2016.19 – Budget Adjustment**

Staff Report – Finance Director, Dan Wilson – Police Department was awarded DPSST’s Micro-grant for \$5,838 to help reduce bicycle theft. Resolution adjusts appropriations allowing funds to be spent.

**MOTION** made by Councilor Luzier to approve Resolution No. 2016.19 Budget Adjustment for \$5,838 DPSST Grant as presented; second by Councilor Stone.

Discussion: Councilor Egbert – How will this be used, is there a special idea to reduce bicycle theft?

***Sanfilippo – Yes, would rather not say at this time, will provide a report after working on the grant.***

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

Opposed: None

Motion carried unanimously.

- **Resolution 2016.20 – Parks Master Plan Grant**

Staff Report – Community Development Director, Brian Elliott – Resolution is for acceptance of Oregon Parks and Recreational Grant for Ford’s Pond Parks Master Plan’s preparation and delegating authority to City Manager to sign the agreement. Grant is for \$40,000, with grantee match of \$26,991.

**MOTION** made by Councilor Boggs to approve Resolution 2016.20 to accept the Parks Master Plan Grant for Ford’s Pond as presented; second by Councilor Luzier.

Discussion: Councilor Stone questioned the need to add a “not to exceed” amount to the motion. *Elliott – This is a \$40,000 reimbursement grant. A \$10,000 Ford Family Foundation Grant will go with that, funds were also raised by Friends of Fords Pond, also an in-kind donation by City Staff for the match.*

Councilor Luzier – The motion is to accept the grant, cannot go over that amount.

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

Opposed: None

Motion carried unanimously.

## **REPORTS**

- **Tourism Fund Use**

Staff Report – City Manager, Jerry Gillham – Recently attended League of Oregon Cities (LOC) Conference. Was able to get answers to the following questions from their legal counsel and a lobbyist:

- 70/30% split regarding Transit Room Tax (TRT) funds valid after 2003 and can you spend the 30% on whatever you want?
- Could you use product development or tourism related money for trash cans?
- Of the 70%, are there any restrictions?

The 70/30% split was created after 2003; cities grandfathered in can continue to spend funds as before. Uniquely, if you were spending 100% of those funds for tourism before 2003 then you must stay that way. After 2003 all new TRT funds have to be split 70% for tourism and 30% for whatever city or organization chooses. That 70% can be used for promotion or product; the term “product” means it must be a “durable good” intended to last 10 years. Cement or steel trash cans qualify, rubber cans wouldn’t, but one could spend funds from the 30% portion for those. LOC’s Legal counsel stated they are in the process of changing it for more flexibility. As long as the taxing body who gives the money and the organization in which it is allocated to agree it’s worthwhile and tourism oriented, you could still do it.

Councilor Meier – Have a problem with what you said about durable goods, the actual word is “real property” as described by LOC. *True, they said it is meant for any durable goods that can last 10 years.* The law says “real property that has a useful life of 10 or more years and has a substantial purpose of supporting tourism or accommodating tourist activities”. Real property doesn’t mean waste cans. The term product is something you came up with, and not mentioned in the law. *Both the attorney and lobbyist said as long as the “product” was a durable good product, it qualifies. Sean O’Day’s specific job is to oversee this element of the law, and a better resource.*

*City Attorney, Chad Jacobs – Believe what O’Day was explaining to City Manager is if you place things on real property to improve it whether its trash cans, playground equipment, etc., as long as it’s related to supporting tourism or accommodating tourist activities that would be an improvement to real property and can be used. City Manager is correct; the league has been highly tuned to what can be challenged for these expenditures. If the industry that would challenge this is in agreement, you don’t have much of a risk in expending funds in that way.*

Councilor Meier stated real property as defined by the Attorney General says “improved real property” is improved land rather than a project, such as a building. Anything that’s not attached is not real property. *Jacobs – You are talking about an improvement to the real property, and that is what’s allowed. It depends on the trash can, how it is attached, and if in an area accommodating tourist activities.*

Councilor Luzier suggested Jacobs clarify questions and forward his findings to Council for discussion.

Mayor McKnight confirmed league’s attorney is the authority on the subject and is there a place to go where somebody rules on this?

*Jacobs – No there’s not, but they work closely with the industry on amending the law and they understand statewide what kind of challenges there are for these types of expenditures. If this is not the type of expenditure the industry is going to oppose then the risk of a legal challenge is minimal.*

Councilor Meier – These trash cans are going on Central Avenue, that has nothing to do with tourism related facilities. **Jacobs – *That is a factual analysis, have not discussed with anyone on whether it would be related to things such as the flags on Central. Also need to clarify this falls within tourism related activities or pre-2003 TRT; you may have broader authority to expend.***

Councilor Meier provided information defining how City expended the funds in 2008, it was very limited. Mayor McKnight asked Council's consensus for Jacobs to bring back information for a decision. Councilors agreed and would like additional information on what type of trash cans they are referring to.

## **DEPARTMENT HEAD UPDATE**

### **Community Development Director, Brian Elliott –**

- Department has been very busy with several projects. Have met with different developers who have requested their details not be shared yet, however can say it is very exciting and promising.
- Working on UGB (Urban Growth Boundary) expansion with Douglas County Planning Director, Keith Cubic.
- Moving forward on Mixed Zone change and Development Code updates. Planning Commission workshop is scheduled for October 18<sup>th</sup> to review the draft.

### **Public Works Superintendent, Aaron Swan –**

- Tuesday night will tie-in new N. Comstock waterline into Central's. Final tie-ins at Laurel and First Avenue will be done Friday. Water portion of that project will basically be completed. Will then move on to the paving.

Councilor Luzier – When do you anticipate the paving? ***Date has not been provided yet, if all water tie-ins go according to plan would think patching could be done the following week.***

Councilor Stone – What is status of N. Comstock project and the County? ***Kick-off meeting is scheduled this Wednesday. They are setting everything up with ODOT, project planned to start next spring.***

Councilor Egbert – There is a road behind the mall [Myrtle St.] that was to be developed and come out on Comstock, will anything be done with that? ***Swan – Have had several meetings with ODOT where that was brought up, at this time they aren't ready to do that. There is still a right-of-way there? Not sure if they have all of the right-of-ways squared away, but it is part of their plan.***

### **Finance Director, Dan Wilson –**

- Finishing up annual audit and finance statement preparation. CPA will be submitting the Audit Report at the November 14<sup>th</sup> meeting.

### **City Recorder, Debbie Hamilton –**

- Judge Andrew Johnson's evaluation is now due. Can schedule Executive Session for the October 24<sup>th</sup> meeting, however, if Council would like to attend court to watch the judge, can wait until first meeting in November. Court will be held October 27<sup>th</sup> and November 3<sup>rd</sup> at 5:00pm. Council decided to wait until November 14<sup>th</sup> meeting for the evaluation.

### **Interim Director of Public Safety and Chief of Police, Kirk Sanfilippo –**

- There will be a budget adjustment at next City Council Meeting for purchasing a new Police vehicle. Unit #804 was taken out of service last week. Over the last 12 months, the vehicle has cost the City over \$10,500 in repairs. The vehicle has quit on officers 4-times during the middle of their shift and had to be towed. This vehicle is not safe, reliable or a "front-line" vehicle.
- The 10 mobile radios Council approved will be assigned to patrol vehicles, code enforcement, records clerk's office and report writing room.
- There was a natural cover fire October 9<sup>th</sup>, in Nonpareil area. Press release has been posted on Police Department Facebook page and City's website.
- Finishing up demos from three vendors for SCBA's (Self Contained Breathing Apparatus) for Fire Department. Fire Department received a grant for the purchase of the SCBA's. Will be doing an evaluation before presenting findings to Council.

## **CITY COUNCIL COMMENTS**

### **Councilor Anderson –**

- Unable to attend October 24<sup>th</sup> meeting; will be out of town on business.
- Would like to thank the 8 people running for Council for their service and volunteerism.

**Councilor Luzier –**

- None

**Councilor Stone –**

- Ford's Pond Master Plan includes all 200 acres, does that mean we can't sell any of it off in the future? *No, City still has that option at any time.*

**Councilor Egbert –**

- None

**Councilor Boggs –**

- A private party wants to pay for painting fog and center lines on Dovetail Lane. Can they do this? Am assuming they are referring to the city owned portion (from Hwy. 138 to top of Dovetail)? *Swan – Don't think that will be a problem. Will have them contact you.*

**Councilor Meier –**

- Would like to know status of street repair plan? *Swan – Have been concentrating on Central Avenue project; have not moved forward with street inventory at this time.*

*City Manager – Engineer will be able to provide a snapshot and determine the needs and estimated costs. Priority right now is focused on several other upcoming projects.*

- Read in minutes from Councilor/City Manager meeting, you (Swan) said you decided to do Central and hoping to extend paving to Emerald, is that your decision? *Swan – No, it is my hope, we discussed getting at far as Terrace St., with the proper bids could make it to Emerald.* Some of Council thought we should look at what's going on at E. Central, rather than just Central.

*Swan – We consider that E. Central, trying to get as far as we can by moving eastward vs. going out east and coming back westward. Understood Council wanted to put money aside for that purpose. Can get to Terrace for sure, possibly Emerald or even Pear. A lot goes into this, the money, engineering, contracting, it was decided we were just going to see how far we can get, then go from there.*

Councilor Anderson – It was my understanding that ODOT has stepped up and said if City is doing the TOA (Transfer of Authority) on Central, then they will pave from I-5 to Comstock. County owns from Calapooia to State Street, have had discussion that County would step up and want to get involved with that portion. City hasn't done overlay projects for two fiscal years so money would be available to keep going east. That, I believe, was Council's thinking.

Mayor McKnight agreed.

- Also read in those minutes City is planning to do trees, grates, and [street] lights, do you have the money to do that? *City Manager – It is part of a plan, working on coming up with additional money.* From where? *The County is currently scoping that section, are in hopes they will do what ODOT did by giving additional funds.*
- PERS unfunded liability was brought up at a meeting I attended in Roseburg. During the budget process discussed revisiting the issue in 6-months on how City is going to handle the increase. *Wilson – Those numbers just became available last week, working on an update to discuss.*
- Is MOU (Memorandum of Understanding) with SDDI completed? *Yes, and certified by Jacobs.* Was that sent to Council? *Jacobs sent his advice to Council a couple of weeks ago.* Looking for the MOU. *Will send that out tomorrow morning with the resolution.*

**Mayor McKnight –**

- Was visiting Police Chief last week at City Hall when Bruce Boone, (a member of Lion's Club) came in asking if they had enough stuffed animals for the Police cars to give children when calls involve kids. Felt this was something to be noted, people do these things that others don't know about. Not sure if this is a Lion's project or if he does this on his own. Want to acknowledge these random acts of kindness.
- Would like to acknowledge the Chamber for sharing an event on Facebook. During a recent High School assembly, Special Olympics played a game at the Football Field. This cause is very special, and near and dear to my heart, my wife is very involved in it, as well. Got a lot of comments about it, the kids are excited and glad they are getting the recognition.

**PUBLIC COMMENT –**

- Resident, Justin Peterman – Want to thank Councilor Luzier for his comments in the News Review and the fact he had the guts to put his name on it. Too often we see people willing to put a lot of

comments out there, but don't put their name on it. Feel the Executive Session tonight to censure Luzier is a complete joke; he is entitled to his opinion. It's easy to deny things that you do if you don't put your name on it. It's an election year; we should all have the ability to speak our mind.

**ADJOURNMENT** –

Council took a short recess after regular session at 7:48 before going into Executive Session. Mayor announced Council may return to reopen regular session depending on the outcome of Executive Session.

Mayor McKnight announced a five-minute break before Council meets in Executive Session called under ORS #192.660(2) (b) – Discipline of Public Officers, employee, staff member or individual agent, or hear complaints or charges brought against such a person, if that person does not request an open hearing.

Executive Session called to order at 7:55pm.

**EXECUTIVE SESSION – ORS #192.660(2) (b) – Discipline of Public Officers.**

Executive Session adjourned at 8:25pm.

Mayor McKnight opened regular session at 8:25pm.

- **Censorship of Public Officer**

**MOTION** made by Councilor Anderson to censure Councilor Luzier for his letter to The News Review's Editor, [September 25, 2016], regarding negativity on volunteers, speaking on behalf of the Council with facts that I personally disagree with; second by Councilor Stone.

Discussion: None

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

Opposed: Councilor Boggs and Mayor McKnight

Motion carried.

Regular meeting adjourned at 8:28pm.

Approved: *Jerry Gillham*  
Jerry Gillham, City Manager

Respectfully submitted by,

*Diane Harris*  
Diane Harris, Deputy City Recorder

*Todd McKnight*  
Todd McKnight, Mayor

***APPROVED BY CITY COUNCIL, OCTOBER 24, 2016***