

CITY OF SUTHERLIN
Regular City Council Meeting
Sutherlin Civic Auditorium – 7pm
Monday - May 28, 2013

COUNCIL MEMBERS:

Tom Boggs, Frank Egbert, Patricia Klassen, Todd McKnight, Karen Meier, and
Forrest Stone

MAYOR: Denny Cameron

CITY STAFF: City Manager, Jerry Gillham

City Attorney, Chad Jacobs
Acting City Recorder, Trissie Penland
Community Development Director, Dan Huff
Police Chief, Kirk Sanfilippo
Finance Director, Ron Harker
FD2 Chief, Greg Marlar

Audience: Bea Fritts, Wayne Calder, Lindy Tabor, Duane Waller, Jeremy Harris, Pam Gorla, Gary Fugate, Craig Zolezzi, Laurie Kemper.

Meeting called to order by Mayor, Denny Cameron.

Flag Salute

Roll Call: All present

Intro of

Media: None present.

PUBLIC COMMENT: (agenda items only)

Duane Waller, Blackberry Festival re: Parks and Facility User Agreement and Check-off list. Waller stated the agreement they're submitting was changed. Copies of their revised agreement were submitted to Council.

- Council President, Klassen asked if our City attorney has reviewed the revised copy. Waller stated, no, he had just received it.
- Klassen asked if other groups had input with this.

Waller said although other groups were notified they had no response. He felt some groups had not gotten the original draft; wanted to know if the groups not notified are exempt. Feels they (Blackberry Festival) are being harassed.

City Manager clarified that the draft copy went to user groups who had previously submitted an application within the past year.

Bea Fritts - 281 Heavenly Ct. (located next to rodeo grounds).

Shared concerns with a tree on the other side of her fence in which the roots are pushing up the blacktop in her driveway. Damage from a root is 26" long, 21" in circumference. The tree is on City property; Ms. Fritts has contacted PW Supervisor, Chris Berquist and the former City Manager regarding this with no results as yet. Ms. Fritts is requesting the tree be removed and action taken.

[Although not related to an agenda item the Mayor allowed her to finish.]

Gillham said they'd be happy to take care of it; for Ms Fritts to come into City Hall and they will coordinate the removal of the tree.

PRESENTATIONS / PROCLAMATIONS

Parks and Facility User Agreement

City Manager, Jerry Gillham, asked Laurie Kemper and Craig Zolezzi (City/County Insurance agents) to provide their assessment regarding the revised agreement for the Parks and Facility User Agreement.

Questions:

- Why there hadn't been an agreement before this time and why the need for one now?

Kemper recommends an agreement will cover questions for users; insurance does not require the agreement, however, best practice surveys indicate this would be a recommended action. Zolezzi, agent of record for the City, commented about risk management which protects the City from any unforeseen issues. When the City becomes a property owner, the City would be liable for 3rd party use. He feels with 3rd party use we should absolutely have an agreement in place. He feels with Gillham's presence here has been an improvement to these groups with trying to come to an agreement. Kemper added most all the cities she deals with have a user agreement in place. Zolezzi feels we need to get to a middle ground; sees part of the problem as being verbiage.

Gillham reminded Council that it was stressed at a previous meeting that this user agreement was not specifically for Blackberry but to be used for all groups across the board. It was meant to be inclusive. There is a history of distress, Gillham does not want that and has been working to repair it.

Councilor Boggs asked if this focuses on public health or safety. He's not sure why all the hoopla over a user agreement that protects the City and still allows these events.

Zolezzi was in agreement with Councilor Boggs. Gillham has tried to meld together into one agreement what both sides are wanting. He feels it's a bit unrealistic to take some of those things out.

The Mayor reported he was involved with the putting the Blackberry user agreement together which they used an agreement from the City of Winston as a reference.

Duane Waller (Blackberry Festival) - In item #13 of their draft agreement noted the word "termination". In item #5 of the City's Parks and Facility User Agreement the wording is usage. He doesn't like the termination; would like it changed to "suspend". He doesn't feel that language works for their event.

Klassen commented that the City's police force and City Manager would be able to determine when an event is out of control or public safety is an issue. She is concerned that having a user agreement that is used across the board for all events, not just Blackberry; if an event is out of control and needs to be shut down then that's what should happen.

Mayor asked for agreement to be looked over by the City Attorney and come back for consideration.

Chad Jacobs, City Attorney, stated this agreement and policies need to be in place. He also stated the current draft says "City may terminate event/activity at any time should it be determined there is an imminent risk to the public health, safety or welfare exists". The key is the words 'imminent risk'. Even if this language is not in the agreement, the Police have the authority to shut the event down if there is that imminent threat. This language is completely legal, however, if there is a breach of the agreement and therefore will shut down the event, is a different issue.

The Mayor asked if an event was shut down, the Car Cruise was due to a vehicle losing control, once the vehicle has lost control, with the agreement language, could the Cruise be shut down forever due to the one incident.

Jacobs reported once you open up your property, you create a Public Forum. The City would then be restricted as to what they are allowed to do should something go wrong. It could be the issue is cleared immediately (imminent danger gone) and the event is allowed to continue; or the imminent danger remains thus closing the event for the rest of the day. It will be a factual analysis of the situation.

Wayne Calder, former Chair of BB Festival for many years, was asked share his thoughts or comments on how events have been handled in the past. He feels a compromise can be reached; it has to be a partnership. Blackberry purchased the property after Timber Days shut down and donated it back to the City. Calder doesn't feel it's been a constant fight as depicted, small problems here and there that have been worked out.

Councilor Meier feels the Blackberry Festival comes in here month after month and seems to want to fight. Questioned why the Blackberry Festival is doing a City form. Meier is tired of spending City money on attorney expenses with these types of things.

Mayor asked is this agreement for all groups or just certain ones.

Gillham - This agreement is for all groups. The issue seems to be the wording in item #5 'terminate' vs. 'suspend'. He is happy to change it; a phone call prior to this meeting would have taken care of the issue right away.

Councilor Boggs summarized: The word termination will be changed to suspend based on the circumstance. The City is ok with the authority noted to 'shut down' an event if needed. He feels the draft from the City suffices to use, he doesn't see any major differences.

There was discussion regarding situations that may shut down an event.

Councilor Egbert asked about the risk to the City with the liability insurance the groups have to provide. Does the million dollar policy they have to provide lessen the risk factor? Jacobs said it does reduce the risk, important to have it included in the agreement it. There is always some risk involved if the amount is too low.

Gillham discussed removing the independent panel for conflicts for problem solving. He feels that Blackberry, Waller and the City can work anything out. He would prefer to leave as a City thing and not bring in outside help with any issues. To summarize the City is ok with word change of terminate to suspension; ok with the shut down authority we have; ok with the liability, using that methodology would like to move forward.

Waller will present the changes to the Blackberry Festival Board. If they agree with the change, the Parks and Facilities User Agreement would acceptable.

Using the City's original draft, a new draft agreement will be submitted to Council and Blackberry Festival with the change of 'terminate' to 'suspend' in item #5.

CONSENT AGENDA

Minutes from May 13, 2013 Regular Meeting

Minutes from May 13, 2013 Workshop

Change in Liquor License for Oak Hills Golf Course (aka Umpqua Golf Resort)

Discussion: Oak Hills is asking to reduce their sale of alcohol to wine and beer only.
MOTION made by Councilor Boggs, seconded by Councilor Klassen, to approve the Consent Agenda as presented.
In favor: Councilors Boggs, Egbert, Klassen, McKnight, Meier, Stone, Mayor Cameron
Opposed: None
Motion carried unanimously.

ACTION ITEMS

Ordinance – Council Rules (first reading)

Repealing and replacing Chapter 2.05 of the Sutherlin Municipal Code

First reading by title – Acting City Recorder, Trissie Penland

MOTION made by Councilor Boggs, seconded by Councilor Meier, to approve the first reading of Ordinance amending Chapter 2.05 of the Sutherlin Municipal Code.

Discussion: Councilor Egbert didn't feel the conflict of interest needs to be added.

Councilor Meier feels we need transparency, what might be perceived by the public.

Mayor clarified that when there is an actual conflict.

Jacobs clarified further, if there is some interest you cannot set it aside you should claim or disclose a potential conflict.

Council President, Klassen, interjected if there is a potential conflict is should be disclosed.

Councilor Boggs doesn't feel this warrants this amount of discussion when it rarely comes up; leave as is for the time being.

Councilor Klassen questioned the attendance section.

Councilor McKnight doesn't like the one unexcused and you're automatically out; feels it to be a bit extreme.

Jacobs reviewed the proposed language.

Councilor Meier suggested them being able to address the Council to retain their position.

Mayor feels they have a responsibility when taking a position they need to be there. He referred to the Parks Committee, out of 4 meetings he's been to one due to work schedule.

Councilors McKnight and Boggs agreed that making them two unexcused then they're out.

Mayor felt no right of appeal to council to request for keeping position. Two meetings in a row and two missed meetings without notification would be reason for dismissal.

City Manager said right of appeal to Council should be available.

Mayor wants inserted into Council Calendar ordinance review, would like them placed on the calendar as they come up. Put in council packet or on Council web page or on a Google calendar were suggested.

Jacobs reported originally this was discussed as something for Staff to do not to be added to the Council Rules.

Mayor wants them added to the Council Rules.

Jacobs said they would add the Council Calendar to 2.05.085 of SMC.

Councilor McKnight would like to see the meetings to go back to one a month. Klassen feels having the two meetings a month helps with the overall governance of the City. Gillham stated said he preferred two meetings a month; staff is able to get things done more timely. Council President, Klassen would like to see a time limit on the meeting; no later than 9pm. Several were in agreement. Councilors Meier and Egbert would like to see things move along more quickly. Meier questions why things are gone over and gone over.

Amendment to the original motion by adding the Council Calendar, and adding missing two consecutive meetings unexcused.

In Favor: Councilors Boggs, Klassen, McKnight, Meier, Stone
Opposed: Councilor Egbert, Mayor Cameron
Motion carried.

MOTION made by Councilor McKnight, seconded by Councilor Boggs, to have one council meeting per month.

Discussion: Asked Staff if one meeting a month with ability to call a special meeting would work for them. Gillham felt it could.

CP, Klassen, felt strongly that two meetings were in order with putting a 9pm time limit.

In favor: Councilors, Boggs, McKnight

Opposed: Egbert, Klassen, Meier, Stone, Mayor Cameron

Motion failed.

Drug Paraphernalia

Acting City Recorder, Trissie Penland - final reading by title only.

Staff Report: Police Chief, Sanfilippo -

MOTION made by Councilor Klassen, seconded by Councilor Boggs to approve first reading of ordinance adding Chapter 9.34 to the Sutherlin Municipal Code prohibiting drug paraphernalia.

Discussion: Does this prohibit the sale of the pipe at the store? **Chief Sanfilippo reported no, as long as it is not being marketed for illegal purposes.**

In favor: Councilors Boggs, Egbert, Klassen, McKnight, Meier, Stone, Mayor Cameron

Opposed: None

Motion carried unanimously.

Intergovernmental Agreement

Staff Report: Chief, Sanfilippo, presented the IGA for Municipal Court Judge with the City of Oakland to providing municipal court services for City of Oakland.

Discussion: None

MOTION made by Councilor Stone, seconded by Councilor Meier, to approve entering into the Intergovernmental agreement for Municipal Court Judge with the City of Oakland.

In favor: Councilors Boggs, Egbert, Klassen, McKnight, Meier, Stone, Mayor Cameron

Opposed: None

Motion carried unanimously.

CITY MANAGER & UPDATES

Fire Services Discussion

Staff Report – City Manager, Gillham - This is a discussion for purposes of obtaining additional direction from Council regarding the City's IGA with District #2. Seeking further council input regarding the Council's expectations of staff concerning the potential fire services election and all associated processes.

Gillham reported the fire district will provide workshops. City Attorney, Jacobs, stated staff would need to remain neutral. Gillham commented that staff can go to any event, however, they cannot lobby. Jacobs responded, stating any brochures can be reviewed by the Secretary of State's office for further clarity.

Strategic Plan

Council Initiated Objectives Discussion.

Staff Report – City Manager, Gillham - This is a discussion for purposes of obtaining additional direction from Council regarding objectives as identified by City Council only and separated from staff-initiated objectives. The tally sheet that was provided is depicting your "Yes" or "No"

decision on 43 objectives as taken from the poster and dot exercise on 4/22/13. Currently there are about 23 objectives that received a "Yes" decision from a majority of Council.

Gillham stated items are ranked according to votes and there is a plan for each item.

There were concerns not knowing what every item was, or what it was for; more explanation needed or reasoning. What does it entail; \$ amount of project. Would like a better understanding why they are on the list. Doesn't feel it's clear as to what we're doing. After some discussion it was decided to schedule a workshop after next meeting to review the items on the list, what they are and the costs. Gillham felt 26 of the items are feasible. Consensus was to eliminate items #31 down to make the list more manageable, the ones that are not priorities but will be reviewed at a later date.

CITY COUNCIL COMMENTS

Councilor Boggs –

No Comments

Councilor Egbert –

No Comments

Councilor Klassen –

No Comments

Councilor McKnight -

No Comments

Councilor Meier –

- The City Manager of Roseburg is going to be at the Republican Headquarters tomorrow night in Roseburg (May 29, 2013), at 6:30pm. He's going to talk about PERS and the problems with PERS. Not only for the issues PERS would cause with the City's finances but to protect the employees pensions.

Councilor Stone –

- Reported a lien was placed on the property on Ridgeview in the amount of \$135,000; one or two involved have notified us they've filed bankruptcy. **Jacobs stated there is a settlement agreement in place that once the project is complete they will pay their share or the lien will take effect. The Contractor who has failed to complete some of the required work, has filed bankruptcy, therefore Jacobs is looking into collecting some or all of the debt through the bankruptcy process.**
- No line item for money put out for events. Is there any way to track staff time or legal time in the General Fund when overseeing events? **Harker stated there is no tracking in place at this time. Could start having each department track the time spent on each event, but this has not been a process to date. Could keep a separate report, but separate from the budget.** Councilor Meier would like to know what the cost of legal fees has been regarding all Blackberry Festival issues this past year. Jacobs stated he could provide an invoice listing those costs. Would like to know how much of the general fund is being used for these events, including TRT monies.

Mayor Cameron –

- There was a \$1457.75 charge to the City for a review of the public records request from a prior attorney. (Pete Sheppard, Harrang Long, for Gettys inquiry). Jacobs noted public record allows you to charge for reasonable costs with the City absorbing the cost, some legal costs you cannot charge for. Sheppard had counseled Staff and Council.

- Questioned why plaque for artwork displayed in City Hall was not in place. Gillham thought that had been done. He will check into it.
- Questioned expenses for \$15,000 on fire truck repair - Repairs for the truck came in higher than the estimate. Discussed the amount with Fire District #2 and they said to just pay the \$15,000 and they would pick up the remaining amount.
- Questioned hand cleaner in the amount of nearly \$700. City Hall janitorial supplies. Gillham will check into it.
- Barnes repair for \$530. Huff will check into it.
- Wants clarity on Dial-a-Ride health insurance to Express Services. Harker says it sounds like an error and will make a journal entry correction.
- There are 3 expenses to Ferguson Water Works amounting to nearly \$20,000. What project are these for? Huff noted these are for expenses/supplies and/or equipment for repairs the City had done, common but Huff will check on it.
- Sherwood Street, do we have an engineer's report. Huff reported it's a Sanitary sewer line no easement.
- Amendment #2 Wastewater treatment plan. What changes are being made? Will check.
- Is Red Rock Restrooms completed? Huff reported they are doing the punch list items. Cleanup items. Retention, no it is not open yet. On budget? Yes.
- Extraordinary items for council review. Questioned increased cost for City Manager and City Recorder. Harker said change in coverage CM and just a slight increase in Recorder.
- Dial-a-Ride cost reimbursed? Yes we'll have an appropriation transfer.

Public Comment: None

City Manager, Gillham, reported receiving a letter resignation from Community Development Director, Dan Huff, and effective June 13th.

Adjournment-

With no further business the meeting was adjourned at 10:20 PM.

After a short break to change tapes the room was cleared; Council then went into Executive Session at 10:30pm for the following purpose:

Executive Session – ORS 192.660 (2) (i)

This is for the purpose of reviewing and evaluating the job performance of the City Manager.

Council came out of executive session at 12:08 a.m.

Approved:

Jerry Gillham, City Manager

Respectfully submitted & transcribed by,

Debra L. Hamilton, CMC
City Recorder

Denny Cameron, Mayor

APPROVED BY COUNCIL JUNE 10, 2013