

**MILL CITY  
MINUTES OF THE CITY COUNCIL  
Tuesday, December 13, 2022**

**Mayor Kirsch** opened the meeting at 6:30 PM with the flag salute. Councilors present were Janet Zeyen-Hall, Dawn Plotts, Tony Trout and Steve Winn. Brett Katlong arrived at 7:11 PM. Staff members in attendance was City Recorder Stacie Cook, Public Works Supervisor Russ Foltz, City Clerk Tree Fredrickson, and City Attorney Jim McGehee.

**Citizens in Attendance** were Lt. Brian Hardy, LCSO, Bob Johnston, Roel Lundquist, and Misty Strasser.

**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**

**Councilor Trout** moved and was seconded by **Councilor Zeyen-Hall**, to approve items a; Approval of Minutes of Regular City Council Meeting of November 22, 2022, b; Approval of Accounts Payable, c; Approval of Monthly Revenues & Expenditures Report, November 2022, d; Authorization of ½ Day Paid Holiday on Friday, December 23, 2022, and e; Authorization of Holiday Bonus of \$50.00 for Each City Employee. Mrs. Fredrickson polled the Council. The motion passed unanimously, (5:0).

**PUBLIC WORKS REPORT:** Public Works Supervisor Russ Foltz gave a report on the following items:

Pump Report: Readings varied throughout the month of November.

Actuator Update: The actuators have all been installed. After the electrician mounts the new SCADA panel and wires the actuators, scheduled for January 16, 2023, the sewer plant will again be in control of the drain field.

I & I Update: Two issues were found during recent TVing and flushing of lines on the NE part of town. Gravel was found in the lines, which may be caused from the use of heavy equipment during the wildfire clean up.

Several access points that were paved over have been located. These will be uncovered and brought up to grade.

The 1<sup>st</sup> Ave pump station is being monitored to determine if there are any spikes in flow.

River Rd. Generator: Hours that the generator at the River Rd. pump station is running are being tracked with the average ½ hour per day. Today the generator ran a total of 1.9 hours.

Mayor Kirsch said that he and Mrs. Cook met with the new Regional Manager for Pacific Power. They will place a monitor on the River Rd. lines to record any fluctuations in power.

Christmas Decorations: Public Works staff has hung the Christmas decorations along Broadway St. and will be hanging the lighted wreath on the railroad bridge in the next day or two.

**CITIZEN COMMENTS/QUESTIONS:** None.

**PUBLIC HEARING: File No. 2020-09 ZONING CODE AMENDMENTS – PSILOCYBIN TIME, PLACE & MANNER**

Mayor Kirsch opened the public hearing at 6:47 PM and called for any potential conflicts of interest, bias or ex parte contact. Councilor Plotts said that she had a citizen ask what this hearing was for and she advised them of the intent.

**STAFF REPORT:** Mrs. Cook said the proposed Ordinance is the same one that was adopted for Time, Place & Manner regulations for marijuana. It has been modified to include psilocybin products, which were banned in the November 8, 2022 election. However, as the city has seen with marijuana, constituents can put a question before the voters and have the ban repealed. Therefore, staff believes it prudent to continue forward with adoption of rules and regulations for psilocybin products within Mill City so that they are in place should the ban ever be repealed.

Additionally, per the request of Canyon Cannabis owners and resulting direction of Council, the code has been modified to change the hours of operation from 9:00 AM – 7:00 PM to 7:00 AM – 10:00 PM.

Mrs. Cook said the certified election results show that the ban on psilocybin in Mill City passed.

**PROPONENT’S TESTIMONY:** None.

**OPPONENT’S TESTIMONY:** None.

**GENERAL TESTIMONY:** Misty Strasser, NW River Rd, asked if this product is still being tested and, if so, will this ordinance cover the manufacturing as well as the selling of this product in the city limits?

City Attorney Jim McGehee said that it is his understanding that the drug will be distributed in a licensed facility with the patient monitored for several hours before being released.

Councilor Plotts asked for clarification of page 2, item c, “meets or complies with”. Mrs. Cook said a psilocybin business would have to that they met or will comply with state requirements when applying for a business license.

Councilor Plotts requested clarification of page 3, item 3.a.1, outlining that a marijuana business and psilocybin business cannot be located next to each other. Mrs. Cook said this language is unclear as it should state that businesses of the same type cannot be located next to each other. The language will be modified and brought back at the second reading.

Councilor Zeyen-Hall asked if this ordinance bans psilocybin from the City. Mrs. Cook said that the election banned psilocybin. This ordinance sets rules and regulations for psilocybin should the ban ever be repealed.

Bob Johnston, SE Hazel St, asked where psilocybin will be manufactured. Mr. McGehee said that the state has not put rules into place yet.

**CLOSE OF HEARING:** Mayor Kirsch closed the public hearing at 7:06 PM.

**ADOPTION OF ORDINANCE:** Councilor Plotts moved and was seconded by Councilor Trout, to Read Ordinance No. 41X for First Reading by Title Only. The motion passed unanimously, (5:0).

Mrs. Cook read Ordinance 41X for First Reading by Title Only.

**LINN COUNTY SHERIFF’S REPORT:** Lt. Brian Hardy gave the LCSO report for the month of November noting that car thefts are on the rise again.

Councilor Winn asked if extra patrols grants have been obtained for the holidays. Lt. Hardy said that LCSO does not apply for that kind of grant but did participate in a saturation patrol with OSP.

Councilor Katlong joined the meeting.

Lt. Hardy said that LCOS is currently recruiting for a seasonal marine patrol deputy and deckhand positions. Deckhands that assist a deputy must be 18 or older. This position will be posted on the LCSO website in the next several days.

**PRESENTATION:** None held.

**OLD BUSINESS:**

Sewer Project Update: City Planner Dave Kinney and Mrs. Cook met with owners of prospective properties for a new treatment plant and rapid infiltration pond. Of the six property owners, three have given verbal permission to provide their contact information to the firm that will be handling the property access needs.

Peter Olsen, Keller Associates, calculates that there will need to be approximately six acres of land for the treatment plant site. This will allow for parking and future expansion. The rapid infiltration pond will need to be about six acres in size and have buffering, fencing and potentially additional area for expansion. The estimate for this land is 8 to 10 acres.

As there are two applications for large developments within the City, which will both be impacted by the sewer issues, Mr. Olsen attended the November 18<sup>th</sup> Planning Commission meeting to provide an update on the status of the project.

Roel Lundquist, SW Linn Blvd., asked where funding for this land purchase will come from. Mrs. Cook said that a decision has not yet been made as to where the funds will come from.

PFAS Cost Recovery Program: In October, the City received a letter from OAWU advising they have teamed with National Rural Water Association regarding a PFAS cost recovery program. PFAS are widely used chemicals, which are long-lasting with components that break down very slowly over time. Council agreed to join the cost recovery program.

A retainer agreement was received from Napoli Shkolnik PLLC, Attorneys at Law, and provided to Mr. McGehee for review.

Mr. McGehee said that he wants to research this further before a decision to sign the retainer is made. This item will be brought back on January 10, 2023.

Mill City Falls Update: Mrs. Cook said that Phase I of the Mill City Falls Project is moving along nicely. The retaining wall has been completed and backfill brought in. Contractors are currently off site on another job but will need to have the remaining elements of the project completed by March.

The City elected to reject all initial bids for Phase I of the project due to all the bids coming in very high. The project was rebid as individual elements rather than an overall combined project. Due to the rebid and multiple bid processes/contracts, costs for the engineering oversight have increased. Amendment No. 2 to Task Order No. E-21-1, increases the construction phase services by \$33,000 for the engineer and sub-consultant, with the sub-consultant amount being a not-to-exceed of \$56,700.

Keller Associates completed the initial work at Mill City Falls Park as a sub-consultant under City Engineer John Ashley. However, Mr. Ashley feels that the extent of work being completed in

Phase 2 is more than he is comfortable being responsible for. Therefore, it is recommended that the City contract directly with Keller Associates for the Phase 2 work.

Staff has been working with Keller Association to outline a scope of work for this phase, however, an agreed upon scope with fees has not been reached at this point. To keep the project moving forward seamlessly, authorization from Council is requested to negotiate an engineering services contract with Keller Associates in an amount not-to-exceed \$100,000.

**Councilor Katlong** moved and was seconded by **Councilor Trout**, to Approve Amendment No 2 to Task Order No. E-21-1. The motion passed unanimously, (6:0).

Mr. Lundquist asked if plans are available for Phase 2. Mrs. Cook said the design will be done after the engineering agreement is finalized. Phase 2 will include electrical work, internal paths, an overlook at the falls, shoring up the river embankment, replacement of fencing, park furniture and a small natural play area for kids.

Mr. Lundquist noted that the takeout area in the park needs to be retained.

Councilor Plotts asked if an amphitheater is still planned in the park. Mrs. Cook said that it is in the Master Parks Plan but is not part of this phase.

Councilor Zeyen-Hall asked if the park will be ADA accessible. Mrs. Cook replied it will be.

**Councilor Katlong** moved and was seconded by **Councilor Winn**, to Authorize City Recorder to Negotiate an Agreement with Keller Associates for Phase 2 Design/Inspection Services in an Amount Not-to-Exceed \$100,000. The motion passed unanimously, (6:0).

I & I Update: Work to identify inflow and infiltration in the City's sewer system has continued to happen over the last few weeks. The company is scheduled through mid-December in order to complete the entire NE quadrant of town.

After finding the previous I & I, Public Works Supervisor Russ Foltz advised that at least one more area was identified where I & I is occurring within Santiam Pointe. It is imperative the city gets these issues fixed as quickly as possible, specifically the issue at Hwy 22 where the two interceptor tanks are being pumped on a monthly basis to keep them from backing up and overflowing.

Mrs. Cook is seeking emergency authorization to hire a contractor to begin fixing the I & I that was identified with the TV work. It is believed that many, if not all, of the areas found thus far can be fixed for under \$30,000.

**Councilor Katlong** moved and was seconded by **Councilor Trout**, to Authorize City Recorder to Contract for I & I Repairs at a Cost Not-to-Exceed \$30,000. The motion passed unanimously, (6:0).

FEMA Lease: Mayor Kirsch contacted Marion County advising them of Council's decision to not approve the lease that was presented. In response, he was advised to offer an additional two months on the lease, as Council authorized, to FEMA as Marion County is not certain when or if the tiny home development will move forward.

Mrs. Cook notified the City's FEMA contact, who responded that FEMA would like to take advantage of the additional two months. Since then, updated leases have been sent and Mayor Kirsch has signed and submitted them. FEMA's lease now runs through January 31, 2023.

Mrs. Cook said that she spoke with a representative of OEM, who was seeking information on the expiring FEMA lease and expressed her concern about needing to relocate those remaining at

the site. She advised Mrs. Cook that the housing authorization would only extend through February 2023. Mrs. Cook requested information be emailed to her so that she could share it with Council but has not received anything to date.

Task Force on Homelessness: The Council agreed to support the Oregon Mayor's Association's attempt to secure funding from the Oregon legislature to assist with homelessness in the state. The city is being asked to submit a one-page outline of the city's challenges, what the funds would be used for, how much funding we are requesting (\$40 x population), as well as any capital construction projects related to homelessness that we may need funding for. A draft was provided for Council review and discussion.

Mrs. Cook and Mayor Kirsch attended a Zoom meeting with an OMA to discuss Mill City's homeless issues. Mayor Kirsch explained that the City does not have the resources for homeless and are unable to commit to any program. If funding were to run out the city would be unable to sustain any programs that were created.

Mrs. Cook asked the Council if there is anything specific that they would like to be included in the information sheet.

Councilor Katlong said that he wants to help his fellow man. However, Mill City does not have the appropriate resources to help the homeless. If the City starts offering half-resources this will only attract many more homeless to the area and, when funding runs out, what will happen?

Mrs. Cook said that the dollars could be used for rental assistance to help people get into stable homes and that she asked if funds could be transferred to another organization that could possibly expand and serve the homeless. For example, could these grant funds be given to the Senior Center to potentially update their facilities as a warming/cooling station.

Councilor Trout said that the City's temporary RV park and the FEMA site are examples of things the city did to prevent homelessness. Mrs. Cook said that she will add this to the list.

Mr. McGehee said that the City needs to look at RVs placed on private property in the city, including those allowed after the fires. There has been some resistance from those asked to vacate RVs, therefore, the Council needs to discuss how this is going to be handled.

Mrs. Cook said that she has sent out letters to those who applied for the temporary use to advise that they must be removed or vacated by December 31, 2022 and that once the code sunsets those still in use would be in violation of City code.

Speed Radar Signs: Quotes from two companies of varying types of radar speed signs were provided Council for review. Mrs. Cook suggested sign locations could be SE and SW Kingwood Ave, near S 1<sup>st</sup> Ave. and SE Fairview St. and on SW Broadway St.

Councilor Katlong said that he has information on the speed radar signs that the City of Stayton just installed. Mrs. Cook asked Councilor Katlong to provide her the information so that it can be included in the next packet for discussion.

ODOT SCA Grant Update – SW 2<sup>nd</sup> Avenue: Mrs. Cook said that final paperwork for reimbursement and project close out on the SW 2<sup>nd</sup> Ave. SCA Grant has been submitted. In order to complete the process, the project will need to be inspected by ODOT personnel. The deadline to close out the grant is December 22, 2022.

Zipty Fiber Franchise Agreement: The City approved a franchise agreement with Zipty Fiber in August. After providing the approved agreement to Zipty for signatures, Mrs. Cook received an email from Jessica Epley, VP – Regulatory & External Affairs, advising that she had missed the

information regarding free wifi for various city properties. This email was forwarded to Mr. McGehee for his review.

Mr. McGehee contacted the Public Utility Commission (PUC) to obtain an interpretation as to whether Ziplly Fiber is or is not a public utility, as the statute did not specifically call out fiber companies. The PUC responded that they do not regulate broadband services.

Ziplly has since reached out several times to get the section referring to free service removed from the franchise agreement.

Mr. McGehee said that he does not see how Ziplly qualifies as a utility based on the statues that were provided. There is a specialty law firm that can research this issue and provide an opinion for between \$1000 and \$1200. The Council's options are to remove the clause or to hire the firm to do additional research.

Councilor Katlong said that he feels it is worth the cost to have the research completed.

Council consensus to hire the law firm to provide an opinion on this issue at a cost up to \$1200.

### **NEW BUSINESS:**

OPRD LGGP Grant Agreement: The City has received the grant agreement for the OPRD LGGP grant of \$452,000 for the Mill City Falls Park Phase 2 project that was awarded. This project includes construction of an overlook at the falls, adds picnic areas, pathways, landscaping and a small natural play area.

To formally accept the grant, the Council must make a motion to approve the agreement.

**Councilor Katlong** moved and was seconded by **Councilor Trout**, to Approve OPRD LGGP Grant Agreement LG22-020 in the Amount of \$452,000. The motion passed unanimously, (6:0).

City Hall Hours: In June of 2012 two residents of Salem asked the Council to change the operating hours of City Hall. At the time staff worked 7:30AM to 4:30PM with City Hall's operating hours being 9:00AM to 4:00PM, with no closure for lunch. This worked out well for both staff and citizens. Staff was able to open early for citizens leaving town for work in the morning if needed and leave at 4:00PM as necessary to lessen OT. Ultimately, the Council voted to change City Hall's operating hours to 8:00AM to 5:00PM with no lunch closure.

City Hall staff respectfully requests modification of City Hall operating hours. Staff has discussed two options:

1. 8:00AM-4:30PM, M-Th, 8:00AM-12:00PM, F (Staff hours 7:30AM-5:00PM, M-Th)  
– *Preferred Option*
2. 8:00AM-4:00PM, M-F (Staff hours 8:00AM-4:30PM)

With the change in operating hours there has not been an increase in patrons between 4:00PM and 5:00PM. Additionally, electronic payment options have reduced the number of patrons coming into City Hall.

The change in hours has resulted in some unintentional issues:

- Public Works closes at 4:30PM. This leaves a gap of 30 minutes between City Hall and Public Works hours.
- Operating hours for City Hall are nine hours, five days per week.
- Increased potential for OT.
- Lack of ability to use sick and/or vacation hours efficiently.

Modifying City Hall hours will:

- Bring Public Works and City Hall hours in line.
- Reduce potential OT.
- Allow staff to use sick leave and vacation hours earned without fear of losing them.
- Allow all staff to begin/end work at the same time. Assists with internal controls and staff safety.

Mayor Kirsch said that he had been in City Hall around the time of closing and rarely is anyone coming in.

Councilor Katlong said that it doesn't make sense to have a single employee at City Hall until 5:00 PM and that security is an issue. Opening late and closing early would not allow for someone who works in Salem to get into City Hall so an 8:00 AM to 4:30 PM time frame would be nice.

Councilor Trout asked which hour, first or last, is busiest. Mrs. Cook said that it depends on the day of the month. Originally, when the Council was considering changing the hours to what they currently are, staff requested 7:30 AM to 4:00 PM hours in order to allow those leaving town early to come in before leaving.

Mayor Kirsch noted that City Hall is open later than Public Works. Councilor Katlong said that there is supposed to be someone staying until 5:00 PM from Public Works.

Mayor Kirsch said that internal controls are another issue because having a single person in the office leaves room for risk.

Councilor Plotts said that she doesn't like the idea of closing early on Fridays.

Mrs. Cook said that there are many cities that have a 4/10 shift where they are closed on Friday and others that have gone to partial remote work.

Councilor Katlong said that our community has many low income citizens and if hours are modified to open later then it would become an economic impact to these people.

Councilor Trout said that he feels the four nines and a four would work well because it keeps City Hall open longer four days a week.

Councilor Katlong said that if the four nines and a four would be best for the City's citizens then a study should be done because the majority of people are working class families. Mayor Kirsch said that this may be true but the majority of people don't come into City Hall. Councilor Trout said that there are always people that the situation won't fit.

Mayor Kirsch asked how a study would be done. Councilor Katlong said that the number of people per day, during what hours and for what purpose should be tracked.

Councilor Trout said that he does not believe hours should be staggered.

Discussion to continue at the next meeting.

Request for payout on Accrued Hours: The Personnel Handbook is one of the items Council chose as a priority to complete in upcoming months. Councilors Zeyen-Hall and Plotts have discussed acting as a sub-committee to review the handbook and make recommendations for changes. Staff will work with them to go through each section and bring them up to current

standards to meet new laws and CIS/legal recommendations. Currently, the handbook allows for carry over of up to 900 sick leave hours and 240 vacation hours with no option for an annual payout. This should be reviewed and modified.

Mrs. Cook said that over the course of her 22 years with the City she has continuously fought to use and not lose accrued hours due to the nature of the job and the many night meetings that she attends. Only one other time, after City Hall burned, has a request to receive payout on accrued hours so as not to lose them, been made. Mrs. Cook said that she is at a point where she must make this request again, noting that since July she has been working to use available vacation and sick leave hours. However, due to the need to make sure the office was covered while others were out, evening meetings and a general workload requirement, hours out of the office were either a wash or reduced to minimal hours claimed.

At this time, Mrs. Cook said that she will lose nearly 80 hours of accrued time off as of December 31, 2022 and respectfully requested Council authorization for a payout of a minimum of 80 hours, preferably 100 hours, in order to buffer the possibility of loss of accrued time off arising again in 2023.

Mayor Kirsch said that Mrs. Cook proposed taking the last few weeks of December off in order to remedy the situation but that is not a feasible option.

Councilor Katlong asked if this is something that the Council can put on the agenda to discuss later? Mrs. Cook is likely not the only employee that has this issue. Mr. McGehee said that due to their unique positions, Mrs. Cook and Public Works Supervisor are the two who will most be affected.

Councilor Zeyen-Hall said that if Mrs. Cook proposed taking time off and was denied then she should be paid out for the time. The state does this.

Mr. Lundquist said that he and a previous employee ran into this same situation years ago, due to the nature of their positions, so the Council approved paying out the accrued time.

**Councilor Katlong** moved and was seconded by **Councilor Trout** to Approve a Payout of 100 Hours of Accrued Time for City Recorder. The motion passed, (6:0).

#### **STAFF/COMMISSION REPORT:**

##### City Recorder Report:

*List of Ongoing Old Business Items:* A list of ongoing old business items was presented Council for review.

*MCRFPD Use of WWTP for 4<sup>th</sup> of July Fireworks:* Indefinite approval was granted to the Mill City Rural Fire Protection District in 2015 to use the waste water treatment plant property for their annual 4<sup>th</sup> of July fireworks display. The authorizing resolution states that this authority shall remain in force and effect until revoked by written notice by the City no later than December 31<sup>st</sup>.

Staff sees no need to revoke this permission, however, because a revocation must be done by the end of the calendar year, staff will continue to bring this before Council annually to ensure that the City is still in agreement with the current authorization.

City Attorney Report: None.

#### **BUSINESS FROM MAYOR & CITY COUNCILORS:**



**Councilor Winn** said that the wiring is being fixed at the Kimmel Park shelter for electrical. The plywood has been damaged recently.

Councilor Winn and a fiend will be cleaning the Reid House property next week.

**Councilors Zeyen-Hall** and **Councilor Katlong** had nothing to report.

**Councilor Trout** said that travel trailers and motor homes have been using the lot behind the Odd Fellows building and asked if 'no overnight camping' can be posted. Mr. McGehee said that a resolution will need to be adopted to do so. Mrs. Cook will draft a resolution but use the phrase 'no overnight parking' in order to also address the vehicles that are being dumped there.

**Councilor Plotts** said that she is trying to set a neighborhood watch meeting for January. Thank you to Public Works for putting up the Christmas decorations. The wreath will be hung tomorrow.

**Mayor Kirsch** said that there is information in the packet from the Army Corp of Engineers. These meetings are something that should be paid attention to if anyone is interested in things such as the dam and fish.

#### **EXECUTIVE SESSION:**

At 9:10 PM Mayor Kirsch adjourned into Executive Session under ORS192.660(2)(e) - To Conduct Deliberations With Persons You Have Designated to Negotiate Real Property Transactions.

At 9:38 PM Mayor Kirsch adjourned executive session and reconvened into regular session.

#### **ADJOURNMENT**

The meeting was adjourned at 9:38 PM.

Prepared by:

Approved by:

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Stacie Cook, MMC  
City Recorder

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Tim Kirsch  
Mayor