

**MEETING OF THE
WOOD VILLAGE CITY COUNCIL
April 28, 2016
MINUTES**

PRESENT: Mayor Patricia Smith, Council President Tim Clark, Councilors Scott Harden, Bruce Nissen, and Jimmy Frank via phone, City Manager Bill Peterson, Public Works Director Scott Sloan Finance Director Peggy Minter, and interested parties.

ABSENT: City Attorney Jeff Condit

MAYOR SMITH CALLED THE MEETING TO ORDER AT 6:00 PM.

CITIZEN COMMENTS

There were none.

DISCUSSION: RECREATIONAL IMMUNITY UPDATE

Ron Cutter of Brown and Brown insurance presented the update on recreational immunity. Cutter stated that recreational immunity is a statutory provision that give property owners immunity if they open their land for recreation. Cutter explained that that his agency and the City's provider CIS regularly use that provision in defending claims regarding parks and fields. If a person gets injured while recreating, the owner is immune from liability.

Cutter stated that there was a recent case out of the City of Portland where a jogger stepped into a hole and broke her leg. The hole was caused by a maintenance worker who was doing work on a sprinkler head, but left the site. Cutter stated that the hole had been marked off. Cutter explained that the case went to the Oregon Supreme Court, and the question was very narrow. The question was if employees of the land owner are also immune under the recreational immunity law, or just the property owner. Cutter stated that the Oregon Supreme Court ruled that employees do not have the same protection as the land owner. That effectively took away recreational immunity as lawyers will sue employees, not the entity. Cutter stated that the City then has to defend and indemnify the employee, which makes a run around to the City having the liability.

Cutter stated that there is still a defense for the City even though we no longer have recreational immunity. Cutter explained that the City would have to be negligent in order for a plaintiff to get an award. Cutter stated that as long as you did not create or ignore a dangerous situation, then there is a defense. Cutter explained that the legislature is already considering fixing the issue at the next legislative session, but there will still be about a year before that occurs.

Cutter stated that for the City is will be about taking a look at the facilities and associated risks. Typical high risk areas include bike and skate parks. Cutter stated that one of his clients is an education service district, and they were planning on constructing an exercise trail around one of their facilities for employees and guests. They have now since halted that project for the time being. Cutter stated that the City just needs to take a look at the facilities and their maintenance needs.

Smith asked about the creek, trees, and playground area in the park, and the potential liability. Cutter stated that the City can get sued for any reason, and the number of lawsuits will go up in the next several months. Cutter explained that the City will have a defense if the facilities have been maintained. Cutter stated that if a person is found at least 51% at fault, then they are barred from seeking recovery. Cutter explained that the real concern is that it will be actual employees that are named in the lawsuit. While they City will defend and indemnify the employee, it could still impact their credit at that time. Cutter stated that while there will probably be increased

costs from CIS to defend claims, it really is not the end of the world.

Peterson stated that Condit wanted to mention that immunity laws were not adopted until the later 1980's and early 1990's. There were recreational activities back then, and the lesson moving forward is to document our inspection and maintenance actions.

Frank asked if failing to fix a pothole would qualify as being negligent. Cutter stated that it depends on the circumstances, and about 90% of pothole cases are dismissed. Peterson explained that the City has that kind of liability right now in all kinds of areas including water, sewer, and streets. The only difference now is the loss of recreational immunity in the park system.

Smith asked what the award was for the person who fell in the hole. Cutter stated that the Oregon Supreme Court only ruled on the question about liability, and there has not yet been an award. Clark stated that for him it is not about the win or lose, but that the employee would be named in the suite. Peterson stated that is correct, but that is no different for other functional areas of the City.

The Council thanked Cutter for the presentation.

RESOLUTION 14-2016: REYNOLDS EDUCATION FOUNDATION DONATION FOR BATTLE OF THE BOOKS

HR/Records Manager presented the resolution. Dirks stated that the Battle of the Books program is a state, and national program that encourages reading for students in the third through twelfth grade. Dirks explained that there is a reading list per grade area, and presented the reading lists from last year. The battle is a contest similar to College Bowl, and teams are awarded points based on correct answers about the books. Dirks stated that the Reynolds School District participates in the program, but most students have to read the books from the library. That limits how many students can read the book, and there is no way to write notes in the margins.

Dirks stated that Councilor Harden indicated at the last meeting that eight sets of books can be purchased for \$750. That would put a full set of next year's books in each elementary school in the district. Dirks stated that Andrea Watson from the Reynolds School District is here to answer any questions.

Watson stated that the school district has the program in all the schools. Teams are formed, and each school does an internal battle before going against other schools in the district. Watson explained that the teams who win at the district level go onto the regional and state levels. Watson stated that the program has really helped increase student's interest in reading and their reading comprehension. Watson stated that it is also possible to put a nameplate on each book so the students will know that they came from the City of Wood Village.

Dirks stated that the funds would come from the Council discretionary fund, and there is enough resource to help support this program.

Upon motion by Nissen, seconded by Clark and passing 5-0, Resolution 14-2016 donating \$750 to the Reynolds Education Foundation to support the Battle of the Books program.

RESOLUTION 15-2016: TREEHILL PRESSURE ZONE PROJECT REMOVAL

Upon motion by Harden, seconded by Clark and passing 5-0, Resolution 15-2016 eliminating the Treehill water pressure project was tabled.

Peterson asked that in tabling the item, that the Council also recognize that the project will not be completed in this year's Annual Performance Plan. The Council stated that the project would not be counted in this year's APP.

PUBLIC WORKS DIRECTOR'S REPORT

Sloan presented the report and stated that the Halsey sewer line project is substantially complete. Sloan explained that a new issue was discovered during the project, and that is the connecting manhole has a higher grade of line going out then coming in. That has been causing the line to surcharge. Sloan stated that we are negotiating with the contractor to lower the outfall on the manhole which would resolve that issue.

Clark asked why that occurred. Sloan stated that he does not know. Peterson stated that there are a lot of utilities in that area, or it could have been a geological issue. Sloan explained that the entire project will occur on City property, so there will not be any traffic impacts. The estimated cost of the project is \$16,900.

Sloan stated that the Wood Village Interceptor Trail has preliminary plans, and the site will be walked tomorrow. Sloan stated that he met with the Public Works Director from Fairview, and there is some resistance from neighbors in Fairview about the project. Sloan explained that we will attempt to connect the trail in a park in Fairview to alleviate concerns from neighbors.

Sloan stated that the 238th island project is moving along. The new topsoil has been added along with the new boulders. Sloan explained that the new plants will be added next well along with the facing of the entry sign walls. The project should be completed in a couple of weeks, and people have already complimented the look of the islands.

Sloan stated that the trail extension project in the park is complete, and looks really good. Sloan explained that a second contract with the company will be taken out to create a new pathway through the arboretum. There is also a tree planting planned for the second week in May with students from the Arata Creek School. Sloan stated that a special London Plane tree will also be planted at the top of the arboretum knoll for Don Robertson.

Sloan stated that the CDBG application for the Wood Village Green fire line was approved, and we are in negotiations with the property owner for the easement. Sloan stated that the negotiations are going well, and we should be able to get the project moving forward. Sloan explained that the project will add one fire hydrant in the back portion of the park, and create a looped water system for the City. Sloan stated that the owner of the facility will still have to place several more fire hydrants before additional homes could be located in the park.

Sloan stated that tree planting for the year is nearly complete. There were 35 arborvitae added to well 4, 45 arborvitae added to the 238th lift station, and seven new trees on 237th Pl. Smith asked about the storm water cleaning responsibilities on 237th Pl. Sloan stated that is a privately held storm water detention facility, and has not been cleaned since it was installed. Sloan explained that the City will use funds from the original developer to clean the facility once, and then turn it over to the residents on 237th Pl. Nissen asked what would occur if the facility does not get cleaned out again. Sloan stated that the neighborhood would be at risk for storm water issues and possibly flooding. Harden asked if it could impact our NPDES permit. Peterson stated that it would not. The NPDES permit system only affects the point of discharge for the City's system. This unit connects to the City's overall system before discharge.

Clark asked about the demolition of the dog track facility. Sloan stated that the process is underway, and the crew is starting with the hazardous material removal and the demolition of the smaller buildings. Sloan explained that a high angle crane will be used to tear down the grandstand structure towards the end of June. Dirks stated that staff is working with the Grand Ronde on having a ceremony before the grandstand is removed.

Clark asked about the land use application for a new coffee business across the street. Peterson stated that he cannot make too many comments because it is a live land use application, but the facility would replace the current trailer on the site. The land use hearing is on May 23rd.

FINANCE DIRECTOR'S REPORT

Minter presented the report and stated that the finances are on track. Expenses are getting tighter as the fiscal year is coming to a close. Minter stated that it does not look like we will be over on any budget items, but we will know more in June.

Minter stated that the Urban Renewal and City budgets were approved by the Budget Committee last week. The budgets will be brought back for final approval in June. Minter stated that the auditors will be here during the second week in May for their field work.

The Council thanked Minter for the report, and did not have any questions about the financial statements.

CITY MANAGER'S REPORT

Peterson stated that the report is in the packet, and the APP is on track. Peterson explained that this was an unusual year with about a third of the items being modified, eliminated, or continued on to next year.

Harden asked if there was going to be any SCADA upgrades this year. Sloan stated that they are in the process of selecting elements that can be completed this year. Peterson stated that we are making investments to keep the system functional, but we will be coming to the Council in a couple of years and asking for a full replacement system. That would move us away from a pieced together system, and into an actual standardized system. Peterson stated that the cost would be around \$180,000.

CITY COUNCIL REPORTS

Clark stated that EMCTC had a region-one STIP update from ODOT. Clark explained that there was a discussion about the 2019-2021 flex funds, and how they would be allocated to the agencies. Some communities wanted to bond the money for larger projects, and other communities just wanted the funds because they do not need to bond the money for their projects. Clark stated that the City should see some benefits from the funding allocation, but it is still all up in the area. Peterson stated that the Port of Portland will be a big player because they have a direct interest in getting 242nd improved.

Clark stated that there was a regional leadership forum at the Convention Center for the 2018 RTO update. Clark explained that about 200 people attended the event, and he opened the program. Clark stated that the keynote speaker talked about speaking in a straightforward manner, and the day centered on small group discussion about big ideas for transportation. Clark stated that it was a really great experience.

Clark stated that the MPAC meeting was on the TAZ, and the algorithms used for job, home, and transportation impacts. Clark explained that there were some conflicts on how the numbers were plotted for certain jurisdictions. Peterson stated that it seems to impact smaller communities, and there are split zones in Fairview and Troutdale. Peterson stated that these models can only do so much, and have a hard time taking into account personal choice. Clark stated that they are trying to add in a social component, but it is still new. Clark stated that it will be interesting to see how it all works out, and Metro has the final say on which model will be used.

Clark stated that Metro is working on a solid waste roadmap, and there was a recent presentation on how to deal with food waste. Clark stated that the contract with Waste Management is expiring in 2019, and Metro is looking at new ways of handling food waste.

Clark stated that he also learned about the Government Regional Solutions Team which partners with high level state agency staff members to help streamline processes for large or complicated projects. Peterson stated that the Regional Solutions Team is a great resource and works around the OAR's to get at agency to agency contacts.

Clark stated that there was also a discussion about Metro's equity, equality, and inclusion report. Clark explained that the report is still a draft, and he mentioned the process we went through on the recent Town Center Master Plan work. Clark stated that kind of effort and process is what Metro is seeking.

Smith stated that EMEA had a video on inducing additional membership. There was also a legislative committee

meeting which endorsed the MHCC bond measure. Smith stated that there were some good roundtable discussion, and one of the larger discussion topics was the Fairview SDC waiver program.

Smith stated that their neighborhood watch meeting focused on the homeless issue. Smith stated that the problem area near the park needs to be cleared, but it is not City property. Peterson explained that we are setting up meetings with the property owners, and the City of Troutdale to hopefully take care of this issue.

ADJOURN

With no further business coming before the Council, and upon motion by Clark, seconded by Harden and passing 5-0, the Council adjourned at 7:55pm.

Patricia Smith
Mayor

Date

ATTEST:

Greg Dirks
Recorder