



**MINUTES**  
**City Council Meeting**  
**Monday, May 18, 2020 6:00 PM**

**COUNCIL PRESENT:** Stan Pulliam, Mayor, Jeremy Pietzold, Council President, John Hamblin, Councilor, Laurie Smallwood, Councilor, Jan Lee, Councilor, Carl Exner, Councilor, and Bethany Shultz, Councilor

**COUNCIL ABSENT:**

**STAFF PRESENT:** Jordan Wheeler, City Manager, Greg Brewster, IT/SandyNet Director, Kelly O'Neill, Development Services Director, David Doughman, City Attorney, Tanya Richardson, Community Services Director, Mike Walker, Public Works Director, Andi Howell, Transit Director, Ernie Roberts, Police Chief, David Snider, Economic Development Manager, Tyler Deems, Finance Director, and Jeff Aprati, City Recorder

**MEDIA PRESENT:** Sandy Post

**1. MEETING FORMAT NOTE**

The Council conducted this meeting electronically using the Zoom video conference platform. A video recording of the meeting is available on the City's YouTube channel: [https://www.youtube.com/channel/UCbYEclgC6VW\\_mV2UJGyvYfg](https://www.youtube.com/channel/UCbYEclgC6VW_mV2UJGyvYfg)

**2. CITY COUNCIL WORK SESSION - 6:00 PM**

**2.1. Proposed Childcare Grant Program**

Staff Report - 0266

The **Economic Development Manager** presented the framework for a program to incentivize childcare businesses in Sandy. Like the Tenant Improvement Program, this program would reimburse 50% of project costs, up to a limit of \$50,000. A variety of expenses would be eligible for reimbursement, including ADA improvements, building compliant restrooms, constructing/moving/demolishing interior walls, plumbing, electrical, lighting, etc. Exterior building expenses could include lighting, fencing, and play equipment, among others. In addition, the proposed program would provide a smaller amount of funding for marketing (such as website creation, grand

opening marketing, Chamber of Commerce membership, and SandyNet installation), as many such businesses struggle in this regard when starting out. The marketing component would reimburse 100% of expenses up to \$5,000.

**Mayor Pulliam** indicated that his reluctance to dip further into urban renewal funds does not necessarily reflect any disapproval of the project concept. He also declared a potential conflict of interest due to his wife's marketing work.

**Councilor Lee** expressed approval of the proposal, especially the marketing component.

**Councilor Exner** asked staff to clarify whether the proposed program would use urban renewal funds or general city funds. Staff respond that further analysis would be needed to determine how best to fund the program, and that it may need to include a mix of sources due to restrictions on certain categories of funds; more study is needed to ensure legal compliance.

**Council President Pietzold** expressed concern about spending more urban renewal funds, given the major projects the City is planning for the future. He did agree that a childcare business incentive program is needed. He cautioned against any potential effort to use urban renewal funds for the marketing component of the proposed program. He stressed that urban renewal funds should be dedicated to projects that will produce long-term tangible assets that improve the tax base of the urban renewal area.

**Councilor Hamblin** also expressed concern about the marketing component of the proposal, stating that the City should try to be a partner, but not an invested partner with businesses. He asked whether the **City Attorney** had reviewed the proposal. Staff responded that staff intended to engage the **City Attorney** after the Council had given its initial feedback at this work session.

**Councilor Hamblin** expressed liability concerns with respect to engaging in marketing activities, and questioned the level of need for marketing assistance given the high demand for such services.

**Councilor Shultz** supported the proposal concept generally, but concurred with the need for further consideration regarding the marketing component. She stressed the need for a funding strategy that would promote equity and diversification of childcare locations in the city.

**Councilor Lee** stated that assisting with marketing could help ensure the success of businesses, thus protecting the city's investment.

**Council President Pietzold** asked whether Mount Hood Community College could potentially offer assistance with these efforts. **Councilor Hamblin** stated that early childhood education training is available through the college. He also pointed to the Small Business Development Center as a resource.

**Councilor Exner** expressed concern about helping certain industries and not others. He also stressed the need to increase childcare capacity for very young children still in diapers.

**Councilor Shultz** stated that it is especially difficult to operate successfully and retain qualified teachers for the youngest age group, but she noted that a childcare desert exists for all age groups.

**Mayor Pulliam** suggested that the existing Tenant Improvement Program could simply be expanded into other sectors, including childcare and other possibilities like hospitality. He agreed with the concerns expressed regarding funding for marketing efforts, and he stressed the need for a strategic spending plan for urban renewal.

## 2.2. Private Sewer Lateral Replacement Options

Staff Report - 0262

The **Public Works Director** provided an overview of the potential options for addressing inflow and infiltration into the wastewater collection system.

Possible options include the following:

1. City pays the entire cost of replacing or relining the pipe on private property
2. City purchases the private pipe from the property owner, obtains an easement for the line and pays the entire cost of replacing or relining the pipe on private property
3. City requires property owner to replace or reline the private pipe at their expense. The City secures bids for this work and lets the owner decide whether to solicit bids on their own or use the City's contractor. Typically, the City would finance all or part of the the cost of this work secured by a lien against the property
4. Same as #3 above but the City contributes a fixed sum towards the cost of the work and charges the difference to the property owner.  
McMinnville used this method for their collection system rehab project

The **Public Works Director** noted that DEQ does not provide financing for such

work on privately-owned laterals. If the City chooses to seek private financing for this project, current interest rates are favorable.

**Rob Lee**, an engineer advising the City for this project, stressed the advantages of rehabilitating the entire wastewater collection system, not just the publicly-owned portions. He illustrated his point using the recent experiences of the City of Sweet Home, which saw significant cost effectiveness from addressing the system as a whole. He explained that most of the problematic areas would be found in the older portions of the system (Basins 2 and 8).

**Councilor Lee** asked which of the four alternatives staff prefers. The **Public Works Director** stated that the first option is preferable due to the administrative burdens of the second option.

**Councilor Shultz** asked staff what the cost of a typical lateral replacement/relining would be. Staff responded that a typical project would be in the range of \$2,000 to \$3,000. She stated she prefers the first option, as she would not want to place additional cost burdens on property owners, especially at this time. **Councilor Exner** concurred, as did **Mayor Pulliam**.

**3. CITY COUNCIL REGULAR MEETING - 7:00 PM**

**4. Pledge of Allegiance**

**5. Roll Call**

**6. Changes to the Agenda**

**7. Public Comment**

**8. Consent Agenda**

8.1. City Council Minutes

**Councilor Shultz** noted that the dollar figure listed on page 2, paragraph 5 of the draft minutes should be amended to read "\$100,000 per year," instead of "\$100,000 per month."

8.2. Business Oregon Funding - Detailed Discharge Alternatives Analysis

Staff Report - 0263

Moved by Bethany Shultz, seconded by Jan Lee

Staff Report - 0263

*Approve the consent agenda as amended.*

CARRIED. 7-0

Ayes: Stan Pulliam, Jeremy Pietzold, John Hamblin, Laurie Smallwood, Jan Lee, Carl Exner, and Bethany Shultz

## 9. New Business

### 9.1. Development Agreement with Geo Development LLC

Staff Report - 0265

The **City Manager** outlined the last several months of land use process and negotiations regarding the Bailey Meadows subdivision application. The main purpose of the development agreement is to ensure the construction of Gunderson Road, which will provide a second access to the proposed development and mitigate traffic impacts on the existing Nicholas Glen neighborhood. The agreement will also provide parkland. He noted that in the absence of such an agreement, there is a strong chance of the development being constructed without a second road access at all, due to legal difficulties. The agreement therefore constitutes the best way to make a bad situation better.

The main terms of the agreement are as follows:

- The developer would construct Gunderson Road in exchange for SDC credits and fee discounts.
- The developer would dedicate 2.38 acres for future parkland
- The developer would use the Gunderson Road right-of-way for construction access
- The developer would pay the City \$500,000 as a contribution toward the necessary Highway 211 improvements and intersection with Gunderson

Conditions include:

- The developer must receive final approval for UGB expansion (Clackamas County Board - June 3)
- The developer must receive final approval from the City Council to annex the UGB property to the city (June 15)
- The city must obtain jurisdiction over highway 211
- The city must amend its capital improvement plan to add Gunderson

- Road as a project (June 15)
- The city must amend SMC chapter 15.28 to allow for surplus credits and for credits to be transferred (June 15)

**Council Questions:**

**Council President Pietzold** sought clarification that construction traffic would use Gunderson Road. Staff said it is expected that ODOT will approve this requirement.

**Councilor Lee** sought verification that it has been long-standing City policy to seek jurisdiction over Highway 211. **Council President Pietzold** and **Councilor Exner** confirmed that has been the case.

**Mayor Pulliam** asked when the property was brought within the City's UGB. Staff responded this occurred approximately in 2015, and the property was zoned residential.

**Public Comment:**

**Linda Malone, 17740 Bluff Rd:** expressed concern about the use of Street Fund dollars for the construction of Gunderson Road, and asked what other projects would have to be eliminated. She was concerned about the precedent set by giving so much away for a development project. She stated development should pay for itself.

**Michael Robinson, 1211 SW 5th Ave., Ste. 1900, Portland:** as the applicant's attorney, he believes that while this agreement is not perfect, it is a fair and equitable compromise that will result in the road being built, construction traffic being routed through Gunderson, and the City receiving parkland.

**Rich Shelton, 37552 Rachael Dr:** it is a mistake to give \$1.2 million in SDC credits, which will cost the City down the road. There is no reason to pad the developer's pocket when Sandy is the second fastest growing city in Oregon. He expressed disagreement with the reimbursement provisions within the development agreement if the project comes in under budget. He stated the project as a whole does not pass the straight face test.

**Kathleen Walker, 15920 Bluff Rd:** does not approve of the development agreement negotiation process being conducted out of the public eye. She stated that Gunderson Road was originally aligned on the applicant's property. She questioned the logic of acting to avoid a LUBA appeal, and asked whether

losing a LUBA appeal would really be more fiscally detrimental for the City than the cost of the proposed development agreement. She emphasized that this agreement would divert road funds from other important City street projects. She stated that developers should shoulder the cost of building, and expressed concern about the precedent being set.

**Marie DeBatty, 37176 Rachael Dr:** the additional condition of approval proposed by the applicant was confusing and brief. She was struck by the abrupt change from the Council's previous inclination to deny the subdivision application. She asked why the developer is not required to pay the full cost of the road.

**Makoto Lane, 37828 Rachael Dr:** (the beginning of Mr. Lane's testimony was inaudible due to internet connection difficulties). He expressed concern about the street funds that would be used for the road and the impact on other City projects. He also raised questions about Planning Commissioner Todd Mobely, and asked what is being done to close loopholes in the Development Code to prevent similar situations in the future.

**Staff Recap:**

The **City Manager** stated that the Street Fund has sufficient funds to pay for the project in question, in addition to the major street improvement goals set by the City for this year. Some of the proceeds from the Highway 211 jurisdiction transfer can be used for the project as well. He stated that code amendments are anticipated very soon that will avoid such situations in the future.

He stated that the City's negotiations in the development agreement process were a forthright effort to forge a beneficial solution for the City given a difficult set of circumstances. The concerns raised by residents were a critical component of the process that helped change the plan for the better. He stated it would not have been possible to conduct negotiations on this complex and legally dense matter within a public meeting, but emphasized that there were numerous opportunities for public involvement.

The **City Attorney** added that the City followed the standard process for negotiating contracts and bringing them to the Council for approval. He also stated that non-statutory development agreements are very common.

**Council Discussion:**

**Councilor Exner** stated there are no great solutions for this problem, but given the circumstances and the poor chances of succeeding at LUBA, he supports approval.

**Mayor Pulliam** asked what will happen if any of the conditions in the development agreement are not met, such as failure to transfer the jurisdiction of Highway 211. He believes the approval of the subdivision application (Item 10.1 on this agenda) should become void if the conditions are not met.

Staff indicated that the development agreement as written contains a provision (Section 5.7) allowing development to go forward if the conditions concerning Gunderson Road are not met, but with the caveat that in such a case the developer will provide an easement to the City for future road construction. The Council expressed its desire that instead, the subdivision application should not be approved if the conditions outlined in the development agreement are not met; any approval should become null and void in that case.

**Councilor Shultz** expressed her concerns that the City is being strong-armed. She stated that risks are present no matter which decision the Council makes, and noted that constructing Gunderson Road would take a significant commitment from the Street Fund. She also expressed concerns regarding setting a poor precedent.

**Council President Pietzold** noted that changes in case law have created this situation; these changes were out of the City's control. He stated that while the agreement is not perfect, it is better than it was previously and that approval is the best course of action. He stated that approval of the subdivision should be contingent on meeting the conditions in the development agreement.

**Mayor Pulliam** reiterated the legal changes that led to this situation. He stated that his primary concern is the safety of local residents. The risk that the subdivision could be constructed without a second road access, as could potentially be the case after a loss at LUBA, is simply unacceptable. He is therefore in favor of the development agreement.

Staff and Council discussed the appropriate wording of a motion of approval for the development agreement, given the Council's intention to ensure that the subdivision should not be allowed to go forward if the conditions of approval are not met. Staff advised that Section 5.7 of the development



agreement should be removed, and that the contingency language referenced above should be addressed during the discussion of the land use application itself (agenda item 10.1).

Moved by Carl Exner, seconded by John Hamblin

*Approve the proposed Development Agreement with Geo Development LLC, with the removal of Section 5.7*

CARRIED. 6-1

Ayes: Stan Pulliam, Jeremy Pietzold, John Hamblin, Laurie Smallwood, Jan Lee, and Carl Exner

Nays: Bethany Shultz

[Development Agreement Slide Presentation 5-18-2020](#)

## 10. Old Business

### 10.1. Bailey Meadows Subdivision Appeal (Land Use File # 20-009 AP)

Staff Report - 0264

Ex parte contact disclosures: **Councilor Smallwood** stated she has read the relevant publicly available emails. **Mayor Pulliam** stated he has read the relevant publicly available emails and is aware of Facebook comments made by residents, though he has not taken part in such conversations since his last disclosure. **Councilor Lee**, and **Council President Pietzold** made the same disclosure as **Mayor Pulliam**. **Councilor Exner** has received two phone calls from interested residents but declined to discuss the matter with them; he has read the relevant publicly available emails.

Staff and Council discussed the appropriate wording of a motion of approval that would ensure that if the conditions outlined in the development agreement are not met, approval of the subdivision would become null and void. Particular attention was paid to language regarding the jurisdiction transfer of Highway 211, which is a process anticipated to take a number of months.

Moved by John Hamblin, seconded by Laurie Smallwood

*Uphold the subdivision approval from the Planning Commission with the following findings and conditions:*

- *Add a finding that the front door of the houses on Lots 60-64 face the parkland consistent with Sandy Municipal Code Section 17.86.20.*

- *Add a finding and modify the conditions to require the UGB expansion to be a condition of subdivision approval. The Council's intent is that if the UGB expansion is not approved, the subdivision is not approved.*
- *Add a finding and modify the conditions to require the annexation, the comprehensive plan map change, and the zoning map change to be conditions of subdivision approval. If these items are not approved, the subdivision is not approved.*
- *Add a finding and modify the conditions related to the jurisdiction of HWY 211: either the new road will meet the City's requirements if the jurisdictional transfer occurs, or it will meet ODOT's requirements if the jurisdictional transfer does not occur.*
- *Add a finding stating that with the construction of Gunderson Road pursuant to this approval, the Council now finds that adequate road facilities are being provided.*

CARRIED. 6-1

Ayes: Stan Pulliam, Jeremy Pietzold, John Hamblin, Laurie Smallwood, Jan Lee, and Carl Exner

Nays: Bethany Shultz

#### 10.2. Utility Assistance Program - 90 Day Review

Staff Report - 0249

The **Finance Director** stated that the City has received 39 applications for utility financial assistance, 33 of which have been approved, and 2 of which are still pending. Approximately \$3,800 in assistance has been provided thus far. Feedback from those approved has been very positive. Suggestions received for improving the program have focused primarily on a desire to assist renters whose landlords pay their utility bills, but who may experience increased rents; as well as residents of manufactured home communities who share one water meter. There have been approximately one dozen such comments.

The **Public Works Director** added that the Clackamas County Housing Authority also provides a subsidy for sewer services that is added to housing vouchers available to eligible individuals. Thus, additional City assistance for such residents is not needed. He stated it would be difficult and time-intensive for the City to attempt to determine how multifamily unit rents are affected by increases in City utility rates, relative to other factors. He stated there may be opportunities to provide indirect assistance through installing water conservation devices in dwellings constructed before 1992. He noted that of comparison cities studied, only Portland had a renter utility assistance program, which is very complex to administer.

**Mayor Pulliam** emphasized the importance of ensuring that those most financially vulnerable and most at risk of homelessness are provided some kind of assistance with utility rates. He asked staff to consider other innovative approaches.

Staff suggested it could be beneficial to reach out proactively to multifamily property owners to better understand the impacts on residents.

The consensus of the Council was that staff should return after several months with additional analysis on needs and possible opportunities for improving the assistance program.

Note: **Councilor Smallwood** left the meeting temporarily during this discussion.

### 10.3. Transit Operations Contract Authorization

Staff Report - 0261

The **Transit Director** presented a proposed contract with MV for transit operations services. MV has had employees on-site every day recently to assess needs, and has begun the process of bringing drivers into their organization. Drivers are anticipated to transfer onto MV's payroll on May 30th for benefits reasons. MV offers substantial training, as well as driver cameras in their vehicles that record in the event of a disturbance or abrupt stop. Blind spot warnings will also be installed. MV is making efforts to provide equivalent compensation for drivers, including wages and benefits, despite the regulatory challenges presented by their status as a larger company. They are also working to ensure as much continuity of organizational structure as possible. **Mayor Pulliam** agreed with the advantages of installing drivers cameras.

Moved by Jan Lee, seconded by Jeremy Pietzold

Staff Report - 0261

*Authorize the City Manager to sign the contract between MV Transportation LLC and the City of Sandy.*

CARRIED. 6-0

Ayes: Stan Pulliam, Jeremy Pietzold, John Hamblin, Jan Lee,  
Carl Exner, and Bethany Shultz

Absent: Laurie Smallwood

## 11. Report from the City Manager

Note: **Councilor Smallwood** returned to the meeting at the beginning of this agenda item.

The **City Manager** updated the Council on the latest developments in the COVID-19 response, including the County and State's phased reopening plans. The City is refining its reopening strategy, particularly with respect to inventorying supplies and preparing facilities. The Municipal Court has a large backlog, and will likely be among the first functions to return at City Hall (with appropriate precautions). Opening facilities to the public will proceed within the phasing framework. The Library and Community Center will open relatively later, given the nature of their programs and the potentially vulnerable populations they serve. Playgrounds, skate parks, and sports courts remain closed, while other park areas are now open for passive use. Signage to this effect is being prepared. Potential wastewater system improvement strategies were also discussed.

### 11.1. CARES Act Reimbursement

During the report, the City Manager advised the Council that in order for the City to apply for a portion of Oregon's \$200 billion in COVID-19 cost reimbursement funding authorized by the federal CARES Act, a formal motion of the governing body is necessary.

**Mayor Pulliam** encouraged staff to include all possible expenses in the reimbursement request.

Moved by Jeremy Pietzold, seconded by Carl Exner

*Authorize staff to apply for CARES Act reimbursement.*

CARRIED. 7-0

Ayes: Stan Pulliam, Jeremy Pietzold, John Hamblin, Laurie Smallwood, Jan Lee, Carl Exner, and Bethany Shultz

## 12. Committee /Council Reports

**Councilor Shultz:** The Library Board will convene on Wednesday to discuss reopening strategies.

**Councilor Exner:** the Arts Commission will also meet on Wednesday to discuss mural

unveilings, among other topics. He spoke with the owner of Camp Trackers to discuss potential partnering opportunities with the City regarding youth programming and childcare (**Mayor Pulliam** spoke with him as well). He expressed concern with certain committee members regarding potential conflicts of interest and making suggestions outside their scope of responsibility. He mentioned many local businesses are discussing strategies for permanently changing their operations, including working from home.

**Councilor Lee:** additional State funding opportunities will be available for local governments, targeted to addressing economic losses. The Transit Committee will virtually meet soon. The Legislature will discuss the state revenue shortfall on the 20th.

**Councilor Hamblin:** thanked **Councilor Lee** for her efforts to keep the Council informed on developments in the COVID-19 response. OTSD will have four furlough days, saving approximately \$450,000. Schools will conduct pick-ups of student belongings.

**Councilor Smallwood:** thanked staff for working to reopen the dog park, and for participating in the recent birthday parades. The Parks and Trails Advisory Board recently discussed the master plan update, as well as the City's use of herbicides. She also thanked staff and Sandy's Helping Hands for helping deliver food baskets.

**Council President Pietzold:** sidewalk replacement needs to occur at the corner of Bluff and Hood St. He stated that individuals are increasingly looking to work from home, which may have ancillary effects such as use of local restaurants. SandyNet provides robust internet infrastructure to support increased working from home in our community; other cities look to Sandy as an example. Funding opportunities may be available to increase service to the surrounding rural area. WiFi hotspots are already being provided.

**Mayor Pulliam:** the County Board of Commissioners will meet tomorrow to consider the draft Phase 1 reopening application to the State. It appears that the three metro area counties will proceed at their own pace, with Multnomah likely being the last to open. The Oregon Supreme Court has stayed the injunction from the Baker County Circuit Court that had blocked the Governor's COVID-19 orders, pending their consideration of the merits of the case at a later date. C-4 discussed regional transportation funding; Clackamas County cities will advocate for a greater share.

## 13. Staff updates

### 13.1. [Monthly Reports](#)

14. Adjourn



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Mayor, Stan Pulliam



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City Recorder, Jeff Aprati