

CITY OF PRINEVILLE

MINUTES

January 8, 2007

The meeting of the Prineville City Council was called to order on January 8, 2008 at 6:30 PM in the Council Chambers at City Hall by Mayor Wendel. Present were Council Members Betty Roppe, Jack Seley, Dean Noyes, Steve Ilk, Gordon Gillespie and City Manager Robb Corbett.

Present representing the press media were Kevin Gaboury of the Central Oregonian and Don Wood of Hometown Radio Station.

The meeting was opened with the flag salute.

CONSENT AGENDA:

- A. Minutes of December 11, 2007 regular meeting.
- B. City of Prineville Wetland and Floodplain Enhancement Cooperative Agreement.
- C. Landowner Agreement for Restoration Projects Under the Oregon Partners for Fish and Wildlife Program.

Council Member Jack Seley requested items "B and C" be removed and placed under "Council Business".

Council Member Roppe moved to approve the minutes of December 11, 2007 as presented. Council Member Gillespie seconded and the motion passed unanimously.

VISITORS, APPEARANCES AND REQUESTS:

Paul Priestly stated he came tonight to talk about the Sister City Project. This project has the School District's support and he asked if any of the Council Members would like to be on the committee. He would also like to have a contact person from the Council.

Council Member Roppe volunteered to serve as the contact person.

Mike Mohan stated the business owners need to be reminded to clear off the entire sidewalk in front of their business when there is snow on the sidewalk.

It was stated the business owners will be reminded, if necessary.

Max Nielsen from the Crooked River Watershed Council was in attendance and stated that he would be glad to answer any questions the Council might have when discussing the Wetland and Floodplain Enhancement Cooperative Agreement.

Mayor Wendel welcomed the Boy Scouts from Troop 63, who came to observe a City Council Meeting to fulfill a badge requirement.

WORKSHOP - PLANNING CODE REVISIONS: Senior Planner Scott Edelman reported the December 11th Council packet included a draft of proposed amendments to Chapter 153, Land Development in the City of Prineville Code of Ordinances. These amendments are to

procedural language and do not affect the substance of the land development provisions.

The Council requested a month to review these changes.

Senior Planner Scott Edelman stated since the last Council Meeting, staff has not received any additional input from Council Members. However, City Attorney Carl Dutli recommends changes to the text that was presented to the Council on December 11th and those changes were included in the Council packet for the meeting tonight.

Scott reported he did have a Planning Commission Member and citizen come in today objecting to two of Mr. Dutli's recommendations.

Scott pointed out the change on the bottom of page 2 (Page 89, Item A) where Mr. Dutli took out several people or groups that would be involved in potential code enforcement. They wouldn't want to bring every code enforcement to the Council. It was pointed out there could be a time that you may disagree with staff enforcement of this issue and you feel it is important to call it up and actually do an enforcement yourself, so for this one and the one of top of the next page, they recommended putting back in the City Council as having the authority to enforce the code.

City Attorney Carl Dutli stated essentially what it would be is a citation would be issued and then they would go to Circuit Court on that violation. It just seemed to him that it is more of an administration function, than having the Council involved to cite. Certainly if a Council Member saw something that they were concerned about, they could direct staff to take care of it. His thought is that the Council would not want to be in a position to where they are monitoring these laws, which is what staff normally does. If the Council feels otherwise it certainly could be changed.

Council Member Roppe stated it looks to her like it is not mandatory for the City. It says City Manager or, and then it says City Planning Official, City Council and/or, and it looks like they are not mandated, if that is left in there. Is she correct?

Mr. Dutli stated it is and then his question is who is going to have authority if you have all those bodies, who is going to be the one that is going to handle it? City Manager Robb Corbett pointed out to him that there is a section in here that does talk about appeals to the City Council. Normally in our ordinances whenever there is civil matter or a question, usually the City Council is the last hearing body.

Council Member Noyes stated so if the City Council gets involved with making a decision initially, then there is no sense for an appeal, so wouldn't it make sense to keep that empowerment with the City Manager, so the appeal process could still be fulfilled through the Council.

Mr. Dutli stated that would be his thought and that is why he was recommending this, because there were too many people that could be doing it who make that decision and the City Manager or his designee, and probably it is going to be an ordinance enforcement officer or someone from the Planning Department or

the Police Department, who be the one that would be enforcing it but it is certainly up to the City Council.

Senior Planner Scott Edelman stated it is staff that delivers the enforcement and the Council would only see it if it is actually appeal by the complainers or the person accused of the violation.

Council Member Seley stated Mr. Dutli's suggested language clears it up and it is easier to understand.

Council Member Roppe stated Council Member Noyes had a very good point, in that if we are not involved in that initial evaluation, then it leaves us for the appeal process.

City Manager Robb Corbett stated currently code enforcement responsibilities lies with staff and the City Council serves as an appeals body. The point that the City Manager or his designee, which for the City of Prineville, we would have staff that would be empowered to enforce the policies that the Council has adopted, so if there was an appeal the Council could be unbiased in hearing the issue.

Don Wood stated his point was actually on page 3, the reference to page 89, item B, where the Planning Commission was removed from the ability to initiate action to enforce a provision. If you will remember the situation we had with the gravel pit just underneath the hospital, that was actually a Planning Commission request for enforcement on that. When he talked to Marty Bailey, he was concerned about taking the Planning Commission out of the ability to initiate that action, would be a step backwards.

City Manager Robb Corbett stated Mr. Dutli referenced earlier the Council, or giving the Councilor's the ability to direct staff about a potential violation of existing code, that seems within the perimeters of what we are talking about and it happens frequently. A Councilor calls and says he sees a code violation and he wants City staff to look into it and staff goes and takes enforcement action.

Mr. Dutli stated his thought on this one was more financial. The Council controls the purse strings for the City. If the Planning Commission has the authority to initiate action sometimes, sometimes that action is going to be filing a lawsuit and he did not think it was appropriate for the Planning Commission to say we are going to sue such and such on behalf of the City. He does not see any problem with the Planning Commission recommending that to the City Council, but he does have concerns about them initiating action, which could cost the City money.

Don Wood stated Mr. Dutli's comment is a good one and the intention is not that they would initiate suit, their intention is that they would bring it up and require a hearing or whatever.

Senior Planner Scott Edelman stated it sounded to him like it would be a typical process where the Planning Commission would bring up at their meeting to staff and ask staff to look into a violation. He believes that Mr. Dutli's recommendation would still cover, it would still be staff doing the enforcement at the request of the Planning Commission, or frankly like we would

treat any other request from any citizen to look into an enforcement issue.

Mr. Dutli stated he does not see any problem with that.

Council Member Seley stated just a point of clarification on page 2 you cite some changes made to items on page 38, when in fact they were not on page 38, but on page 46. Just to keep the record straight he wanted to mention this.

Senior Planner Scott Edelman stated the next step is to move to a Public Hearing which would be scheduled for the first meeting in February.

PUBLIC HEARING ON PRINEVILLE DISPOSAL'S FEE FOR RECYCLING SERVICE: Mayor Wendel stated this Public Hearing is concerning the fee of \$3.60 per month that is being proposed by Prineville Disposal for their recycling program.

Mayor Wendel opened the Public Hearing.

Steve Holliday from Prineville Disposal gave a brief overview of the proposed recycling program. The issue that is the driving force is meeting the DEQ requirements since Prineville has reached a population of 10,000. They have met their recycling goal for the last couple of years. The recycling containers would be provided to all customers. Some customers may be able to downsize to a smaller garbage can, which would offset the additional fee. Steve stated their proposed fee is comparable to surrounding cities in the Central Oregon area.

Council Member Roppe asked if the money derived from the recycled materials will support this program?

Steve Holliday stated it doesn't come close to supporting the program, but this will vary from month to month.

Council Member Gillespie stated he has a concern about handling these large recycling containers and that it may be difficult for some to get these to the front of their residence.

Steve Holliday stated they will work with senior citizens and disabled to assist in moving these containers. They will do this with the garbage containers as well.

Mike Mohan of 106 N. Main stated he was one of the testers for the recycling containers. He was very pleased with the program. We will be able to save a lot of space at the landfill and extend the life of the landfill, which is an important factor in doing this recycling program.

Brannon of 1946 SE Melrose stated he is in favor of it. He and his wife have lived here for about 2½ years and they have not had garbage service. They have been taking care of their own waste and they end up transporting it to Bend when they are on a trip to Bend or sorting it out and bringing it to Crook County here. Then when they have a truck load of trash, they take it to the landfill. They have not only reduced their own personal costs but also just how much waste they are generating. He would speak in favor of this and would be willing to be a customer of Prineville Disposal just to have the recycling bin because he feels it is an important thing, not only environmentally but also the long term costs in not trying to

change our waste and consumption is greater than taking a small cost now.

Brannon stated he is also an employee of Mt. Bachelor Academy and they this past year have been doing their own recycling program. Basically they have about 5 very large containers and they fill those up in about a week. They are currently at the school sorting all of their recycling material and then getting it to town and leaving it at the proper places. For them to have the ability to have it commingled and have that kind of support would be a huge benefit for them. He submitted a letter, drafted by the students and signed supporting the recycling program.

Doug Dawson of 1192 NE Steins Pillar Drive stated he was in favor of the recycling program. He is retired and on a fixed income, but for an added \$3.60 a month he will support the program.

Cherry Bender of 150 SE 4th Street stated she supports the recycling program but because it is mandatory, feels the cost could be a hardship for some residents. She would like to see some sharing of the recycling bins. Single people do not have that much to recycle.

Jacob Fletcher of 1150 SE Leslie Lane stated this looks like a good program and saves people from having to sort their recyclable materials.

Max Nielsen of 4385 Happy Hollow stated he supports this program because he will have less garbage.

Sandra Seymore of 639 SE 2nd Street stated she has done some research in Deschutes County and they feel the 95 gallon containers are too big. They will not pick these containers up until they are full and they are not able to leave them out in front of their homes in some areas. She is not against the cost of \$3.60, but she feels the containers will not fit through her fence, since they no longer collect in the alley.

Michael Chadwich of 645 NW Harwood stated he would like to see options. Such as recycle once a week and collect garbage every other week. He feels the fee is fair.

Jason Carr of 884 NE Hudspeth stated he was also a part of the test program. He agrees with the proposed recycling program but also sees some of the citizen's concerns.

Bill Zelenka stated he resides in the UGB and was also part of the test program as well. He is a strong supporter of this program. His amount of garbage has been reduced. He feels they need to examine the fee schedule, to make sure it is fair for everyone.

Jerry Brummer of 820 NE Crest Drive stated the program is good. The more we recycle, the more we save on the landfill.

Dick Patton of 1088 NE Akins Drive stated he strongly supports this program.

Debbie McMann of 225 SE Meadow Lakes Drive stated she feels the senior citizens need to have an option of participating in this program. The cost can be a burden for them.

Karole Stockton of 895 Lynn Boulevard stated she also was a tester for the proposed recycling program. The 95 gallon container is a very large size. She feels recycling is important because it will extend the life of the landfill. She feels this recycling program shouldn't be mandatory for seniors and low income residents. The program is very user friendly and she is okay with the \$3.60 fee.

Council Member Ilk asked for a show of hands from the audience who supported the recycling program and how many wanted options. The majority supported the recycling program as presented.

Donna Mohan of 106 N Main Street stated if it is allowed to opt out of this program, we are not talking about \$3.60 per customer, so that is something that would have to be taken into consideration. How much would that cost if people are allowed to opt out of this program, which we have said will benefit everybody by extending the life of the landfill?

Duane Ecker of 1299 McRae Court stated he believes when you go to options, you are going to have too many options. He believes that it is going to have to be pretty well straight black and white or he believes it will be a can of worms.

Sandra Seymore of 639 SE 2nd stated she would like to see an option on the size of container. She doesn't mind paying the \$3.60, but she would just like to have something that would fit through her gate that she could handle.

Steve Holliday gave a rebuttal to the remarks that were presented to the Council. He stated the cost of a new cell at the landfill that he has gotten from the Landfill Manager, they are talking 12-15 million dollars for the new cell. It is obviously going to be a lot larger, but again you are still talking 12-15 million dollars.

Steve stated as far as the cart size, he has discussed this with a lot of haulers and their biggest recommendation was just get the program established and going and then address the size issue as it comes up at a later date.

Emily Holliday stated allowing people to recycle like this at this rate, is a lot cheaper than for them to throw it into their garbage container, so they are going to be flexible and work with people if they want to downsize their container. They just want to get the program going and have people be able to use it, because it is a lot cheaper to recycle than it is to throw it away.

Emily stated as far as letting people have the choice to opt out, she is not sure how they would put a dollar figure on that when they do not know how many people will be recycling. The rate that has been given is driven by cost of everyone participating.

Mayor Wendel asked if there would be a senior discount on the recycling fee? Steve stated there is a current senior discount that they have in place and that will also apply to the recycling fee and they would also have free carry out for seniors as well.

Mayor Wendel stated one of the problems he had with the program was the shredded paper. Steve stated if you shred in the strips it is okay. If you shred into confetti it won't stay in the bale.

Mayor Wendel stated his real problem is the costs. He does not believe we know enough at this point, at least he does not know enough at this point, to approve a \$3.60 increase when he does not have enough of the numbers.

Mayor Wendel stated it is his opinion if a company or organization has a franchise with the City, he thinks it is very important for the Council, since they are the negotiating body for the citizens on the franchise, to make sure that they are getting the best bang for their buck. For him to approve this he would have to see some more iron clad numbers on this. Even yourself, Steve, said that it is an estimated \$3.60 and that is something that we need to shore up. Is it \$3.60?

Steve Holliday stated it won't be higher than \$3.60, but until you go and buy the equipment and buy the carts and everything you do not have firm costs.

Mayor Wendel stated at this point for him, he understands there are a lot of citizens that are okay with the \$3.60 but he can't go forward with it until he has some sure numbers and definitely can't go forward with it until he has a proposal that says whether it is \$3.60 or \$3.58 or whatever it may be. He would have to see some more numbers before he could move forward with this.

Emily stated after all their number crunching to come below the other communities in the area, they are right there where everybody is in the industry.

The Council was in agreement to close the Hearing. Mayor Wendel closed the Public Hearing.

AWARD OF BID ON AIRPORT WELL HOUSE: Public Works Superintendent Jerry Brummer briefly reviewed the staff report that was included in the Council packet. On December 13, 2007, City staff publicly opened 2 sealed quotes associated with the New Airport Well House and appurtenances. The bids received were: JT Stephens Construction Company for \$136,000 and Moore Excavation, Inc. for \$314,000. Staff recommends awarding the bid to JT Stephens Construction Company for \$136,000.

After a brief discussion, Council Member Roppe moved to award the bid for the new Airport Well House to JT Stephen Construction Company for \$136,000. Council Member Seley seconded and the motion passed unanimously.

WETLAND AND FLOODPLAIN ENHANCEMENT COOPERATIVE AGREEMENT: Council Member Seley stated he wanted to be able to discuss this agreement, since there are cost figures that they are obligating the City for over a 10-year period.

Scott Smith from Public Works briefly explained how the grants will work for this project. This is the same as the agreement the City presently has with ODOT on a project that is underway now.

Max Nielson from the Crooked River Watershed Council briefly explained the project. He sees this project as a great opportunity for the City to show they are good stewards of the land. This is a pilot project to see how well we can work together in this partnership with other agencies.

Council Member Roppe stated the maximum amount the City would be contributing to this project would be \$25,875 and she is assuming from what it is saying here, that is salaries for personnel, so this would be in the budget.

City Manager Robb Corbett stated Community Development Director Ricky Sites has signed off on the project understanding the costs and the value and the trade off and she is very supportive of this project.

Scott Smith stated the scheduling of work on this project will be determined by Public Works depending on their work demand, just like the ODOT wetland was handled and the Watershed Council is aware of this.

City Manager Robb stated one of the prevalent issues that the community is dealing with is in preparation of the next 100 year flood event. The creation of the wetland, these low spots creates flood retention, which essentially reduces the impacts when we have these events. He feels the department is doing the right thing in moving forward and securing relationships with partners, such as this when we look to the future.

Council Member Seley stated he is a little bit confused over some of the terms of the agreement, such as item 4, says terminate upon completion of the pilot project for 10 calendar years. If you go down below, item 4 under "City Obligations" it says the City shall not dispose or transfer the property without prior consent of the Council. Does that terminate at the end of the agreement?

City Attorney Carl Dutli stated as he reads it, it is 5 years following the completion of construction. It can be transferred with the prior consent of the Watershed Council. As he understands it, we need to essentially continue to own it for 5 years.

After a brief discussion, Council Member Roppe moved to approve the Wetland and Floodplain Enhancement Cooperative Agreement. Council Member Noyes seconded and the motion passed unanimously.

LANDOWNER AGREEMENT FOR RESTORATION PROJECTS UNDER THE OREGON PARTNERS FOR FISH AND WILDLIFE PROGRAM: Council Member Seley stated he basically had the same concerns over this one and they no longer exist.

City Attorney Carl Dutli stated he thinks that this is a little different in that it initially read that we would have to pay them back all the money, the \$20,000, if we got out of it within a 10 year time and we changed that agreement to make it prorated. Essentially, you prorate the amount depending on when we would get of the agreement.

Council Member Seley moved to approve the Landowner Agreement. Council Member Roppe seconded and the motion passed unanimously.

DISCUSSION REGARDING PRINEVILLE DISPOSAL REQUEST: Mayor Wendel asked the Council to comment on how they feel about the proposed recycling program.

Council Member Ilk stated he has asked citizens from various age groups and they have no concerns about the program.

Council Member Noyes stated the recycling program is a good opportunity but he can understand the stewardship issue that Mayor Wendel spoke of.

Council Member Roppe suggested Steve let the public know they are not buying any of the containers at their home or renting, either one. This cost would be included in their monthly fee. She feels that would be important for people to know.

There was some discussion regarding the \$3.60 fee. Steve Holliday stated this is the fee set for the City and UGB. If the County decides to go with this program, it will cost them \$4.60 due to the extra mileage.

Council Member Roppe expressed a concern about all the different rate increases. The City of Prineville has raised their sewer rates to everybody and now this is being increased and she knows a lot of seniors who are living on fixed income that this hurts. That is her only concern.

Council Member Ike asked if Steve had some sort of number of people that would be affected that are senior, fixed income, low income?

Emily Holliday stated as far as the 10% discounts go, they have a couple hundred customers in the City that take advantage of that. Steve Holliday stated they also have no idea of how many are not taking advantage of this discount.

Council Member Roppe stated she assumes they need to have actual approval of this before they can come with the actual figures that Mayor Wendel has requested. She does not have the same concern that Mayor Wendel has, in that she can see where the costs are coming from and if feasible that they would come back with less than what they said. What you have said is the \$3.60 will be the maximum charge.

Council Member Noyes stated there is a substantial level of confidence in the level of operation and that has to account for something. He knows that it does to the community and it does to him personally.

Council Member Seley stated he does not believe there should be any option whether you participate in the program or not within the City limits.

Council Member Gillespie stated he also talked to citizens and all he received was positive feedback.

Mayor Wendel asked if they were interested in doing this over a two year period, a rate increase?

Steve Holliday stated he does not believe that he could, because he has all the costs of equipment from day one.

Council Member Noyes made a motion to approve the proposal with the fee increase up to \$3.60, effective July 1st and do any necessary modification to the franchise agreement. Council Member Roppe seconded. Mayor Wendel stated he is in favor of the program but as a franchisee, he cannot support the increase up to \$3.60 without further review of the numbers. The motion passed with Mayor Wendel opposing.

VISITORS, APPEARANCES AND REQUESTS: Lyle Byler of 1265 NE Hillcrest stated he is also known as "Jesse James" also known as "Zeek James" train robber. They found out just recently that the Crooked River Dinner Train is shut down. They want to know why? They were told there was a possibility that the subject might be brought up tonight, but so far it has not, so he is going to bring it up. Did the Council know that they were going to shut down the dinner train?

City Manager Robb Corbett stated the Council was informed of some of the challenges that we have with the dinner train and it was in the weekly report on Friday that they had made the decision to shut it down.

Mr. Corbett stated what has happened with the dinner train is to try and bring the dinner train within profitability. They have made a strategic decision to run the dinner train during the peak tourist season. They ran it largely year around last year and because of the high monthly overhead, they lost a substantial amount of money.

Lyle asked to see some numbers that show this. He knows that it makes money. He has been there for 5 years, so where are you coming up with that we are losing money?

Mr. Corbett stated he would be happy to sit down with him and go over the financials of the dinner train. He is surprised that he hasn't been given the opportunity by the person who is in charge of the department.

Lyle stated that would be Mr. Lovelady and none of the staff got any kind of notification.

Mr. Corbett stated he would guess, that he did not ask.

Lyle asked, why are we supposed to ask, if they are getting laid off because the business is shutting down?

Mr. Corbett stated he is not prepared to have this conversation, other than to tell you and the Council that he is mandated to see that the dinner train seeks profitability. At regular intervals, he has talked about the challenges with the Council, the finance committee, the railroad committee and they have made a decision that during the winter months, because of the high overhead, we cannot afford to stay open during those slow times. He has made a management decision to shut the train down during the winter.

Lyle stated that is not what they heard. They heard that the dinner train is down.

City Manager Robb Corbett stated that has not yet been determined.

Mayor Wendel asked Lyle if he would like to get a copy of the financials?

Lyle replied that he would like a copy of the entire financials since the City has owned the dinner train.

Mayor Wendel stated if there is a way of fixing this problem, he would like to know.

Council Member Roppe stated she has a problem. First she did not know and she did not get an email and she usually gets the weekly reports. She has been very supportive of getting that and she did not get that. She did not know it and she also thinks that the employees of the train should have had some kind of explanation.

Lyle stated it is his understanding that it is suppose to be a 30 day written notice. They have not seen or heard anything.

Railroad Manager Dan Lovelady stated this year they decided to reduce the schedule on the dinner train and run only during the peak season. Their plan this year was to run it through December 31st, shut it down during the winter and start it up again in the spring. They do not have a permanent shut down at this time, but they are taking a look at what they are going to do going forward in the future. They have some issues that came up regarding using the siding track over at Redmond. They have some issues with finances and he and Mr. Corbett during this down period are going to take a look at what we are going to do in the spring. No decision has been made yet.

City Manager Robb Corbett stated one of the things that has come up is that we are required to use a part of the Burlington Northern track to turn that train around and there has been communication from the Burlington Northern that they are going to require insurance levels far beyond what has ever been required. We have been negotiating with them but what it appears is that the additional insurance costs of the business is \$32,000 a year, so that is one of the things that we are having to look at and deal with as well.

Lyle stated regarding the insurance, under the previous ownership, the City of Prineville Railway charged the dinner train a freight rate. They handled us just like freight, not as anything else.

Mr. Corbett stated they would be glad to get together and discuss this with him further.

Mike Elmore stated he would like to say that he has read in the newspaper and talked to Mr. Lovelady about the possibility of leasing the business or leasing to buy it and would like to have the City consider that. They consider it the number one attraction in Central Oregon and to remove it, would be a lot like removing Disneyland from L.A. He is saying that they would like to open talks about the possibility of leasing it.

Mayor Wendel stated if he is interested in leasing it, they would be willing to discuss that.

Jill Seaward stated she is the only full time employee of the Dinner Train, she was also of the impression that it was shut down for good. That information was given to her by Mr.

Lovelady. Her last day working for the train, and she was never given a date to return, would be this Friday. She was given a two week verbal notice and she has asked for one month severance. She is not asking for any insurance accompanying it, but she is asking as a single parent right now and she feels she is entitled to that.

City Attorney Carl Dutli advised the Council not to address this issue.

Jill stated she just wanted the Council to know that was her knowledge, that the train is shut down.

There was no further business to come before the Council, so the meeting was adjourned at 8:35 PM.

Mike Wendel, Mayor

Robb Corbett, City Manager
Recorder