



**MINUTES**  
**City Council Meeting**  
**Monday, November 16, 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, Mike Walker, Public Works Director, David Doughman, City Attorney, Ernie Roberts, Police Chief, Greg Brewster, IT/SandyNet Director, Tyler Deems, Deputy City Manager / Finance Director, Angie Welty, HR Manager, Kelly O'Neill, Development Services Director, and Jeff Aprati, City Recorder

**MEDIA PRESENT:** Sandy Post; KATU News; KOIN News

**1. MEETING FORMAT NOTE**

The City 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. Wastewater Rate Model and Funding Plan Update**

Staff Report - 0340

The **City Manager** introduced the discussion, stating that the intent of the work session was to present and discuss the new rate models for water and wastewater and the wastewater system improvements project funding plan, which were recently updated in consultation with FCS Group and Piper Sandler. He reiterated the motivations to perform the improvements, including the aging system and environmental concerns raised by Oregon DEQ, and cited the City's recent application for a favorable WIFIA loan to help finance the projects. **Mayor Pulliam** inquired about other financing possibilities such as USDA. The **City Manager** stated that such options could be pursued, but interim financing would be needed regardless.

Doug Gabbard from FCS Group presented the updated rate models. The presentation slides were included in the meeting packet.

**Councilor Exner** asked whether the financial projections assumed the City would keep applying for WIFIA financing if the current application is unsuccessful. Mr. Gabbard stated that the scenarios being presented compared (1) a successful current application with (2) no WIFIA loan. The **City Manager** stated the City would gather feedback if the latest application is unsuccessful and could apply again in the future. Projecting no WIFIA financing is intended to communicate a worst-case scenario.

**Councilor Exner** expressed concern about the impact of rate increases on the community. He asked what the consequences would be of deferring part of the needed increases temporarily. The **City Manager** underlined the necessity of being able to demonstrate adequate fund balances in order to successfully sell bonds in the interim before WIFIA financing is secured. **Councilor Exner** asked whether any other options exist. The **City Manager** stated that the City could choose to use General Fund resources, but this would have budgetary consequences. **Mayor Pulliam** expressed concern about leaving future Councils with financial problems by deferring necessary expenses. **Council President Pietzold** agreed, stating that gradual increases are preferable compared to the alternative.

**Councilor Lee** asked when the City could expect to receive a decision on the WIFIA application. The **City Manager** responded that a decision is expected by February.

## 2.2. Master Fee Schedule Update

Staff Report - 0339

The **Finance Director** summarized the proposed changes to the Master Fee Schedule, which are necessary given changes in service delivery costs. The agenda packet included the fill list of proposed changes. The City's practice in recent years has been to adjust the fee schedule gradually and regularly to avoid large increases.

**Council President Pietzold** asked for clarification on specific sewer basin SDC charges. The **Public Works Director** stated these charges apply to specific areas served by particular sewer pump stations.

The **City Manager** mentioned that staff are still developing a proposal to make SDC adjustments regarding Gunderson and Olson Roads, as previously discussed by the Council.

**Council President Pietzold** expressed appreciation that most of the proposed changes are relatively small, given the practice of gradual systematic increases.

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

**4. Pledge of Allegiance**

**5. Roll Call**

**6. Changes to the Agenda**

**7. Public Comment**

Lila Reed, 19595 SE Martin Rd: owns Mt. Hood Athletic Club. Very against the new lockdown issued by the Governor. Stated that data show no COVID-19 cases linked to health clubs; dismayed that clubs are being singled-out. Health clubs are no longer being considered as personal services, without justification. An ongoing shutdown will not be survivable. Caring for one's health is a basic human right. Exercise is vital; exercising outdoors in the winter is not viable for many people. How will the City respond if businesses do not go along with the order?

Gabi Schoening: part of the athletic club. Frustrated to hear it might shut down. Exercise and nutrition will keep immune systems strong. Against the shutdown. Supports Sandy businesses staying open for all of us.

Dana Hindman-Allen, 42290 SE Erickson Rd: it seems like Kate Brown is Portland's governor. It feels like we have lost control to self-determine our own lives and risk tolerance. Thanked the Mayor for standing up. Asked at what point thwarting livelihoods would be unconstitutional.

Jayne Wolfe, 36455 Yocum Loop: thanked the Council for hearing the concerns of residents regarding businesses having to close again. Closing gyms and other recreational facilities is not supported by data. These closings appear arbitrary and unfounded. Gyms serve local police officers. Other patrons have PTSD. When will there be a time when we say no, this is not okay? Her gym maintains strict sanitization and distancing protocols.

(name inaudible) 36150 SE Dunn Rd: regular patron of the CrossFit gym. The previous shutdown was very difficult. The safety protocols at the gym are sufficient. Supports it remaining open.

Lyman Hiter, 4693 SE Arden St: asked the Police Chief whether the Governor has contact the department regarding enforcement of the new COVID-19 restrictions. It is

very important not to include gyms with other businesses being closed.

Tina Hovey: owner of Mountain Moka. The community is very divided over this issue; many are in support of the Governor's actions and many are opposed. The closure to dine-in will provide a break from the significant increase of homeless individuals she has seen in her shop recently.

BJ Grimmer, 36450 Orr Cir: what the consequences are if a restaurant does not comply with the Governor's orders? A similar community discussion should be convened by the School Board. The Governor is not taking people's serious concerns into consideration. We should poll the community to measure the percentage of support for remaining open.

Brent Webster: wants to know what will happen to business owners who do not comply with the Governor's order, and what the City Council will do. Referred to taxes being raised and fees increased. Stated that the restrictions are illegal and unconstitutional, and that other elected officials are ignoring them. Stated that COVID-19 is an imaginary fraud.

Nicole Lewis, 13333 SE Marsh Rd: her CrossFit gym has helped her mental health, and the prospect of it being taken away is distressing. They follow strict sanitization protocols. The community impact will be severe.

Leah Preble, 40183 SE Kitsmiller Rd: the CrossFit gym means a great deal to the community. The cleaning protocols are comprehensive. Being able to use the facility has a significant impact for people.

## 8. Consent Agenda

### 8.1. City Council Minutes - 02 Nov 2020

**Moved by Jeremy Pietzold, seconded by Carl Exner**

***Approve the Consent Agenda***

**CARRIED. 7-0**

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

## 9. New Business

### 9.1. Award Contract for Engineering Services for the Existing Waste Water Treatment Plant Condition Assessment Improvements

Staff Report - 0336

The **Public Works Director** summarized the staff report, explaining that the City received proposals from two firms, Murraysmith and West-Yost, on October 9th. A selection committee consisting of City, Leeway Engineering and Veolia staff contacted references, reviewed and ranked the proposals. Since we received only two responses we requested price proposals and interviewed the firms on November 4th. The firms were ranked on their submittals, references, interview responses and price proposals. West-Yost was the highest-ranked firm in all three steps of the process. He explained that because negotiations are still ongoing, a precise not to exceed amount is not known at this time, and therefore the dollar figure cited in the staff report should not be included in any motion of approval from the Council.

**Councilor Exner** asked about any additional strategies for limiting inflow and infiltration into the collection system. Rob Lee with Leeway Engineering stated that there may be some relatively small additional strategies to use, which his office has communicated to city staff. Using the CM/GC method will add flexibility to pursue such options as the project unfolds. **Mayor Pulliam** expressed support for this approach.

**Moved by Carl Exner, seconded by Laurie Smallwood**

***Authorize the City Manager to negotiate a scope and fee and enter into an agreement with West Yost for engineering services for the existing wastewater treatment plant condition assessment improvements. Direct staff to inform the Council of the negotiated fee amount.***

**CARRIED. 7-0**

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

9.2. **COVID-19 Statewide Freeze**

The **City Manager** summarized the "Two Week Freeze" COVID-19 mitigation restrictions recently issued by the Governor of Oregon, which limit restaurants to takeout only, reduce capacity at retail and grocery stores, and close gym and fitness facilities, among other measures. Social gatherings will also be capped at six people. At the time of the meeting, the actual executive order text had not yet been made public. He added that the City's enforcement approach has been educational and complaint-driven in nature; Sandy Police do not proactively seek out violations.

The **City Attorney** stated that a new executive order would be needed to enact

the new measures, though this language has not been released yet. He stated that some of the limitations, such as those on social gatherings, would be difficult to enforce. He cited an Oregon Supreme Court decision in June 2020, which supported the broad authority of the Governor to enact such restrictions during emergencies. He stated that assuming courts find a rational basis for further emergency restrictions issued by the Governor, they are likely to find them lawful. He stated the United States Supreme Court has supported this stance as well. He stated that cities would have a difficult time legally justifying a decision not to enforce the restrictions, and noted the legal penalties for violations. He also stated that the state could enforce the orders on its own initiative.

**Mayor Pulliam** asked about the City's limited capacity to enforce the restrictions, given limited resources. The **City Attorney** stated that law enforcement agencies are not required to proactively seek out violations of law, and they have discretion to prioritize enforcement actions. There are also instances in which compliance is better obtained through non-punitive methods.

The **Police Chief** stated that thus far this year, his department has issued no citations under the COVID-19 restrictions. Officers are required to respond if and when they receive calls, but that education is always the preferred approach to achieve compliance. Citation issuance would always be a last resort. He stated that he has not yet been in contact with the Oregon State Police regarding the new orders.

**Councilor Hamblin** urged the Council to carefully consider making any enforcement-related decision; he stressed the potential legal risks of doing so and questioned whether the Council had such authority.

**Mayor Pulliam** raised the example of 'sanctuary cities' and asked the **City Attorney** what authority the City has regarding enforcement.

The **City Attorney** stated the Council has limited ability to instruct its police department not to enforce the Governor's executive orders. He cited the authority of the **City Manager** to make operational decisions under the City Charter, as well as the duty of sworn peace officers to enforce state law. With respect to 'sanctuary cities' he noted the constitutional law distinction between choosing not to enforce state versus federal law. As local governments have no authority to regulate immigration, their law enforcement officers have no duty to assist in its enforcement (though historically cooperation with federal immigration officials has been common).

He referred to state preemption of city home rule authority, stating that the state emergency management system and emergency declarations preempt any municipal rules and regulations to the contrary.

**Mayor Pulliam** raised the significant concerns expressed by local business owners who are struggling financially and who disagree with the Governor's restriction decisions. He also expressed concern about residents being asked to report violations in their neighborhoods, saying it is 'not the sandy way.' He stated that the City would not seek to rescind the license of a business that violates the restrictions, and he expressed concurrence with the Police Department's stated education-driven approach, which does not include proactively patrolling for violations.

**Councilor Smallwood** stated that local businesses have gone to great lengths to comply with the COVID-19 orders thus far, and that closing businesses is an inappropriate and ineffective response because of significant transmission occurring within households. She also noted the significant number of individuals who have not received unemployment benefits. She raised concern about possible negative public perception of law enforcement, particularly after the Sandy Police Department has worked to enhance its community relationships amid a year in which policing has been at the center of a number of challenging public debates. She also noted the number of deaths that have occurred due to COVID-19.

**Mayor Pulliam** stated that the community is committed to acting safely and responsibly. He cited the COVID-19 mortality rate and available hospital capacity in the region, suggesting that the new restrictions are disproportionate to the risk that exists.

#### 10. **Report from the City Manager**

The **City Manager** discussed the upcoming holiday tree lighting event. Due to COVID-19, the approach will be to combine a virtual lighting portion with a drive-thru component where residents can receive cookies, coffee, cocoa, etc. There is also an opportunity for Council members to record holiday messages for inclusion in the virtual component. He asked which Council members may be interested in taking part in the Transportation System Plan update stakeholder committee. **Mayor Pulliam** and **Councilor Exner** indicated their interest. The **City Manager** mentioned an upcoming virtual meeting with the watershed council to discuss the wastewater treatment plant improvements. A previously-planned facility tour has been postponed. He mentioned the upcoming second round of COVID-19 business relief grants.

**11. Committee /Council Reports**

**Councilor Shultz** noted the recent Library Board meeting and that the Code of Conduct would soon be signed by members. The Board discussed mask wearing guidelines, staffing, and cleaning protocols to be implemented when patrons can return to the Library facilities for general browsing. Computer usage by appointment is proceeding well. **Councilor Shultz** inquired about complaints regarding excess leaves in streets. The **City Manager** stated that maintenance crews are following established procedures and that any leaves left in the street by staff was inadvertent. He thanked residents for their assistance.

**Councilor Exner** praised the holiday tree lights that were recently installed. He asked whether staff intend to put up lights at City Hall; staff confirmed it would be done soon. He praised the Library staff for their efforts to serve residents despite the challenges presented by the pandemic. He stated the local watershed councils would appreciate a virtual presentation of wastewater improvement alternatives. He asked about the impact of private property lines with regard to the sewer lateral improvements. The **City Manager** referenced the Council's decision earlier in the year to finance improvements to private laterals.

**Councilor Lee** mentioned the work performed by the business grants ad-hoc committee. Those who received grants during the first round will have somewhat lower priority. She referred to the upcoming Planning Commission applicant interviews on December 3.

**Councilor Hamblin** praised the holiday lights. He stated that the Sandy Light Show will begin this year on Thanksgiving evening. He encouraged residents to come enjoy the show, and to contribute to Sandy's Helping Hands.

**Councilor Smallwood** also encouraged donations to Sandy's Helping Hands. She expressed optimism regarding the recent police officer interviews. She praised the **Code Enforcement Officer** for his work maintaining storm drains.

**Council President Pietzold** suggested that street sweeping could occur more often next year. He referred to an upcoming OBAC meeting and stressed the importance of broadband during at-home learning. He advocated for additional state funding for broadband. He mentioned the recent Economic Development Committee meeting at which future development of the area north of the intersection of 362nd Drive and Highway 26 was discussed. He also mentioned the upcoming business relief grants and encouraged businesses to apply. He encouraged residents to patronize local businesses during the upcoming COVID-19 restrictions.

**Mayor Pulliam** mentioned the upcoming activities organized by the Sandy Community



Action Center, including food basket distribution and the Tickle Trot. **Council President Pietzold** stressed the importance of exercise for mental health. **Mayor Pulliam** congratulated **Councilors-elect Walker, Sheldon, and Hokanson**. He thanked **Councilor-elect Walker** for her efforts leading the Jonsrud Viewpoint refurbishment and apologized that the ribbon cutting was held at a time when she could not attend. He noted the incorporation of technology to assist colorblind individuals. He thanked the committee working on the business relief grant program. Given the challenges expected to be experienced by businesses during the upcoming COVID-19 restrictions, he encouraged the community to shop locally and provide any other support possible. He praised the 'Sandy way,' centered around personal responsibility, innovation, and self-reliance.

**12. Staff updates**

12.1. [Monthly Reports](#)

**13. Adjourn**



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Mayor, Stan Pulliam



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City Recorder, Jeff Aprati