

**MILL CITY
MINUTES OF THE CITY COUNCIL
Tuesday, February 25, 2020**

Mayor Kirsch opened the meeting at 6:30 PM with the flag salute. Councilors present were Brett Katlong, Dawn Plotts, Tony Trout, Steve Winn and Janet Zeyen-Hall. Staff members in attendance were City Recorder, Stacie Cook and City Clerk/Reid House Facilitator Tree Fredrickson.

Citizens in attendance were Spring Aerni, Sherri Cardwell, Ann Carey, Ken Cartwright, JoAnn Hebing, Glen Kearns, Accuity, LLC, Roel Lundquist, and Beverly Thacker.

DECLARATIONS OF POTENTIAL CONFLICTS OF INTEREST: Mayor Kirsch stated that anyone who felt they may have a potential conflict with anything on tonight's agenda may say so at this time or at any time during tonight's meeting.

CONSENT AGENDA

City Recorder Stacie Cook asked that the Council add the following items to item 'b' Accounts Payable of the consent agenda: a check to North Santiam Legal Center for City Attorney retainer in the amount of \$831.31 and a check for \$27.30 to the Department of Revenue for the transit tax. Item 'f', Approval of the Planning Commission 2020-2021 Work Program.

Councilor Plotts asked that approval of the work program include Council authorization to proceed on items which note, "upon Council approval." Consensus of Council to do so.

Councilor Katlong moved and was seconded by **Councilor Trout**, to approve items a; Approval of Minutes of Regular City Council Meeting of February 11 , 2020, b; Approval of Accounts Payable, c; Ratification of Mayor Kirsch's Appointment of David Nelson to a Three (3) Year Term on the Mill City Budget Committee, Expiring June 30, 2022, d; Ratification of February 13, 2020 Email Concurrence on Final Design for Railroad Bridge, e; Ratification of Planning Commission Approval of Minor Partition, Land Use File No. 2020-01; Baughman, and f; Approval of the Planning Commission 2020-2021 Work Program. Mrs. Fredrickson polled the Council. The motion passed unanimously (6:0).

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CITIZEN COMMENTS AND QUESTIONS LIMITED TO THREE (3) MINUTES: JoAnn Hebing, DeWitt Lane, Lyons, asked that item #9 on the Agenda be brought forward so those in attendance for this item can be present to discuss the Development Agreement with SCSD. Mayor Kirsch said that it can, however, the audit presentation will be done first.

PRESENTATION: 2019/2020 FY Audit Presentation – Glen Kearns, Accuity, LLC

Glen Kearns, Accuity LLC, gave a brief presentation on the 2019/2020 fiscal year audit results. Mr. Kearns said that the opinion on the financials is unmodified, or clean. This means that in performing the tests there was nothing that would require them to modify their opinion in any way. There were no new major changes in standards. The biggest change in the City's budget is the consolidation of reserve funds into one fund. Combining these funds is good as it makes it easier to track. The audit found no significant problems. Mr. Kearns stated that they like to see four months of cash carryover. The City is doing well with six months of carryover.

Roel Lundquist, Linn Blvd, questioned the consolidation of the reserve funds and how this will work with the upcoming budget. He asked if a resolution was needed to do this. Mrs. Cook replied that there is a resolution currently in place.

Mayor Kirsch asked for a letter grade of the City's financials. Mr. Kearns said it's hard to qualify but on cash balances it is an 'A'.

Mr. Lundquist stated that the Save Our Bridge Committee may be short for the TIGER grant match by about \$40,000 and asked what the process is to do an interfund loan. Mr. Kearns said it must be formally evidenced as a loan, specifically the amount, term of repayment and interest rate, if any.

ORDINANCE NO. 40X – SEWER AUTHORITY: The Council was provided with Ordinance 40X, which authorizes creation of the North Santiam Authority and repeals Ordinance No. 401, the original authorizing ordinance. City Attorney McGehee reviewed the language changes and has no concerns with the content.

Mayor Kirsch explained that signing this document would only commit the City to placing two Councilors on the Sewer Authority for representation, nothing else. Signing this document will also allow the Authority to apply for grants.

Councilor Trout asked about the City of Gates and if they signed the agreement. Mayor Kirsch said there was no vote at the meeting. The City of Gates will have to meet again to make a decision, but it is not known when this meeting will happen.

Mayor Kirsch said that Gates residents seemed to be unaware of some information and what it meant to sign this agreement. It does not commit the City to a sewer system, just to placement of members on the Sewer Authority Council.

Ann Carey, SW 1st Avenue, asked if Gates does not sign will this stall the capacity study for Mill City? How long can we wait to address the City's WWTP? Mrs. Carey said that the time frame is critical in light of upcoming growth.

Mr. Lundquist asked if the City could begin the study now, would this be reimbursable from the Task Force grant? Mr. Lundquist agreed that this capacity study is critical, especially with the new school improvements and the new development on the east side of town.

Councilor Trout moved and was seconded by **Councilor Zeyen-Hall** to Read Ordinance No. 40X for First Reading by Title Only. The motion passed unanimously, (6:0).

Mrs. Cook read Ordinance No 40X by title only.

REQUEST FOR CONSIDERATION OF PURCHASE; CITY-OWNED PARCEL (Marion County Assessor's Map 093E25D Tax lot 1700): At the January 28, 2020 Council meeting, Spring Aerni made a request to purchase the City-owned parcel on NW River Road, once the City's dump site.

Ms. Aerni said that she has researched the City's ability to sell this piece of property. A real estate attorney advised her on how the county, city and state can sell surplus property. Ms. Aerni plans on clearing this property, clearing out the buried garbage and possible toxins. If it can't be built on, trees will be planted. Ms. Aerni said that she is willing to pay for and take on anything that is found on this property.

Mayor Kirsch said that he is not in favor of selling property and that he has concerns as to what has actually been buried there. If toxins are found, the City could be held accountable.

Councilor Trout said that he appreciates Ms. Aerni's passion for this project and with past projects around the City, but wants to see more research done before a decision is made.

Ms. Aerni offered to do the legwork to gather the necessary documents for this sale and would sign an agreement to hold harmless the City if contaminants were found.

Councilor Zeyen–Hall gave an example in a case study similar to this. The government agency involved in a land sale had to pay for the removal of material and was held accountable when toxins were found. Money had to be expended to pay for the clean-up and payment to the property owner.

Mrs. Cook stated that the City Attorney has always maintained that if contaminated soil is found the City would be held responsible. To protect the City, the City would have to do testing for contaminants and remove them. This piece of property is not in the City limits. Mayor Kirsch said that this is not time sensitive so a decision can be made at a later date.

DEVELOPMENT AGREEMENT – SCSD: A revised copy of the Development Agreement between the City and the Santiam Canyon School District for public improvements to be constructed as a condition of approval for development of the new school facility was provided for review. City Attorney Jim McGehee requested language changes to Section 22 to reflect recovery of attorney fees resulting in any legal action rather than reference to strictly using arbitration. Other language changes include Section 23 which has been changed to VENUE and addresses the location in which any legal action must be filed and Section 24 which has been changed to ENTIRE AGREEMENT, stating that the agreement and any attachments/exhibits, etc. constitute the entire agreement and understanding of all parties. In other words, no oral agreements shall be allowed.

Mrs. Cook said that it may be a couple of weeks before cost estimates are available. If Council is uncomfortable with approving the agreement without the cost outline, it will be brought back to Council in March.

The question of responsibility for costs related to the installation of a curb and sidewalk along the NE corner of SW Evergreen Street and SW 2nd Avenue was brought forth at the last meeting. After meeting with City Planner Dave Kinney, it was advised that the change in location of the sidewalk and curb on the west side was not in the original plan for the campus development. City Engineer John Ashley and Mr. Kinney requested the change, which resulted in the addition of the infrastructure on the east corner. This change will increase the potential for ponding of water runoff. It was determined that storm work should be done to lessen this factor. Developing both sides heighten safety due to narrowing of the street.

Councilor Zeyen-Hall moved to Approve Development and Reimbursement Agreement Between the City of Mill City and Santiam Canyon School District Subject to Submittal of Project Cost Outline with a Not to Exceed. Motion failed for a lack of a second.

Mrs. Cook explained that there are two options that Council can consider; hold off on passing this agreement and wait for the cost estimates to arrive from the Engineer, which will have the breakdown as to how much the City is responsible for and make sure the dollars are there or approve the agreement subject to submittal of costs.

Councilor Trout asked if staff has any clue as to what the costs will be. Mrs. Cook said she did not but that the storm work that will be done will be reimbursable from money received from the legislature. Dollars for street work will have to come directly out of the City's budget.

Councilor Katlong asked why the City is responsible for a ramp in front of gym if they are already doing work in this area anyway. Mrs. Cook explained that the City requested this ramp because there are going to be issues with storm drainage and having the additional ADA curb on the SE corner of 2nd and Evergreen will create a safety area. The rationale of this request is that the school needs to move their sidewalk per request of the City therefore the ADA curb on the other side of the street should be the City's responsibility.

It was decided to table this issue until the next Council meeting.

REQUEST FOR USE OF CITY PARCEL – OLD FIRE HALL SITE; CONSTRUCTION

STAGING: Council was presented with a request to use the Old Fire Hall site for construction staging at the last meeting. Staff was asked to obtain additional information from Gerding Construction regarding how they plan to use the property. Gerding Construction responded, advising the City that the property would be used for placement of their construction trailer, vehicle/equipment parking and temporary storage.

This parcel has been designated for a future skate park. Comments from a SKATE representative at the last meeting indicated that the group will be ready to break ground on the first phase of the project within the year, thus causing concern with the committee that this parcel will be unavailable when construction is ready to begin.

Bev Thacker, SW 11th Ave., said that the Planning Commission had questions concerning fencing and a bathroom which SKATE addressed. The Planning Commission recommended approval of the design to the Council. The SKATE Committee had planned to present the approved plans to Council in November but there were a few obstacles and this did not happen. Ms. Thacker said they did not receive the necessary information requested in several emails to the City, and could not finish their financial plans because of this and noted that approximately \$2,000.00 was taken out of the City's SKATE fund for administrative fees.

Ms. Thacker said that SKATE will present their formal plans and a financial plan in March to the City Council. This will explain how SKATE will pay for the first phase of the project. Kids then can use the bowl and the Committee will be able to apply for grants to finish the other two phases.

Mayor Kirsch requested clarification on Ms. Thacker's statement of funds being used for administrative costs. Mrs. Cook said this was explained when the question was originally asked in November. No money has been expended for administrative costs. This is a budget allocation to cover expenditures should the project commence.

Mayor Kirsch asked if SKATE has the money to begin this project. Ms Thacker stated they are not ready to answer this question, but will present a financial plan at the Council meeting in March. Mayor Kirsch explained that costs for engineering and construction are very expensive and again asked if the Committee has raised enough funds. Ms Thacker reiterated that they are not ready to answer this question now, but they have more than enough money to begin the project.

Mayor Kirsch said that City Attorney McGehee has advised that this is the City's property and they can use it any way the council chooses.

Councilor Plotts mirrored Mayor Kirsch's concern over the time frame of SKATE's plans. There is a lot to do before they can break ground. Saving the school district money, as well as the taxpayer, is also important. Councilor Plotts said that she does not want to see the lot sitting empty when it could be used until SKATE is ready to begin work.

Councilor Trout reminded everyone how long it took to build the new Public Works building. If the SKATE Committee shows that they are ready to begin Phase I, then the City could notify Gerding that they must vacate the parcel.

Councilor Katlong suggested a 30-day notice to Gerding after SKATE notifies the City that they are ready to begin. Councilor Katlong said that he talked to the school's Superintendent, Todd Miller who said the construction team would be grateful for even a couple of months. Gerding is looking for other spots to stage equipment but any of these lots would require a large amount of money to prep for heavy equipment. Councilor Katlong expressed his appreciation to the Committee for their hard work and said that he is excited to see this project finished.

Councilor Winn said he is not against a skate park but does not like this site, noting that he believes it should be used for the school's off-campus parking instead.

Mayor Kirsch said that the time span for completing paperwork is long and he doesn't think SKATE will be ready to break ground within four months, noting that he has seen a lot of projects and is very familiar with how this process works and it takes a lot of time.

Ms. Thacker stated the only thing the Committee is waiting for is the City's approval and permits.

Councilor Zeyen-Hall asked if everything is in place and ready to go.

Councilor Plotts asked who will install and pay for the sidewalks and the street work? Ms. Thacker again stated that they are not ready to give Council any further information on SKATE's financials.

Mrs. Hebing, asked if Gerding can move in three months why can't they just find a new lot now? Councilor Katlong said that a lot of money will be spent to prepare another lot and he thinks the City should be neighborly in this situation.

Councilor Zeyen-Hall stated that any piece of property Gerding finds to stage their equipment will cost money, which will come directly out of the bond. Letting Gerding Construction use this empty lot for any amount of time would be a cost saver.

Councilor Trout supports the skate park fully but doesn't see the downfall to allowing the school to use this lot until SKATE is ready to break ground.

Sherri Cardwell, SE Ivy Street, explained SKATE's original concern was the 18-month request from Gerding, which would keep SKATE from starting construction and said that if Council did agree to ask them to vacate within 30-days of notification, she doesn't see why SKATE wouldn't agree to this.

Councilor Zeyen-Hall moved and was seconded by **Councilor Plotts**, to Approve Gerding Construction's Request for Use of the Old Fire Hall Site for a Period of 18 Months or Until SKATE is Ready to Break Ground and a 30-day Notice to Vacate is Given, Subject to Placement of Secure Fencing and a Certificate of Insurance and Hold Harmless. The motion passed, (5:1) with Councilor Winn voting nay.

Mrs. Cook reminded SKATE to read the MOU and to follow the steps carefully, noting that commercial permits alone can take a long time. The Committee needs to allow time for all these steps.

MISCELLANEOUS CITY RECORDER ITEMS:

Marion White Volunteerism Award Recipient: Mayor Kirsch asked for two volunteers to find someone to meet the criteria for this award. Councilor Katlong and Councilor Plotts both volunteered for this committee. Mrs. Cook asked for a recommendation by the next Council meeting on March 10th.

TMDL Annual Report: Mrs. Cook said that the TMDL must be brought before Council. The report has been submitted to DEQ. If Council has any questions, Mrs. Cook will be available

Notice of Decision – File No. 2020-02; Conceptual Site Plan, NE 5th/Alder Street Parking – A very conceptual plan was tentatively approved by the Planning Commission. Upon this tentative approval, the City Engineer can begin survey work for property lines and topographical work. The Committee can now move forward on the parking lot, which is the key to getting The Reid House

open and running. However, the Planning Commission agreed this site plan will require a new public hearing and a decision to approve detailed engineering plans for the parking lot.

Councilor Trout asked if the new parking lot abuts the highway. Mrs. Cook said that it was clearly stated that the City does not want to touch the right-of-way abutting the highway as it will bring in ODOT. However, ODOT will be contacted for further discussion.

ADJOURNMENT

The meeting was adjourned at 8:21 PM.

Prepared by:

Approved by:

Stacie Cook, MMC
City Recorder

Tim Kirsch
Mayor