COTTAGE GROVE CITY COUNCIL
VIRTUAL MEETING MINUTES
DECEMBER 14, 2020

CALL TO ORDER

Mayor Jeff Gowing called the meeting to order at 7:00 pm in the Council Chambers at City Hall.

ROLL CALL

City Recorder Trudy Borrevik called the roll. The following were

PRESENT IN THE COUNCIL CHAMBERS:
Mayor Jeff Gowing and Councilor Kenneth Michael Roberts

PRESENT VIA GOTOMEETING:
Councilors Greg Ervin, Candace Solesbee and Jon Stinnett
Jake, Boone, Mike Fleck and YAC Representative Lucas Wilhour

COUNCIL ABSENT:

STAFF PRESENT IN THE COUNCIL CHAMBERS:
Police Captain Conrad Gagner and City Recorder Trudy Borrevik

STAFF PRESENT VIA GOTOMEETING:
City Manager Richard Meyers, Public Works & Development Director Faye Stewart, Finance Director Roberta Likens, City Engineer Ron Bradby, City Planner Amanda Ferguson and Assistant City Planner Eric Mongan

CITY ATTORNEY:
None

MEDIA PRESENT:
Damien Sherwood, The Sentinel (Virtual)

ITEMS ADDED TO THE AGENDA

None

APPEARANCE OF INTERESTED CITIZENS FOR ITEMS NOT ON THE AGENDA

None

1 – Council Meeting Minutes 12/14/2020
PUBLIC HEARINGS


Mayor Gowing read a prepared Hearing Script.

Mayor Gowing asked if any of the Council wished to declare an actual or potential conflict of interest.

No Councilor declared an actual or potential conflict of interest.

Mayor Gowing opened the public hearing.

City Planner Amanda Ferguson provided the staff report.

Amanda Gilbert, 1437 Parks Road, Cottage Grove said she supported the Ordinance and said it made sense not only from an environmental stance but from an economic stance in treating wastewater.

No one else appeared or requested to speak.

Mayor Gowing closed the public hearing.

CONSENT AGENDA

(a) Approval of November 20, 2020 Agenda Session Minutes
(b) Approval of November 23, 2020 Work Session Minutes
(c) Approval of November 23, 2020 Regular Meeting Minutes
(d) Proclamation Declaring November 3, 2020 Election

Mayor Gowing announced that the minutes from the November 23, 2020 Work Session were incorrect and on page 2, the fourth paragraph from the bottom should be changed to read:

“Carrie said she and Richard discussed that Council hadn’t had a training on land use for some time and suggested scheduling a land use training for some time in January or February.”

IT WAS MOVED BY COUNCILOR BOONE AND SECONDED BY COUNCILOR FLECK TO APPROVE THE CONSENT AGENDA WITH THE NOVEMBER 23, 2020 WORK SESSION MINUTES AS AMENDED.
The vote on the motion was as follows:

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RESOLUTIONS AND ORDINANCES


Assistant City Planner Eric Mongan, explained the implementation plan that staff was proposing had a heavy educational approach. He said there were two different types of permits, one involved a construction management plan for projects that are larger than 4,500 square feet and cap at one acre which he explained. He said he talked with an engineering firm to get a rough cost of what a construction management plan might cost and was told generally around $1500.00, but it could be done by the property owner themselves. He said the second type of permit was for smaller projects which could be handled over the counter with staff that wouldn’t require a construction management plan. He talked about enforcement and how it would be handled by staff. He said staff didn’t know what the cost for the permits would be, but was suggesting $26.25 for the smaller permit and $52.50 for the larger permit. He said they would track time to determine if the cost of the permits was adequate.

Councilor Ervin said when he was reading the modification in the ordinance he wasn’t seeing the specific tieback to the requirements that Amanda had mentioned when we went over 10,000. Is there a minimum viable product that we have to implement, is this it or how much extra are we doing in terms of requirements from the mandate.

Amanda said construction site management and erosion control were one aspect of what we are going to be required to do to meet the clean water act standards, they are one of the standards that we will be required to meet. The stormwater management plan actually walks through a number of them. She said in a year or two there would be stormwater standards for post construction stormwater standards that would come to Council for consideration. She said other things the City had to meet were public education, illicit discharge management and a couple of other programs which the City already did through the wastewater management program and training of staff. She said there wouldn’t have to be anything added to construction site management by adopting the Code, it didn’t go over and above what we needed to do, it was effectively the bare minimum that we need to do to meet this element of the clean water act standards. She said there would be more things the City would need to do to meet all of the clean water act standards which would be implemented over the next several years.
Councilor Ervin said it was things like this being implemented that would require him to get a permit to dig up his garden that he didn’t agree with, however he understood that the City had to comply with State mandates.

Amanda said the City had until 2023 to come into compliance and it was staff’s decision to start with construction site management because they felt it was the easiest to educate people on.

**IT WAS MOVED BY COUNCILOR BOONE AND SECONDED BY COUNCILOR FLECK THAT ORDINANCE NO. 3134 BE ADOPTED.**

City Manager Richard Meyers asked if the Ordinance included regulations for someone digging their garden or planting on their property.

Amanda said it would require a permit for anything over 500 square feet. She said it was scaled that way for driveways.

Councilor Solesbee asked if there was a way to increase the minimum size square footage so it wouldn’t affect property owners doing smaller projects on their property.

Amanda said the minimum could be increased by the maximum was 4,500 square feet. She said they wanted to include driveways.

Eric said whether the square footage was made smaller or larger for the over the counter permit, the main goal was to keep the sediment out.

Councilor Ervin said in terms of trying to meet a goal it was helpful to him to understand if we can quantify the negative impact that we are trying to mitigate and I would want to use that as a measure of how effective an ordinance was going to be to see if 500 square feet was necessary. What was the impact of sediment going in currently, could it be quantified or was it a guesstimate.

Eric said the current Code specific to stormwater essentially said only rain was allowed in the drain. He said as far as quantifying the amount of sediment coming out the outfalls for the City, there was upwards of 40, it could be difficult, engineering staff had considered doing some measurements but nothing was locked in yet.

Amanda said one reason construction site management and erosion control was on the list of required responsibilities was because the TMDL Plan, a required document to be submitted to DEQ every three years, commits the City to adopting an erosion control for onsite stormwater management for all properties specifically on single family residential by 2023 because of the amount of sediment that had been documented in the river. She didn’t have the numbers but could probably get them from DEQ if needed.

Councilor Solesbee said while she supported the Ordinance she did understand Councilor Ervin’s concerns. She said she would like to see the DEQ numbers if possible. She said if driveways were the biggest concern, if language could be added just for driveway installations.
Councilor Fleck said he would support increasing the square footage requiring a permit, however he was also okay with approving the Ordinance as it was and see if it becomes a problem.

Councilor Boone said he could see why driveways might be a concern. He commented that he didn’t currently have a driveway at his house but would be installing one in the future and where he was located he could see why there would be a concern about sediment going into the storm drain.

Councilor Ervin said when you make something enforceable and something that requires someone to get a permit, you had the added benefit of the education piece. He commented that most people would do the right thing when doing something on their property without having an Ordinance requiring them to get a permit and that maybe the requirement of having to get a permit and pay a fee would discourage them. He said to make it as least burdensome for people to make improvements and maybe just do an educational campaign and if we have to comply with the clean water act standards is that really just to satisfy in name or maybe there was a more effective approach. He said he would support increasing the minimum to 4,500 square feet.

City Engineer Ron Bradsby commented about a situation where someone purchased a permit to install a driveway and didn’t have money to finish it. He said he received numerous calls about the person tracking mud up and down the street. He said now the City has reached the 10,000 population there were requirements that kicked in and required the City to come into compliance and sediment into the river was one of the biggest for the Endangered Species Act. He commented about gardens being planted closer to the street which could cause sediment to go into the storm drain.

Councilor Fleck said he could see Councilor Ervin’s concerns about planting a garden and having to get a permit but also understood staff’s concerns around driveways. He asked if there was a way to capture both in the Ordinance.

Amanda said as an option they could add an exempt activity that specified that small activities not physically connected to public right-of-way could be exempt. She said a cap could be put on the exemption size that was more than 500 square feet but would specify that it wasn’t attached in any way to a public facility.

Richard said he would be curious to see how other cities handle their permit process for community gardens.

Amanda said Eugene had a tightly controlled erosion program because they had been doing it for 20+ years. She said they also had a robust post-construction stormwater management program that required everyone to keep all their stormwater throughout the length of the building on their site. She said they modified Eugene’s Code for the template and were planning to use their application for erosion permits as a template.

Councilor Boone provided a scenario where a property owner plants a 500 square foot garden on their property that is away from the right-of-way but their property is on a hillside. He asked if
the City was concerned about the disturbance of the dirt and possible erosion causing damage to the property below or above them.

Amanda said downhill slope stability wasn’t something they were looking at for this ordinance.

Eric said within the hillside development code there were some requirements that had to do with the amount of slope on a lot and the amount of clearance you were allowed to do.

YAC Member Emma McDonald asked if there was any way to clarify the immediate difference between a driveway that’s being constructed and a garden and if there was any way that it could be put in instead of an immediate size difference.

Councilor Ervin asked what was gained by the ordinance in terms of the ability to effectively prevent or reduce sediment. He said when the discussion first started, he thought he heard it said that the only things that could currently go into the storm drain were water and AC condensation runoff. He referred to Ron’s comment about the person who ran out of money to complete his driveway and tracked dirt from his property onto the street. He asked if we were lacking an enforcement mechanism to enforce current requirements.

Amanda said what was in place currently was a one line statement that limits what goes into a storm drain to basically water. She said it didn’t at all define what the expected outcome was. She said the proposed Ordinance did define what was expected for anyone doing development in Cottage Grove.

Councilor Fleck suggested withdrawing the motions and have staff bring back to Council at a future meeting a recommendation for modifications that would increase the size before a first permit was required and add language regarding being adjacent to the right-of-way.

Public Works & Development Director Faye Stewart asked Richard if the Ordinance would have to come back to Council as it sounded like the requested changes could be substantial.

Richard said yes that is what he would suggest due to the changes.

Councilor Stinnett said he was in agreement with Councilor Fleck. He said if he heard Amanda correctly the smaller size was set to capture driveways which he could understand because a driveway was built to access the street. He asked if staff was concerned about gardens on the smaller side of the spectrum that didn’t abut the right-of-way or storm drain system.

Ron commented that if dirty water was seen running off someone’s property into the storm drain it was a concern. He said he was the one who encouraged a smaller area because he had seen contractors rip up a sidewalk panel and put their dirt on the sidewalk or on the street. He said if the City didn’t start policing or education, there would be more sediment going into the system. He said for the last 15 to 20 years the Engineering Department has been asking contractors to put bio bags around the catch basins even though there was nothing in writing requiring that.

Councilor Ervin said he appreciated staff. He said to Eric that his comments were not meant to
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Mayor Gowing announced that Ordinance No. 3133 had failed.

**IT WAS MOVED BY COUNCILOR BOONE AND SECONDED BY COUNCILOR ERVIN THAT STAFF BRING BACK A REVISED ORDINANCE FOR COUNCIL CONSIDERATION.**

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(b) **First Vote on an Ordinance Amending Chapter 5.28 of the Cottage Grove Municipal Code Regarding Used Merchandise Businesses**

City Manager Richard Meyers, said at a previous meeting Council discussed used merchandise businesses and gave staff general guidelines to bring back an Ordinance.

Councilor Solesbee recused herself from the discussion and vote as she owns a used merchandise business, Five Flying Monkeys.

Richard said the ordinance removed the license requirements and changed it to a registry to be maintained by the Police Department. He said the Police Department was currently preparing information to send to local businesses about services they provide and ideas for a safe and secure working environment. He said they would also be providing information on used merchandise businesses. He said the types of merchandise was also amended to include cell phones and electronic devices. He said the penalty clause was also removed and the City Attorney was working on language for a general provision penalty clause that would apply to all chapters that didn’t have their own penalty.
IT WAS MOVED BY COUNCILOR BOONE AND SECONDED BY COUNCILOR ROBERTS THAT ORDINANCE NO. 3135 BE ADOPTED.

Councilor Stinnett asked if there was a seven day period between acquisition of the merchandise and its resale.

Richard said that was correct and it could be increased to ten days if officers feel they need additional time.

Councilor Stinnett asked if it was practice to hold merchandise that long or would it hinder their ability to resale.

Richard said typically it was a pawn shop situation to prevent the businesses from rapidly reselling the item.

He asked if Chief Shepherd could comment and if he supported the registry.

Captain Gagner was present at the meeting in place of Chief Shepherd so he replied to Councilor Stinnett’s comment.

Richard said he had talked with the Chief and they discussed the seven day period which Chief Shepherd felt was adequate time. He said the registry was actually the Chief’s idea.

Captain Gagner said he hadn’t had any discussions with the Chief but didn’t think it would cause any issues with the Police Department.

Councilor Ervin commented about a business having to hold an item for seven days.

Councilor Boone said he believed waiting periods were pretty standard nationwide. He said the ordinance wasn’t meant to target legitimate used sales but to act as anti-fencing duty.

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Mayor Gowing announced that Ordinance No. 3135 be placed on the next Council Agenda for a Second Vote and Adoption.
Resolution Adopting the Disaster Resilience Plan for Heritage Resources in Cottage Grove

City Planner Amanda Ferguson said the City was selected by SHPO (State Historic Preservation Office) to do a pilot program for a communitywide Disaster Resilience Plan for Heritage Resources. She explained how the program worked and what organizations and non-profits were involved. She said the Historic Landmark Commission held a public hearing on November 18, 2020 and were recommending that Council adopt the Resolution.

IT WAS MOVED BY COUNCILOR BOONE AND SECONDED BY COUNCILOR ROBERTS THAT RESOLUTION NO. 2030 BE ADOPTED.

Councilor Stinnett asked if there was any plan to get a broader community survey to see how citizens feel about the heritage resources in Cottage Grove.

Amanda said there was a community wide survey done two years ago when the preservation plan was updated which was much broader. She said she would like to redo the survey in 2021.

Councilor Stinnett asked Amanda if she got a sense of how extensive and accurate the inventories were for the organizations in town and how prepared they were for disasters that could impact them.

Amanda said a lot of the organizations were small and had few active volunteers and were reliant upon institutional knowledge that wasn’t written down. She said they realized they needed to do a better job of writing down policies, etc.

Councilor Stinnett asked how much staff time would be utilized in helping the organizations with their policies, etc.

Amanda said staff would provide the scanner, etc. but the organizations would have to do the work themselves. She didn’t feel it would be an additional burden for staff.

Councilor Boone thanked staff and said it was a fantastic plan.

Councilor Ervin said he wouldn’t be voting as he hadn’t read the document fully and didn’t feel right in voting if he hadn’t read the entire document.

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Mayor Gowing announced that Resolution No. 2030 had been adopted.

(d) Resolution in Support of the National League of Cities Leadership in Community Resilience Grant

City Planner Amanda Ferguson said the City and the Coast Fork Willamette Watershed Council were partnering in applying for a Leadership in Community Resilience grant through the National League of Cities. She said the grant would facilitate the creation of a Coast Fork Wildlife Planning and Recovery Task Force to collect real time field-based surveys of areas prone to and potentially impacted by wildfire.

Amanda Gilbert, Executive Director of the Coast Fork Willamette Watershed Council said they had several staff helping do habitat surveys on the Holiday Farm Fire Recovery and attending various meetings. She said they learned what they had in place that was helpful and what they wished they would have had in place. She said it was devastating what occurred but it was a good opportunity to learn what needs to be in place should it occur here.

IT WAS MOVED BY COUNCILOR FLECK AND SECONDED BY COUNCILOR SOLESBEE THAT RESOLUTION NO. 2031 BE ADOPTED.

Councilor Ervin said he supported the grant. He asked if Council could get a presentation on the collector platform and the methodology of how we are identifying and assigning priority to the different aspects of the fire damage that had occurred.

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Mayor Gowing announced that Resolution No. 2031 had been adopted.

BUSINESS FROM CITY COUNCIL

(a) Federal Fund Exchange Agreement for Safe Routes to School and Fillmore Storm Water Outfall Project

City Engineer Ron Bradsby said the City received Federal Gas Tax dollars each year through the Federal Urban Aid program which was administered by ODOT. He said there were two categories for projects funded through the Federal Gas Tax dollars and explained. He said the City had used Federal Gas Tax dollars in the past for the Swinging Bridge and repairs on the Harrison, Main Street and Silk Creek bridges. He said staff had identified the Safe Routes to School Project as needing additional funds. He said the City would like to “de-federalize”
approximately $120,000 of Federal Gas Tax dollars and the City would receive $113,224.88. He said the Grant Agreement was attached to the Council Memorandum.

Councillor Ervin asked what projects would qualify for the full reimbursement of Federal Gas Tax dollars.

Ron said there was a list of approximately 18 streets or sections of streets that would qualify for work done on those streets. He said he didn’t have the list with him but would get it to Councillor Ervin.

Councillor Ervin asked who defined the projects or did projects have to meet criteria.

Ron said the State identified the roads as FAU (Federal Aid Urban) roads and were related to collectors or higher use streets in the City.

**IT WAS MOVED BY COUNCILOR FLECK AND SECONDED BY COUNCILOR ERVIN THAT COUNCIL AUTHORIZE THE CITY MANAGER TO SIGN THE ATTACHED 2020 FUND EXCHANGE AGREEMENT.**

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(b) **Safe Routes to School & Fillmore Storm Water Outfall Project Change Order Approval**

City Engineer Ron Bradsby explained how unforeseen conditions lead to change orders which can be positive or negative. He said for the Safe Routes to School project there had been five change orders to date for a total of $347,866.69 which was 9.98% of the original contract price. He said once the aggregate total of change orders reached 10% of the contract price, the changes needed to be approved by Council. He said he had Change Order #6 to submit which would bring the total change orders to date more than 10% of the contract price and talked about the changes. He said there were some items that had been added at the request of the School District which would be reimbursed to the City.

Councillor Ervin said this item tied in with the last item to free up funds for the project.

Ron said yes that was correct. He said money had been budgeted for the entire project based on the engineer’s estimate of $5.3M and the appropriate work was funded out of the appropriate fund.
Councilor Ervin said in the 2020 Fund Exchange Agreement on Page 8 at the bottom of the page was a clause Item D - Duplicate Payment and read the language. He asked if we had to be concerned how the funds were spent if we were being reimbursed by a homeowner from funds that had been “de-federalized.”

Ron said there were no concerns and explained.

**IT WAS MOVED BY COUNCILOR BOONE AND SECONDED BY COUNCILOR FLECK THAT COUNCIL APPROVE THE EXTRA WORK ITEMS TOTALING $16,705.21.**

Councilor Fleck commended staff for forward thinking and said he appreciated all they did.

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(c) **Concerns from Council**

Councilor Fleck wished everyone a Merry Christmas and Happy Holidays. He said he appreciated everyone, that it wasn’t said often enough. He said the staff were some of the most professional, hardworking, dedicated people in the City and he was so blessed to work with everyone. He said each member of the Council were dedicated to what’s in the best interest of the City and he appreciated that they could disagree amicably. He said with the current state of national events, he felt lucky to serve the community with the Council and staff.

Councilor Boone said he was going to say something similar to what Councilor Fleck said. He said he was completing ten years on the City Council and was completing his year as President of the League of Oregon Cities. He said he bragged on the Council and Staff all the time and said here in Cottage Grove there wasn’t the culture some cities had. He said it was something he appreciated. He wished everyone a Merry Christmas and Happy New Year.

Mayor Gowing said he accepted an award for the City from the Coast Fork Willamette Watershed Council as the 2020 Landowner of the Year. He said the City was chosen because the Coast Fork Willamette Watershed Council had hired a youth crew to work over the summer however due to COVID they weren’t able to utilize them fully. They provided the youth to the City and they worked outside in the parks and at City Hall and other places as needed.

Mayor Gowing said he had been elected the Chair for the Lane ACT for 2021 and he had also been elected the 2021 President Elect for the Oregon Mayors Association effective January 1, 2021.

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BUSINESS FROM CITY MANAGER

(a) Report from City Manager

City Manager Richard Meyers said Councilor Ervin had asked about having issues with the phone service at the Police Department. He said he looked into it and said there was no indication of any issues on the date in question. He said there were issues several weeks ago where calls could be received but there were issues with some calls going out.

Richard said the City received another award for the Swinging Bridge, the 2020 Small Project (Under $10M) Merit Award from Engineering News Report Northwest.

Richard said last week some Council toured the four Veterans Legion Homes which are rented to Veterans. He said one would be rented to someone who was displaced from the forest fires.

Richard wished everyone a Merry Christmas and Happy Holidays. He said on behalf of staff it was a pleasure to work with the Council and have the opportunity to bring items to them for review and approval. He said 2021 was going to be better.

BUSINESS FROM CITY ATTORNEY

(a) Report from City Attorney

None.

ADJOURNMENT

There being no further business, Mayor Gowing adjourned the regular meeting of the City Council at 8:34 pm.

The next regular City Council Meeting will be held January 11, 2021, at 7:00 p.m. in the Council Chambers at City Hall.

\[\text{Trudy Borrevick, City Recorder}\]
\[\text{Jeffrey D. Gowing, Mayor}\]