

City of Sandy

Agenda

City Council Meeting

Meeting Location: City Hall- Council Chambers, 39250
Pioneer Blvd., Sandy, Oregon 97055

Meeting Date: Monday, October 7, 2019

Meeting Time: 6:00 PM



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1. WORK SESSION 6:00 PM

- 1.1. Roll Call
- 1.2. Agenda Review
- 1.3. Council - Conflicts, Land Use Proceedings (BEH)
Training Materials - Land Use Decisionmaking
- 1.4. Adjourn Work Session

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2. REGULAR MEETING 7:00 PM

3. PLEDGE OF ALLEGIANCE

4. ROLL CALL

5. CHANGES TO THE AGENDA

6. PUBLIC COMMENT

7. PRESENTATION

- 7.1. Library Haunt Presentation

8. CONSENT AGENDA

- 8.1. City Council Minutes
City Council Regular Meeting - 15 Jul 2019 - Minutes - Pdf
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9. NEW BUSINESS

- 9.1. Library District Taskforce Update

10. OLD BUSINESS

- 10.1. Continuation of Hearing on Wastewater System Facilities Plan 46 - 58
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11. RESOLUTIONS

- 11.1. Public Hearing - Wastewater System Development Charges 59 - 86
Wastewater SDCs, Resolutions 2019-17 and 2019-18 - Pdf
- 11.2. Continuation of Hearing on Utility Rate Changes 87 - 90
Continuation of Hearing on Utility Rate Changes (Resolution 2019-19) - Pdf

12. REPORT FROM THE CITY MANAGER

13. COMMITTEE /COUNCIL REPORTS

- 13.1. Community Campus Community Survey 91
Community Campus Community Survey - Pdf

14. STAFF UPDATES

- 14.1. Monthly Reports

15. ADJOURN

CITY OF SANDY

LEGAL REQUIREMENTS PERTAINING TO LAND USE DECISIONMAKING, EX-PARTE COMMUNICATIONS, AND PUBLIC MEETINGS

October 7, 2019

I. WHAT IS A LAND USE DECISION?

A. “Land Use Decision” is Defined by Statute and Case Law

A simple definition of the term “land use decision” is a discretionary decision by a governmental body that applies the government’s land use regulations, unless exempt under one or more of the statutory exceptions (discussed below). The statute that sets forth the definition and the exceptions is lengthy and is found at ORS 197.015(10)(a).

In simplified and non-exhaustive terms, a “land use decision” involves:

- a) a final decision or determination;
- b) made by a local government or special district (or state agency in limited circumstances);
- c) that concerns the adoption, amendment or application of Statewide Planning Goals, a comprehensive plan provision, the local land use regulations.

B. “Limited Land Use Decision” as Defined by Statute

Oregon law distinguishes a “land use decision” from a “limited land use decision” in ORS 197.015(12). The key distinctions are: (1) a “limited land use decision” involves land within an urban growth boundary, and (2) procedural requirements are less cumbersome for a “limited land use decision.”

Specifically, a “limited land use decision” involves:

- a) a final decision or determination;
- b) made by a local government regarding a site within an urban growth boundary;
- c) that concerns the approval or denial of a tentative subdivision or partition plat, or the approval or denial of an application based on discretionary standards that regulate physical characteristics of an outright permitted use (e.g. site or design review).

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Examples of limited land use decisions include tentative subdivision plats for land within an UGB,¹ plan review decisions and review of uses permitted outright based on discretionary standards, such as approval of residential use in a residential zone.

The review process for a limited land use decision is less formal and shorter than that of a land use decision. ORS 197.195 requires written notice to property owners within 100 feet of the site for which the application is made, a 14-day comment period, a written list of the applicable criteria upon which the decision will be made and notice of the final decision. A local government may, but is not required, to provide a hearing before the local government on appeal of the final decision. However, if a local hearing is provided, it must comply with procedural requirements in ORS 197.763. The final decision is not required to have complete or exhaustive findings and may take the form of a “brief statement” that explains the relevant standards and criteria, states the facts relied upon in reaching the decision and explains the justification for the decision based on the criteria, standards and facts. However, as a practical matter, the findings for a limited land use decision will look much the same as the findings for a standard land use decision.

Note, however, that a decision to approve a preliminary plat may not qualify as a limited land use decision when it involves other discretionary standards. For example, in *Wasserburg v. City of Dunes City*, LUBA determined that an application for City subdivision approval including a request for planned unit development approval (to allow the property to be divided in ways that the property could not be divided without planned unit development approval) meant the decision granting preliminary planned unit development subdivision approval was a land use decision, *not* a limited land use decision. 52 Or. LUBA 70, 78 (2006) (emphasis added).

In either case, approval of the *final* plat is not a land use decision. ORS 197.015(10)(b)(G), (12)(b).²

C. “Land Use Decision” Does Not Include...

One reason for the complexity of defining a “land use decision” in Oregon is that the statute provides an extensive list of what a “land use decision” does *not* include. The list below is not comprehensive but describes the actions you are most likely to encounter that are *not* land use decisions per ORS 197.015(10)(b). A local government decision is *not* a “land use decision” if it:

- a) involves land use standards that do not require interpretation, or the exercise of policy or legal judgment (i.e. “ministerial” decisions);
- b) approves or denies a building permit under clear and objective land use standards;
- c) is a limited land use decision;

¹ See *Barrick v. City of Salem*, 27 Or. LUBA 417, 419 (1994), holding that a tentative subdivision plat within an UGB is a limited land use decision.

² This statutory provision was adopted in 2007 in response to Oregon Court of Appeals decision in *Homer v. City of Eugene*, 202 Or. App. 189 (2005).

- d) involves a transportation facility that is otherwise authorized by and consistent with the comprehensive plan and land use regulations;
- e) is an expedited land division as described in ORS 197.360; or
- f) approves or denies approval of a final subdivision or partition plat, or determines whether a final subdivision or partition plan substantially conforms to the tentative plan (as noted above).

II. LAND USE BASICS

A. Local Government Authority

In Oregon, there are several levels of government that simultaneously regulate land use — the state, city, county and special districts. A local government, such as a city or county, adopts its own land use plan as well as regulations to implement the plan. However, the local government’s plan and regulations must be consistent with and implement state policies that are set forth in the Statewide Planning Goals and Oregon Administrative Rules (OARs). Additionally, those cities and counties located within Metro must meet regional requirements established by Metro.

Oregon law requires coordination between cities and counties. Except for cities and counties within Metro, counties are responsible for coordinating all planning activities within the county, including planning activities of cities, special districts and state agencies.³ Within Metro’s boundary, Metro is designated by statute to coordinate planning activities.

State law imposes substantial procedural requirements for local land use decisions, depending on the type of land use decision that is being made. Due to the complexity involved in determining what type of decision is being made, the Planning Department staff and City Attorney will generally evaluate the nature of the particular decision in any given case.

B. State’s Role in Local Land Use

- (1) Land Conservation and Development Commission (LCDC).

The Oregon Land Conservation and Development Commission (LCDC) adopts the statewide land use goals and administrative rules, assures local plan compliance with applicable land use laws, coordinates state and local planning, and manages the coastal zone program. LCDC is comprised of seven appointed volunteer members and meets about every six weeks to direct the work of the Department of Land Conservation and Development (DLCD).

DLCD is the state agency that administers the state’s land use planning program. DLCD works under and provides staff support for LCDC. DLCD is organized into five divisions: Community

³ See ORS 195.025 regarding regional coordination of planning activities, ORS 197.175 pertaining to cities’ and counties’ planning responsibilities, and ORS Chapter 197 on comprehensive land use planning coordination requirements.

Services, Planning Services, Ocean and Coastal Services, Measure 49 Development Services and Operations Services.

Under ORS 197.090(2), DLCD is authorized to participate in local land use decisions that involve statewide planning goals or local acknowledged plans or regulations. With LCDC approval, DLCD may initiate or intervene in the appeal of a local decision when the appeal involves certain pre-established factors laid out in ORS 197.090(2) to (4). DLCD is also involved in reviewing and acknowledging local comprehensive plans.

When “good cause” exists,⁴ LCDC may order a local government to bring its plan, regulations, or decisions into compliance with statewide planning goals or acknowledged plans and regulations. This is known as an “enforcement order” and can be initiated by LCDC or a citizen but is infrequently used. LCDC may also become involved in a local government action if a petitioner requests an enforcement order and LCDC finds there is good cause for the petition. If LCDC determines there is good cause, LCDC will commence proceedings for a contested-case hearing under ORS 197.328. Failure to comply with an enforcement order under ORS 197.328 may result in the loss of certain public revenue, including state shared revenue.

(2) Land Use Board of Appeals (LUBA).

Most appeals of a local land use decision go to the Land Use Board of Appeals (LUBA). LUBA is comprised of three board members who are appointed by the governor and confirmed by the state senate. Anyone who participated in a local land use decision may appeal the decision to LUBA within 21 days of the date the decision becomes final. It is important to note that the date the decision becomes “final” is when it is put in writing and signed by the decision-maker (e.g. Planning Commission Chair, Mayor, or Hearings Officer). Alternatively, a city may specify in its code when the decision becomes final, such as the date the decision is mailed. In any case, it is not the same as the date the decision becomes *effective*, which may be much later.

Once notice of appeal is served, the local government must compile and submit the record of the decision to LUBA within 21 days. LUBA is required to issue a decision on the appeal within 77 days after the record is transmitted, though there are some exceptions to this deadline. Finally, LUBA’s decision may be appealed to the Oregon Court of Appeals.

An important aspect of an appeal is that LUBA’s review is limited to the contents in the record. Therefore, it is important that the City Council ensure that all applicable criteria, goals, arguments, staff reports, studies, etc. are included in the record in the event of an appeal. Such care can impact the outcome of any appeal.

For example, the Oregon Court of Appeals found that the interpretation of a local code provisions was not a “new” issue and prohibited the appellant from raising the issue on appeal

⁴ See ORS 197.320, which lists indicators of “good cause” such as: (1) a local government comprehensive plan or land use regulation that is not in compliance with goals by the date set in statute; (2) a local government does not make satisfactory progress toward coordination; or the local government has engaged in a pattern or practice that violated the comprehensive plan or a land use regulation.

because, even though the provision was not specifically referenced in the City’s notice of hearing the record showed that a member of the City Council raised the provision at the hearing, thus, placing the provision in the record. *Stewart v. City of Salem*, 231 Or. App. 356 (2009).

Because of the specific procedural requirements for an appeal to LUBA, the City Council and staff work closely with the City Attorney on any appeals. It is important to notify the City Attorney immediately upon receipt of an appeal.

C. Statewide Planning Goals⁵

The purpose of the Statewide Planning Goals is to implement and consistently apply state land use policies throughout Oregon. The Statewide Planning Goals emphasize citizen involvement, a public planning process, management of growth within UGBs, housing and preservation of natural resources and specific types of lands called resource lands.

Most of the goals are accompanied by “guidelines,” which suggest how to apply a goal but are not mandatory. The goals have been adopted as administrative rules and are located in OAR Chapter 660, Division 015. As noted, the City’s comprehensive plan and development code must be consistent with the goals and are periodically reviewed by LCDC for compliance.

III. TYPES OF LAND USE DECISIONS

⁵ Oregon’s 19 Statewide Planning Goals are:

- Goal 1: Citizen Involvement
- Goal 2: Land Use Planning
- Goal 3: Agricultural Lands
- Goal 4: Forest Lands
- Goal 5: Natural Resources, Scenic and Historic Areas, and Open Spaces
- Goal 6: Air, Water and Land Resources Quality
- Goal 7: Areas Subject to Natural Hazards
- Goal 8: Recreational Needs
- Goal 9: Economic Development
- Goal 10: Housing
- Goal 11: Public Facilities and Services
- Goal 12: Transportation
- Goal 13: Energy Conservation
- Goal 14: Urbanization
- Goal 15: Willamette River Greenway
- Goal 16: Estuarine Resources
- Goal 17: Coastal Shorelands
- Goal 18: Beaches and Dunes
- Goal 19: Ocean Resource

A. Quasi-Judicial Process and Appeals

(1) Overview.

A quasi-judicial decision typically applies pre-existing criteria to an individual person or piece of land. Determining whether a proceeding is “quasi-judicial” turns on whether the decision displays the characteristics of such decisions identified by the Oregon Supreme Court in *Strawberry Hill 4 Wheelers v. Benton County Bd. of Commissioners*, 287 Or. 591, 601 P.2d 769 (1979). First, the proceeding must be “bound to result in a decision.” *Id.* at 775. Second, the local government must be “bound to apply preexisting criteria to concrete facts.” *Id.* Third, the decision must be “directed at a closely circumscribed factual situation or a relatively small number of persons.” *Id.* While the court held that no single factor is determinative, the more closely a local decision comes to meeting these criteria, the more likely the decision is quasi-judicial. Typical examples of a quasi-judicial decision include design review, partition and subdivision, a zone change for a small number of lots or parcels, development permits and variances.

In Oregon, a quasi-judicial decision must comply with general standards of due process. This requirement arises from Oregon Supreme Court’s decision in *Fasano v. Washington County Commission*, 264 Or. 574 (1973). Due process standards typically include an opportunity to be heard, an opportunity to present and rebut evidence, an impartial decision-maker and a record and written findings adequate to permit judicial review. *Id.* The mechanics of meeting the due process requirement are deeply embedded in state law and in some local codes.

(2) State law procedural requirements.

The procedures that apply to the City’s review of a quasi-judicial application are largely determined by ORS 197.763. A copy of that statute is attached to these materials. For example, at the “initial evidentiary hearing,” the City must read a statement that lists the applicable criteria in the City development code; ask that testimony and evidence be directed at the applicable criteria (or other criteria in the plan or development code the person believes apply to the decision); and stating that the failure to raise an issue with sufficient specificity to allow the City and other parties an opportunity to respond prohibits an appeal to LUBA based on that issue. The applicant must also be advised of the requirement to raise any constitutional claims at the beginning of the hearing under ORS 197.796. Typically, these statements are included in a script for the presiding officer but also may be presented by staff or legal counsel.

The City must provide a description of the applicable standards that is “clear enough for an applicant to know what he must show during [the] application process.” *State ex. Rel. West Main Townhomes, LLC. V. City of Medford*, 234 Or. App. 343, 346 (2010). Generally referencing local code provisions is not enough to satisfy ORS 197.763(3)(b) and (5)(a), (governing the content of mailed notices and statements at the commencement of the hearing, respectively).

At the close of the “initial evidentiary hearing,” any participant may request that the record be

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held open in order to allow additional evidence regarding the application. The City can either hold the record open for a specific period to allow additional written evidence, or continue the hearing to a specific date, time and place at least seven days in the future. It is the City's choice whether to continue the hearing or leave the record open, which may depend on the nature of the evidence to be submitted and the time available in which to render a final decision.

If new written evidence is submitted at the continued hearing, a person may request that the record be left open for at least seven days to submit additional written testimony/evidence. Then, after all of the written evidence has been submitted and the record is closed to all other parties, the applicant is allowed at least seven days to submit a final written argument in support of the application.

Approval or denial of a quasi-judicial land use application must be based on standards and criteria that are set forth in the City's development code. ORS 227.173. The City's interpretation of its own code must be consistent with the express language of the code. *Siporen v. City of Medford*, 231 Or. App. 585 (2009). The courts will defer to a City's interpretation of its own code, provided the interpretation is made by the City Council. Conversely, the courts do not defer to an interpretation made by a lower body such as the Planning Commission or a hearings officer.

The City's final decision must include a brief description of the criteria, a description of the evidence that addresses each criterion, and the reasoning for approving or denying the application. ORS 227.173 (3). This part of the decision is generally referred to as the "findings." The legal requirements that apply to the City's findings are addressed in separate training materials but suffice it to say that they may not be cursory or conclusory.

(3) Local code requirements.

Under ORS 227.170(1), a city may establish its own hearing procedures provided they are consistent with ORS 197.763. Sandy's Municipal Code (Development Code), at Chapters 17.12, 17.20, and 17.22 address quasi-judicial procedures.

B. Final decision (Quasi-Judicial)

ORS 227.173(4) requires the final decision on a "permit" application be made in writing and sent to "all parties to the proceeding." A "permit" is defined at ORS 227.160(2) as a discretionary approval of development, excluding limited land use decisions (which have their own statutory process). The Sandy Municipal Code in Chapter 17.14 details the City procedures for issuing a final decision for quasi-judicial decisions. ORS 227.175(12) requires that the final order include notice of appeal procedures.

Finally, under ORS 227.178(1), a final decision must be made within **120 days** of the date the application was "deemed complete," including "resolution of all [local] appeals." While ORS 227.178(5) allows *the applicant* to extend the deadline in writing, the total of all extensions may not exceed 245 days. Accordingly, the City must reach a final decision on an application for a

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“permit, limited land use decision or zone change” within one year from the date the application is deemed complete.

C. Legislative Process

The procedural requirements for a legislative land use decision differ from the procedural requirements for a quasi-judicial decision. Legislative decisions typically involve the adoption of more generally applicable policies, standards, etc., that apply to a variety of factual situations, and a broad class of people. Examples include amending the comprehensive plan, a zone change that applies broadly to large areas, or changes to the text of the development code to include or delete specific uses in a zoning classification. Because a legislative decision is the expression of City policy, the City is not required to reach a decision on a legislative proposal and may table the issue or decline to review it altogether.

In Sandy, revisions and amendments to the comprehensive plan are processed as a legislative decision under Chapter 17.24 of the Code.

IV. EX PARTE CONTACTS, CONFLICTS OF INTEREST AND BIAS

A. Right to an Impartial Decision

The purpose of declaring ex parte contacts, bias and conflicts of interest is to ensure that *quasi-judicial* land use applications are decided by an impartial hearing body. Declaring ex parte contacts, bias or conflict of interest is required prior to conducting a hearing on any quasi-judicial land use decision.⁶ It is important to note that, as a resident of the community, Planning Commissioners and City Councilors frequently have personal beliefs, business associations, membership with organizations, and relatives living and working within the community who may be affected directly or indirectly by issues presented by a land use application. Disclosing these beliefs or associations is required only where such beliefs or associations will affect the ability of the hearing body member to render an impartial quasi-judicial decision. The exception to this general rule is ex parte contacts. In a quasi-judicial setting, regardless of whether the ex parte contact affects the impartiality of a decision maker, it must be disclosed.⁷ And a conflict of

⁶ Because the rights of the applicants in a quasi-judicial proceeding require additional protection relative to a legislative decision, in general ex parte contacts and bias are less important in the legislative context. As a result, open discussions with members of the community and expressions of opinion on proposed amendments to the code that affect the community as a whole rather than a narrow class or limited number of property owners generally do not require disclosure. *Casey Jones Well Drilling, Inc. v. City of Lowell*, 34 Or. LUBA 263 (1998). Where there is an actual conflict of interest that will result in a financial benefit to a public official, the statutory provisions *prohibit* participation in that decision. See discussion provided herein. In addition to the conflict of interest provisions that protect the community from special interests, ORS 244.040(1) prohibits a public official from using his or her office as a means of financial gain. To that extent disclosure protects both the individual commissioner and the community.

⁷ However, where the disclosure reveals either that the public official did not rely on that information in making a final decision or that the information is not relevant to the applicable criteria, the public official may participate in the decision without undermining the validity of the final decision

interest must always be disclosed, regardless of whether the decision is quasi-judicial or legislative in nature, and requires recusal if it is an “actual” conflict of interest.

Once a hearing body member discloses an ex parte contact, bias or conflict of interest and announces publicly his or her ability to render an impartial decision, the burden shifts to the public to prove that the person is not capable of making an impartial decision. However, a mere possibility that an improper ex parte contact occurred is not sufficient for the public to meet its burden. *Dahlen v. City of Bend*, 57 Or. LUBA 757, 765 (2008).

With respect to bias or a conflict of interest, a Planning Commission or City Council member may step down and not participate in a decision if the person believes that bias or a conflict of interest will prevent the person from being impartial. The decision to step down is up to the person based on whether he or she believes the particular contact or conflict gives an appearance of impropriety rather than a direct financial benefit. Where a hearing body member (including relatives and business associates) will financially benefit from the decision, ORS 244 prohibits the person from participating in the decision unless a class exception exists. Bias and conflict of interests are discussed in more detail below.

Although not required, a person who recuses himself from the decision may step down from the dais and join the general public seating during the discussion and decision. There is no legal requirement that prevents a person who steps down from participating as an interested citizen, although, when there is an actual financial benefit, a decision maker is discouraged from participating as a citizen to preserve the integrity of the process.

B. Ex Parte Contacts

An ex parte contact is commonly understood as a meeting, written communication (including email), or telephone conversation between a member of the hearing body and an interested party, outside of the public hearing process. While this is true, the scope of ex parte contacts is actually much broader—encompassing any evidence relating to a pending application relied on by a hearing body member in making a final decision that is not fully disclosed. The purpose of disclosure is to provide interested parties an opportunity to consider and rebut evidence.

It is important to note that ex parte contacts are not unlawful. While contact with interested parties to broker a behind-the-scenes deal on a particular decision is often a political disaster, legally such contact is a problem only where the substance of the meeting is not disclosed during a public hearing and recorded as a part of the public record. In most cases, the better approach is to rely on City staff to work directly with interested parties and avoid the risk of engaging in ex parte discussions.

(1) Statutory Provisions.

ORS 227.180(3) provides the legal framework governing ex parte contacts and is discussed in greater detail below.

(a) Full Disclosure

Ex parte contact does not render a decision unlawful so long as there is full disclosure. ORS 227.180(3). Disclosure must occur at the earliest possible time in the decision-making process. *Horizon Construction v. City of Newberg*, 114 Or. App. 249, 834 P.2d 523 (1992) (Declaration of ex parte contact after the hearing at a meeting before making the final decision was ephemeral and required remand). There are two components to full disclosure: (1) placing the substance of the written or oral ex parte contact on the record and (2) a public announcement of the ex parte contact. ORS 227.180(3)(a) & (b). Both requirements are satisfied by disclosure at the public hearing (public announcement that is included as a part of the record). In addition, the presiding officer of the hearing body is required to provide the general public with an opportunity to rebut the substance of the ex parte contact.⁸ If a hearing is continued to another date, decision makers should also disclose at the beginning of the continued hearing any ex parte contacts that occur between the two hearing dates.

(b) Communications with Staff

Under ORS 227.180(4) communications with City staff are not considered an ex parte contact. However, City staff may not serve as a conduit for obtaining information outside of the public process unless that information is disclosed. In practice, decision makers may freely discuss issues and evidence with staff. Where an interested party requests staff to communicate with a decision maker or other evidence is obtained through staff that the decision maker relies on without disclosure (or is not otherwise included as a part of the public record such as the staff report), an ex parte contact problem occurs. Because an ex parte contact is a procedural error, the party appealing a decision must show that the ex parte contact was prejudicial. In general, evidence that a relevant ex parte contact was not disclosed should be regarded as enough to require remand of a decision.

(2) Common Sense.

Common sense judgment can go a long way in deciding what should be disclosed. Generally, a decision maker's instincts about whether information is relevant to the decision and should be included as a part of the record through disclosure are correct. The ex parte contact rules should not be viewed as an impediment to the hearing body's ability to conduct business. The majority of information used to form general opinions that existed prior to but which may impact a decision are not subject to disclosure. Specific information obtained in anticipation of or subsequent to an application being filed that is directly relevant to the decision and unavailable to the rest of the interested parties should always be included in the public record through disclosure.

(3) Scope of Ex Parte Contacts.

⁸ Often the opportunity to rebut or object to the decision maker's participation occurs prior to opening the public hearing. Depending on the extent of the rebuttal, the body may allow rebuttal during the public hearing or during the open record period following the initial hearing if requested by the objector.

As indicated, ex parte contacts are not limited to conversations with interested parties or other members of the community. The concept of ex parte contacts is much broader. For example, consider:

- ◆ A site visit is not in itself an *ex parte* contact unless it involves communication between a decision maker and a party or other interested person. *Carrigg v. City of Enterprise*, 48 Or. LUBA 328 (2004). However, site visits do invoke procedural requirements of disclosure and opportunity to rebut. *Id.* If a site visit is conducted and conversations take place between decision makers and applicants and/or opposition that are then used in making the final decision, or give the appearance of so, the content of those conversations must be disclosed or the decision will be remanded. *Gordon v. Polk County*, 50 Or. LUBA 502 (2005).
- ◆ Communications with staff where the staff member is acting as a conduit for the transfer of information from persons for or against the proposal, or where the contact occurs after the record closes. See *Nez Perce Tribe and City of Joseph v. Wallowa County*, 47 Or. LUBA 419 (2004) (staff submittal of evidence after the record closes could prejudice parties' substantial right to rebut evidence and requires remand).
- ◆ Allegations that the planning staff, who were not the final decision makers, were biased in favor of an application are insufficient, even if true, to demonstrate that the final decision makers were biased. *Hoskinson v. City of Corvallis*, 60 Or. LUBA 93 (2009).
- ◆ Newspaper articles, television or radio broadcasts.
- ◆ All other outside discussions of a pending application.

(4) Example – another potential for ex parte communications.

Addressing Ex Parte Contacts on Remand. The Land Use Board of Appeals remanded a decision of the City of Portland where a commissioner spoke with an interested party during a recess and failed to disclose the conversation. On remand, the commissioner entered a statement on the record that he could not recall the nature of the conversation, and the decision was again appealed and remanded by LUBA. On appeal, the Court of Appeals agreed with LUBA that the City is required to adopt a decision based on fully disclosed information subject to the opportunity for rebuttal. Although a full hearing on remand is not generally required, the court found in this case that “[t]he remedy should be tailored to rectify the evil at which it is directed, in light of the particular circumstances of the case.” *Opp v. City of Portland*, 171 Or. App. 417, 423 (2000).

C. Conflict of Interest

The Government Ethics Commission oversees the implementation of the conflict of interest statutes under ORS Chapter 244.

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(1) Actual vs. Potential Conflict of Interest.

An actual conflict of interest is defined under ORS 244.020 as any decision or act by a public official that would result in a “private pecuniary benefit or detriment.” An actual conflict extends not only to financial gain or loss to the individual public official but also to any relatives, household member or any business with which the official or relative is associated.

A potential conflict of interest is distinguished from an actual conflict of interest in that the benefit or detriment could occur while in an actual conflict of interest situation, the benefit or detriment “will” occur. ORS 244.020(1), 244.020(12).

In the case of an actual conflict of interest, the official must both:

- ◆ Announce the actual conflict of interest; and
- ◆ Refrain from taking official action.

For example, in *Catholic Diocese of Baker v. Crook County*, LUBA determined that a county commissioner’s wife’s testimony and the county commissioner’s attendance at a planning commission hearing had no bearing on whether the commissioner’s participation in the matter would result in a private pecuniary benefit or detriment to the commissioner. Neither did the fact that the commissioner owned property within 700 feet of the subject property; instead, ownership was indicative of a potential conflict of interest only, which the commissioner announced at the public meeting. 60 Or. LUBA 157, 164 (2009)

In the case of a potential conflict of interest, the official must announce the conflict, but may take action on the issue. The disclosure requirements for both potential and actual conflicts do not apply to class exceptions.

(2) Class Exceptions.

Often a land use decision has at least some indirect financial impact on an individual hearing body member and other members of the community. For example, legislative rezoning and code amendments often entail changes to the development rights of property owners throughout the City. To address this issue, a class exception to a conflict of interest is created under ORS 244.020(12)(b). Where a hearing body member is part of a class that consists of a larger group of people affected by a decision, no conflict exists. There is no hard and fast rule on the size or type of class to which the conflict exemption applies. In general, legislative rezoning decisions that affect the community as a whole are exempt. The class exemption depends on the facts of each case. Several examples are provided below.

(3) Examples.

Disclosure of Proximity to Property Being Developed. Councilors living within proximity of an application for the continuance of a nonconforming mining operation failed to disclose the

location of their residences during the local process. LUBA remanded requiring disclosure. *ODOT v. City of Mosier*, 36 Or. LUBA 666 (1999).

GSPC Staff Opinion No. 00S-008. Councilor Rod Park is a member of the Metro Council. Metro was developing an ordinance that would require local governments to adopt limitations on development in proximity of streams and other water bodies. Councilor Park is owner of property that includes an intermittent stream that will be impacted by the ordinance. Because Councilor Park is one of approximately 10,000 landowners affected by the ordinance, he clearly falls within the class exception.

GSPC Staff Opinion No. 01S-018. Sherwood City Councilor Cathy Figley owns commercial property in the City of Sherwood. The City was considering establishing an urban renewal area that includes 260 acres of land. Councilor Figley owns two tax lots of approximately 122 acres of commercial area within the proposed urban renewal area. Here the state pointed out the class exemption applies so long as the benefits from the urban renewal area apply equally to all owners.

GSPC Staff Opinion No. 98S-005. Creswell City Councilor Sharlene Neff requested an opinion as to whether she could actively oppose an application for a 19.5 acre development of a manufactured home park. Councilor Neff owns property that will be directly impacted by traffic from the proposed development. In this case, the state found that the number of property owners impacted by the development was of a sufficient size to trigger the class exception. NOTE: This staff opinion does not address the issue of bias at all. Although the GSPC found that there was no class exception, there is a very real chance that the councilor's participation with an opposition group is evidence of actual bias that would preclude her participation in the final decision.

D. Bias

A biased decision maker substantially impairs a party's ability to receive a full and fair hearing. *1000 Friends of Oregon v. Wasco Co. Court*, 304 Or. 76, 742 P.2d 39 (1987). Bias can be in favor of or against the party or the application. Generalized expressions of opinions are not bias. *Space Age Fuels v. City of Sherwood*, LUBA No. 2001-064 (2001).

Local quasi-judicial decision makers are not expected to be free of bias but they are expected to (1) put whatever bias they may have aside when deciding individual permit applications and (2) engage in the necessary fact finding and attempt to interpret and apply the law to the facts as they find them so that the ultimate decision is a reflection of their view of the facts and law rather than a product of any positive or negative bias the decision maker may bring to the process. *Wal-Mart Stores, Inc. v. City of Central Point*, 49 Or. LUBA 697 (2005).

(1) Actual Bias.

Actual bias means prejudice or prejudgment of the parties or the case to such a degree that the decision maker is incapable of being persuaded by the facts to vote another way.

This can include:

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- ◆ Personal bias;
- ◆ Personal prejudice; or
- ◆ An interest in the outcome.

The standard for determining actual bias is whether the decision maker “prejudged the application and did not reach a decision by applying relevant standards based on the evidence and argument presented [during quasi-judicial proceedings].” *Oregon Entertainment Corp. v. City of Beaverton*, 38 Or. LUBA 440, 445 (2000), *aff’d* 172 Or. App. 361, 19 P.3d 918 (2001). Actual bias strong enough to disqualify a decision maker must be demonstrated in a clear and unmistakable manner. *Reed v. Jackson County*, 2010 WL 2655117, LUBA No. 2009-136 (June 2, 2010).

The burden of proof that a party must satisfy to demonstrate prejudice by a local decision maker is substantial. *Roberts et. al. v. Clatsop County*, 44 Or. LUBA 178 (2003), *see also Becklin v. Board of Examiners for Engineering and Land Surveying*, 195 Or. App. 186 (2004). The objecting party need not demonstrate that a majority of the decision makers were influenced by the bias of one decision maker to warrant a remand; the bias of one City Councilor is enough. *Halvorson Mason Corp. v. City of Depoe Bay*, 39 Or. LUBA 702 (2001).

(2) Appearance of Bias.

Appearance of bias will not necessarily invalidate a decision. *1000 Friends of Oregon v. Wasco County Court*, 304 Or. 76, 742 P.2d 39 (1987). However, the appearance of bias may call into question a decision maker’s ultimate decision. *Gooley v. City of Mt. Angel*, 56 Or. LUBA 319, FN6 (2008) (LUBA did not opine on whether City Councilors were biased, but noted that “even the most fair-minded decision maker is likely to have some difficulty deciding...a matter based solely on the applicable criteria, when a very close relative is party to the matter”). The main objective is to maintain public confidence in public processes.

(3) Examples.

General Expressions of Opinion Do Not Invalidate Decisions. “While on a personal basis, I think the Council and I * * * don't want these businesses in the community, the fact is our personal [feeling] versus our obligation as elected officials to uphold the law is very different, and so we can't base any decisions tonight based on content.” Mayor Drake commenting on a proposed adult video store in Beaverton. *Oregon Entertainment Corporation v. City of Beaverton*, 38 Or. LUBA 440 (2000). Statements by City officials that they would prefer a privately funded convention center, rather than a publicly financed one, do not demonstrate that the City decision makers are biased and incapable of making a decision on the merits. *O’Shea v. City of Bend*, 49 Or. LUBA 498 (2005).

Mere Association with Membership Organization Not Enough. For instance, an applicant for a dog raising farm alleged that a chairperson was biased by association with Clatsop County Friends of the Animals. Applicant speculated that the chairperson gave money to this organization and that opponents to the application were also members of the association. LUBA found that there was no evidence provided of any communications and that adequate disclosure was provided by the chairperson. *Tri-River Investment Company v. Clatsop County*, 37 Or. LUBA 195 (1999).

Also, where a land use decision maker is a member of a church congregation and the church has applied for a land use permit, and the decision maker has expressed concern regarding the impact proposed conditions of approval would have on church operations but nevertheless declares that she is able to render a decision regarding the church's application based on the facts and law before her, that decision maker has not impermissibly prejudged the application. *Friends of Jacksonville v. City of Jacksonville*, 42 Or. LUBA 137 (2002).

City May Adopt Applicant's Findings In Support of Decision. A hearings officer accepting, reviewing and adopting findings from the applicant is not evidence of prejudgment or bias. *Heiller v. Josephine County*, 23 Or. LUBA 551 (1992).

Prior Recusal Does Not Prohibit Participation In Subsequent Hearing. LUBA found no error where a County Commissioner failed to excuse himself from a decision even though the commissioner voluntarily withdrew from a prior hearing involving the same matter because of his friendship with an opponent of the proposed change. *Schneider v. Umatilla County*, 13 Or. LUBA 281 (1985).

Councilor Prejudged Application. In the City of Depoe Bay, a councilor's prior actions and written statements amounted to prejudgment of an application for a business license to operate a real estate office within a residential planned unit development. In this case, the councilor wrote a letter to the mayor stating that there was no legal basis for permitting the office. Subsequent correspondence also revealed the antagonistic relationship between the councilor and the applicant. The Land Use Board of Appeals found that "[i]n view of his history of actively opposing the siting of a real estate sales office within the Little Whale Cove PUD, it is clear that he had prejudged the application and was incapable of rendering an impartial decision based on the application, evidence and argument submitted during the City's proceedings on the application." *Halvorson Mason Corp. v. City of Depoe Bay*, 39 Or. LUBA 702 (2001).

Councilor May Not Seek Additional Evidence. In the City of Cottage Grove, two councilors sought and obtained additional evidence not in the record and relied on that evidence to make a decision on a permit application. The Land Use Board of Appeals noted, "The role of the local government decision maker is not to *develop* evidence to be considered in deciding a quasi-judicial application, but to impartially consider the evidence that the participants and City planning staff submit to the decision maker in the course of the public proceedings." *Woodard v. Cottage Grove*, 54 Or. LUBA 176 (2007) (emphasis in original).

City's prior interest in purchasing subject property does not create bias. In the City of Oregon City, the fact that the City had inquired about purchasing property which became the subject of

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an application for a new Wal-Mart store was held to be insufficient to demonstrate bias. LUBA was unwilling to open the record for an evidentiary hearing. The Wal-Mart applicant did not allege that any member of the City Council had a personal financial interest in the property; rather, the applicant's allegation of bias "is based solely on its belief that the City as a municipal entity was interested in purchasing the subject property for future development of City buildings..." Such general allegations do not counter the City's argument that its City Commission was still capable of making an impartial decision. *Wal-Mart Stores, Inc. v. City of Oregon City*, Order on Motion to Take Evidence, LUBA No. 2004-124 (2005).

Postscript: The Oregon City Wal-Mart case went to the Court of Appeals on unrelated procedural matters. The Court of Appeals upheld the City's decision denying the application; the Oregon Supreme Court denied Wal-Mart's petition for review.⁹

V. IMPLICATIONS OF THE PUBLIC MEETINGS LAW

A. Overview

The Oregon policy of open decision-making is established by ORS 192.620:

The Oregon form of government requires an informed public aware of the deliberations and decisions of governing bodies and the information upon which such decisions were made. It is the intent of ORS 192.610 to 192.690 that decisions of governing bodies are arrived at openly.

The Public Meetings Law applies to not only the state, but also the cities, counties and special districts despite any conflict with a local charter, ordinance or other rules. Cities, counties and other public bodies may impose greater requirements than required by state law through the local charter, ordinances, administrative rules or bylaws.

The Public Meetings Law applies to meetings of the "governing body of a public body." ORS 192.630(1). A "public body" is the state, any regional council, county, city or district, or any municipal or public corporation or any board, department, commission, council, bureau, committee, subcommittee or advisory group or any other agency thereof. ORS 192.610(4). If two or more members of any public body have "the authority to make decisions for or recommendations to a public body on policy or administration," they are a "governing body" for purposes of the meetings law. ORS 192.610(3). For example, the planning commission and other boards that can make decisions, or make recommendations to the council, are "governing bodies" under the Public Meetings Law.

B. Meetings Subject to the Law

⁹ 204 Or App 359, review denied, 341 Or 80 (2006).

The Public Meetings Law defines a meeting as the convening of any of the “governing bodies” described above “for which a quorum is required in order to make a decision or to deliberate toward a decision *on any matter.*” ORS 192.610(5) (emphasis added).

Although the state law does not define a “quorum,” it is defined locally as a majority of the decision making body. A gathering of less than a quorum is not a meeting under the meetings law.

Staff meetings are not subject to the meetings law because staff is not the “governing body” and a quorum is not required. ORS 192.610(3). However, if staff meets with a quorum of the commission to discuss matters of “policy or administration,” or to clarify a decision or direction for staff, the meeting is within the scope of the law. ORS 192.610(5).

The Public Meetings Law applies to all commission meetings for which a quorum is required to make a decision or deliberate toward a decision on any matter. Even meetings for the sole purpose of gathering information upon which to base a future decision or recommendation are covered. Hence, information gathering and investigative activities of a city body, such as a work session, are subject to the law.

The law does not cover purely social meetings of commission members. In *Harris v. Nordquist*, 96 Or 19 (1989), the court concluded that social gatherings at which school board members sometimes discussed “what’s going on at the school” did not violate the meetings law. The *purpose* of the meeting determines whether the law applies. However, a purpose to deliberate on any matter of policy may arise *during* a social gathering and lead to a violation. When a quorum is present, members should avoid any discussions of official business during social gatherings. Some citizens may see social gatherings as a subterfuge for avoiding the law.

C. Serial Communications

Members of a governing body may violate the Oregon Public Meeting Law’s prohibition on meeting in private even if a quorum never meets contemporaneously.

ORS 192.630(2) provides that a “quorum of a governing body may not meet in private for the purpose of deciding on or deliberating towards a decision on any matter.” A decision is “any determination, action, vote or final disposition upon a motion, proposal, resolution, order, ordinance or measure on which a vote of a governing body is required, at any meeting at which quorum is present. ORS 192.610(1). In other words, members of a governing body may violate the prohibition against private meetings by (1) communicating in private, (2) for the purpose of deciding or deliberating on (3) any topic that may require a vote.

As recent Oregon cases clarify, the prohibition against meeting in private includes both when a quorum meets contemporaneously *and* when a series of non-contemporaneous communications between members of the governing body, in the aggregate, include a quorum and the purpose of the communications is to decide or deliberate on a matter that may come before the governing body.

To illustrate this point, the following communications between members of a five person governing body may violate ORS 192.630(2):

- A member forwards an email discussion she had with a member regarding a matter that may come before the governing body to another member. Because the email exchange, in the aggregate, includes a quorum of the body and its purpose is to discuss a matter that will require a vote, the email exchange may violate ORS 192.630(2).

- A staff person individually calls members of a governing body to discuss a matter that will require a vote. When the staff person talks to each member, she shares with the member the opinions and comments of the other members. Although the members never speak directly, the staff person is acting as a conduit. These conversations, in the aggregate, arguably violate ORS 192.630(2).

- A citizen posts a comment on the city's Facebook page about an upcoming land use decision and the comment generates a discussion. Two members of the governing body make comments and share opinion on the Facebook "thread." A third member reads the comments and also comments. Because three members have communicated opinions on the social media site on a matter that will require a vote, the members could be accused of violating ORS 192.630(2).

The prohibition against meeting in private does not include communications that are purely "information gathering." Members of a governing body should be aware, however, that the parameters of "information gathering" are not clear.

C. Electronic Communication

The Public Meetings Law expressly applies to telephonic conference calls and "other electronic communication" meetings of governing bodies. ORS 192.670(1). Notice and an opportunity for public access must be provided when meetings are conducted by electronic means. For non-executive session meetings, the public must be provided at least one place to listen to the meeting by speakers or other devices. ORS 192.670(2). Special accommodations may be necessary to provide accessibility for persons with disabilities. The media must be provided such access for electronic executive sessions, unless the executive session is held under a statutory provision permitting its exclusion. Communications between and among commissioners on electronically linked personal computers may be subject to the meetings law.

D. Control of Meetings

The presiding officer of any meeting has inherent authority to keep order and to impose any reasonable restrictions necessary for the efficient and orderly conduct of a meeting. If public participation is part of the meeting, the presiding officer may regulate the order and length of appearances and limit appearances to presentations of relevant points. Any person who fails to

comply with reasonable rules of conduct or who causes a disturbance may be asked or required to leave and upon failure to do so becomes a trespasser. *State v. Marbet*, 32 Or App 67 (1978).

This authority extends to control over equipment such as cameras, tape recorders and microphones, but only to the extent of reasonable regulation. Members of the public may not be prohibited from unobtrusively recording the proceedings of a public meeting. The criminal law prohibition against electronically recording conversations without the consent of a participant does not apply to recording “public or semipublic meetings such as hearing before government or quasi-government bodies.” ORS 165.540(6)(a).

APPENDIX A

197.763 Conduct of local quasi-judicial land use hearings; notice requirements; hearing procedures. The following procedures shall govern the conduct of quasi-judicial land use hearings conducted before a local governing body, planning commission, hearings body or hearings officer on application for a land use decision and shall be incorporated into the comprehensive plan and land use regulations:

(1) An issue which may be the basis for an appeal to the Land Use Board of Appeals shall be raised not later than the close of the record at or following the final evidentiary hearing on the proposal before the local government. Such issues shall be raised and accompanied by statements or evidence sufficient to afford the governing body, planning commission, hearings body or hearings officer, and the parties an adequate opportunity to respond to each issue.

(2)(a) Notice of the hearings governed by this section shall be provided to the applicant and to owners of record of property on the most recent property tax assessment roll where such property is located:

(A) Within 100 feet of the property which is the subject of the notice where the subject property is wholly or in part within an urban growth boundary;

(B) Within 250 feet of the property which is the subject of the notice where the subject property is outside an urban growth boundary and not within a farm or forest zone; or

(C) Within 500 feet of the property which is the subject of the notice where the subject property is within a farm or forest zone.

(b) Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.

(c) At the discretion of the applicant, the local government also shall provide notice to the Department of Land Conservation and Development.

(3) The notice provided by the jurisdiction shall:

(a) Explain the nature of the application and the proposed use or uses which could be authorized;

(b) List the applicable criteria from the ordinance and the plan that apply to the application at issue;

(c) Set forth the street address or other easily understood geographical reference to the subject property;

(d) State the date, time and location of the hearing;

(e) State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the board based on that issue;

(f) Be mailed at least:

(A) Twenty days before the evidentiary hearing; or

(B) If two or more evidentiary hearings are allowed, 10 days before the first evidentiary hearing;

(g) Include the name of a local government representative to contact and the telephone number where additional information may be obtained;

(h) State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;

(i) State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost; and

(j) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.

(4)(a) All documents or evidence relied upon by the applicant shall be submitted to the local government and be made available to the public.

(b) Any staff report used at the hearing shall be available at least seven days prior to the hearing. If additional documents or evidence are provided by any party, the local government may allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond. Any continuance or extension of the record requested by an applicant shall result in a corresponding extension of the time limitations of ORS 215.427 or 227.178 and ORS 215.429 or 227.179.

(5) At the commencement of a hearing under a comprehensive plan or land use regulation, a statement shall be made to those in attendance that:

(a) Lists the applicable substantive criteria;

(b) States that testimony, arguments and evidence must be directed toward the criteria described in paragraph (a) of this subsection or other criteria in the plan or land use regulation which the person believes to apply to the decision; and

(c) States that failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the board based on that issue.

(6)(a) Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments or testimony regarding the application. The local hearings authority shall grant such request by continuing the public hearing pursuant to paragraph (b) of this subsection or leaving the record open for additional written evidence, arguments or testimony pursuant to paragraph (c) of this subsection.

(b) If the hearings authority grants a continuance, the hearing shall be continued to a date, time and place certain at least seven days from the date of the initial evidentiary hearing. An opportunity shall be provided at the continued hearing for persons to present and rebut new evidence, arguments or testimony. If new written evidence is submitted at the continued hearing, any person may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven days to submit additional written evidence, arguments or testimony for the purpose of responding to the new written evidence.

(c) If the hearings authority leaves the record open for additional written evidence, arguments or testimony, the record shall be left open for at least seven days. Any participant may file a written request with the local government for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the hearings authority shall reopen the record pursuant to subsection (7) of this section.

(d) A continuance or extension granted pursuant to this section shall be subject to the limitations of ORS 215.427 or 227.178 and ORS 215.429 or 227.179, unless the continuance or extension is requested or agreed to by the applicant.

(e) Unless waived by the applicant, the local government shall allow the applicant at least seven days after the record is closed to all other parties to submit final written arguments in support of the application. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence. This seven-day period shall not be subject to the limitations of ORS 215.427 or 227.178 and ORS 215.429 or 227.179.

(7) When a local governing body, planning commission, hearings body or hearings officer reopens a record to admit new evidence, arguments or testimony, any person may raise new issues which relate to the new evidence, arguments, testimony or criteria for decision-making which apply to the matter at issue.

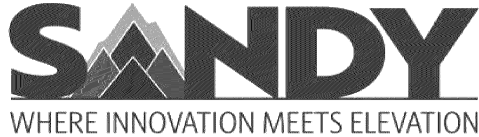
(8) The failure of the property owner to receive notice as provided in this section shall not invalidate such proceedings if the local government can demonstrate by affidavit that such notice

was given. The notice provisions of this section shall not restrict the giving of notice by other means, including posting, newspaper publication, radio and television.

(9) For purposes of this section:

(a) “Argument” means assertions and analysis regarding the satisfaction or violation of legal standards or policy believed relevant by the proponent to a decision. “Argument” does not include facts.

(b) “Evidence” means facts, documents, data or other information offered to demonstrate compliance or noncompliance with the standards believed by the proponent to be relevant to the decision. [1989 c.761 §10a (enacted in lieu of 197.762); 1991 c.817 §31; 1995 c.595 §2; 1997 c.763 §6; 1997 c.844 §2; 1999 c.533 §12]



MINUTES
City Council Meeting
Monday, July 15, 2019 City Hall- Council Chambers, 39250
Pioneer Blvd., Sandy, Oregon 97055 7:00 PM

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

COUNCIL ABSENT:

STAFF PRESENT: Karey Milne, Recorder Clerk, Jordan Wheeler, City Manager, Andi Howell, Transit Director, Kelly O'Neill, Planning Director, Sarah McIntyre, Library Director, Ernie Roberts, Police Chief, and Tyler Deems, Finance Director

CITY ATTORNEY: David Doughman

MEDIA PRESENT: Brittany Allen

1. Regular Council Meeting

2. Pledge of Allegiance

3. Roll Call

4. Changes to the Agenda

5. Public Comment

Carol Cohen, City Event Coordinator, spoke to council to share her event that came out last week, City Bingo. She received grant funds and sponsorship for this event. There are different clues on the Bingo cards to get you to a destination in Sandy.

Mathew Neiglie, Eagle Creek Oregon, Spoke to council and would like to re-visit the conversation to change the Sandy Municipal Code to allow dispensaries in the City. He feels it will help city funds as some of those tax dollars would go to the City.

6. Consent Agenda

6.1. City Council Minutes

7. Ordinances

7.1. Public Safety Fee - Ordinance - Public Hearing

Staff Report - 0161

Public Testimony: Greg Becker, 14585 Bluff Road, spoke to council in support of the Public Safety Fee.

Recap, staff report: City Manager, Jordan Wheeler, recapped the background, financial numbers and the implementation process for the Public Safety Fee.

Call for a Motion to close the public hearing: Motion by Councilor Exner, Second by Councilor Shultz to close the public hearing, all in favor.

Call for discussion from the hearing body: Council spoke in the support of the Public Safety Fee.

Call for the Second reading of 2019-13 and Ordinance establishing a public safety fee

7.2. Ordinance 2019-13, 18-034 ANN Bird Annexation - Quasi Judicial Public Hearing

Staff Report - 0147

Open a Public Hearing at 7:23PM

Any abstentions from the hearing body, none

Any conflict of interest from the hearing body, none

Any ex parte contact from the hearing body, none

Any challenges to any individual members, none

Call for the Staff Report,

Planning Director, Kelly O'Neill Jr., informed council of the Bird Annexation, gave explanation of the property, and the planning commissions recommendation with conditions if the council approves.

Call for applicants presentation, none

Call for Proponent testimony, none

Call for opponent testimony, none

Call for any additional questions from the audience,

Greg Becker 14585 Bluff Road, spoke to council regarding the commercial property deficit and asked if there was any commercial property recommended for this property.

Staff Follow up, Planning Director, Kelly O'Neill Jr., gave a staff recap, spoke to the addition to trails to the Tickle Creek trails that will be part of the parks master plan, and to answer Mr Becker's question, in UGB expansion in 2017 we did look at the number of buildable lands, it was

around 2,035 and we based our expansion on that analysis, this property would be designated residential, however there are properties that if they were to be brought in would be designated commercial.

Motion to Close the Public Hearing:

Motion by Councilor Hamblin, Second by Councilor Shultz, to close the public hearing,
all in favor.

Discussion by the hearing body, Council had a few questions for staff.

Call for the First Reading by Title Only Ordinance 2019-13, An Ordinance approving annexation of one property totaling 6.22 acres and assignment of SFR, Single Family Residential zoning in conformance with the 2017 Urban Growth Boundary Expansion Analysis.

Motion, Exner, Second, Smallwood
All in favor

Call for the Second Reading by Title Only Ordinance 2019-13, An Ordinance approving annexation of one property totaling 6.22 acres and assignment of SFR, Single Family Residential zoning in conformance with the 2017 Urban Growth Boundary Expansion Analysis.

Motion, Smallwood, Second, Hamblin
All in favor

8. Resolutions

8.1. Public Safety Fee - Resolution

Staff Report - 0162

City Manager, Jordan Wheeler and Finance Director Tyler Deems, gave an overview to council on the projected revenue that will come from the public safety fee.

Council had discussion and questions for staff.

Moved by Stan Pulliam, seconded by Bethany Shultz

Staff Report - 0162

Adopt Resolution 2019-15, Adopting a Public Safety Fee.

CARRIED.

9. New Business

9.1. Library Advisory Board Appointments

Staff Report - 0156

Library Director, Sarah McIntyre, new applicant for the Library board that would fill the last open position on the board.

Re-applicant, Kathleen Drain and Lynn Pollard for Hoodland

Staff recommends council appoint Dale, Kathleen and Lynn to the Library Board

Moved by John Hamblin, seconded by Bethany Shultz

Staff Report - 0156

*Appoint Dale Scoberg to the Library Advisory Board for the Sandy Service Area.
Reappoint Kathleen Draine to the Library Advisory Board for the Sandy Service Area and Lynne Pollard for the Hoodland Service Area*

CARRIED.

9.2. FTA Procurement Policy

Staff Report - 0158

Transit Director, Andi Howell, Last March, the Transit Department received a triennial review (2015-2018). RLS, a consulting firm out of Washington D.C. hired on behalf of the Oregon Department of Transportation (ODOT), visited the Sandy Transit Facilities including the Operations Center, bus shelters and vehicles. RLS consultants and ODOT employees worked with Transit staff to assess how Sandy meets the varied compliance requirements imposed by the Federal Transit Administration and Oregon DOT. The overall goal of the review is to improve Sandy Transit's compliance with applicable regulations while strengthening the management's abilities to comply with Federal and state laws, rules, requirements and regulations.

Moved by Laurie Smallwood, seconded by John Hamblin

Staff Report - 0158

Authorize the Transit Department to adopt the FTA Procurement Policy.

CARRIED.

9.3. STIF Intergovernmental Agreement with TriMet

Staff Report - 0159

Transit Director, Andi Howell, House Bill 2017, Keep Oregon Moving, created a statewide, stable funding source for transit, known as the Statewide Transit Improvement Fund or STIF. Staff Recommends that the Mayor to sign the Intergovernmental Agreement on behalf of the City.

Budgetary Impact: \$57,708 for STIF approved FY19 expenditures. \$131,068 for STIF approved FY20 expenditures. \$150,097 for STIF approved FY21 expenditures.

Council had some questions for staff.

Moved by John Hamblin, seconded by Laurie Smallwood

Staff Report - 0159

Authorize the Mayor to sign the Intergovernmental Agreement on behalf of the City.

CARRIED.

9.4. Amended Intergovernmental Agreement with Clackamas County

Staff Report - 0160

Transit, Director, Andi Howell, Sandy Transit has successfully collaborated with Clackamas County for administrative duties related to the Mount Hood Express (MHX) service. Due to the success of this collaboration and the efficiencies in savings, employment practices and the great customer experience of seamless service, the County and Sandy Transit would like to amend the current IGA to include "purchased service". Budgetary Impact: Sandy Transit would receive an increase in fees paid for both administrative support and facility fees. These fees would amount to a \$6,000 increase in administrative support and a \$5,000 increase in facility fees.

Moved by John Hamblin, seconded by Bethany Shultz

Staff Report - 0160

Authorize the Mayor to sign the Intergovernmental Agreement with Clackamas

County on behalf of the City.

CARRIED.

10. Report from the City Manager

Jordan Wheeler, gave an update on the past weeks events, meetings and other projects happening within the City.

11. Committee /Council Reports

Councilors gave updates on boards, projects and other items they have been working on the past few weeks.

12. Staff updates

12.1. Monthly Reports

13. Adjourn

14. Executive Session



Mayor, Stan Pulliam



City Recorder, Karey Milne



MINUTES
City Council Meeting
Monday, August 5, 2019 City Hall- Council Chambers, 39250
Pioneer Blvd., Sandy, Oregon 97055 6:30 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: Karey Milne, Recorder Clerk, Jordan Wheeler, City Manager, Tyler Deems, Finance Director, and Mike Walker, Public Works Director

MEDIA PRESENT:

1. Pledge of Allegiance

2. Roll Call

3. Changes to the Agenda

4. Public Comment

Dave Carter, 41248 SE Vista Loop Drive, addressed Council regarding his concerns with various traffic related issues on Vista Loop Drive.

Greg Hansen, 38954 Proctor Blvd #B1, addressed Council regarding the Sandy Community Campus and possible partnership opportunities.

Kathleen Walker, 15920 Bluff Road, addressed Council regarding some stuff that we will find out about later.

5. New Business

5.1. Parks Master Plan Update Consultant Selection

Staff Report - 0168

Jordan Wheeler, City Manager, delivered the staff report regarding updates to the Parks and Trails Master Plan. An RFP process was conducted, and it is recommended that ESA be the consulting firm.

Council had questions for staff, and discussion occurred.

Kathleen Walker, Parks Board Chair, provided Council with additional information regarding the Master Plan and scope of work.

Moved by Jan Lee, seconded by Jeremy Pietzold

Motion to enter into an agreement with ESA for Consulting Services to Prepare an Amended Parks and Trails System Master Plan for the proposed cost of \$106,448.16.

CARRIED.

6. WORK SESSION ITEMS

6.1. Community Campus Planning

Staff Report - 0169

Jordan Wheeler, City Manager, opened the work session with an overview of the current status of the community campus, as well as some of the options that the City has for funding and implementing the Community Campus plan.

Council asked questions related to the staff report. They felt that without having updated polling data, they could not answer the multiple questions that were asked in the staff report. Council provided direction for staff to reach out to polling agencies and enter into an agreement to conduct a survey. Council would like to be involved in the polling process.

Additionally, Council discussed renovating vs. constructing a new pool, taxing districts, bonds, and other amenities and funding strategies.

6.2. Timeline for Bell St. - SE 362nd Ave. Extension Project

Staff Report - 0166

Mike Walker, Public Works Director, provided Council an updated timeline on the Bell Street to 362nd Avenue extension project. The new vehicle registration fee and other new house bills will provided revenue to pay debt service on this construction project.

6.3. Wastewater System Facilities Plan Adoption Timeline

Staff Report - 0165

Mike Walker, Public Works Director, addressed Council with an update to the Wastewater System Facilities Plan. Council had questions and comments on the Plan, which Director Walker answered.

7. Report from the City Manager

Jordan Wheeler, City Manager, provided additional information related to the Wastewater Facilities Plan. Manager Wheeler reminded Council of the upcoming League of Oregon Cities conference in Bend at the end of September.

8. Committee / Council Reports

Councilor Exner provided an update on the Tree Committee and the Arts Commission. Councilor Lee provided an update on the recent C-4 Meeting.

Councilor Hamlin thanked staff for approving his permit to host a National Night Out in his neighborhood.

Councilor Peitzold notified Council that he recently spoke with the Parks Director from The Dalles regarding park equipment.

Mayor Pulliam provided Council with a recap of his recent annual Mayors Conference in Medford. Also discussed was a recent meeting with Greater Portland Inc.

9. Staff updates

9.1. Monthly Reports

10. Adjourn



Mayor, Stan Pulliam



City Recorder, Karey Milne



MINUTES
City Council Meeting
Tuesday, September 3, 2019 City Hall- Council Chambers, 39250
Pioneer Blvd., Sandy, Oregon 97055 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, Interim IT/SandyNet Director, Kelly O'Neill, Planning Director, Mike Walker, Public Works Director, Tyler Deems, Finance Director, and Tanya Richardson, Community Services Director

MEDIA PRESENT:

1. Work Session 6PM

2. Roll Call

3. Work Session Items

3.1. Water Meter Replacement and Street Light Conversion Projects Update

Staff Report - 0172

McKinstry delivered the staff report regarding water meter replacement and the street light conversion projects. Thomas Fisher, Engineering Technician, provided additional information to Council. Council asked clarifying questions, which Mr. Fisher answered.

3.2. Updated Wastewater and Water Rate Model

Staff Report - 0173

Doug Gabbard, FCS Group, presented two different rate models to Council, which included water and wastewater. Mr. Gabbard provided different scenarios to Council. These scenarios played with revenue, rates, and total cash reserves required to pay future debt service.

Council asked numerous questions related the models, future rate increases,

and overall debt included in the models. Ultimately, the rate model for water shows a needed increase of nine percent, and one hundred and two percent increase for wastewater. Additionally, wastewater system development charges (SDC) have a suggested rate increase of approximately \$3,000 per unit.

Council made it clear that they want to see the lower possible rate increases for utility customers, but understand that there is a needed amount of revenue to offset the expenses and debt service of the new wastewater facility.

4. Adjourn Work Session

5. Regular Meeting 7PM

6. Pledge of Allegiance

7. Roll Call

8. Changes to the Agenda

No Consent Agenda, as meeting minutes were not completed in time for the Council Meeting.

9. Presentation

9.1. 24 Hours In Sandy Presentation

Thea Ellen, Library Assistant, addressed Council regarding the 24 Hours in Sandy presentation. Mr. Ellen displayed the presentation, and Council thanked her for her work on this project.

10. Public Comment

None.

11. Consent Agenda

11.1. City Council Minutes

12. Ordinances

12.1. Ordinance 2019-16, 18-026 ANN – Bloom Annexation

Staff Report - 0175

James Cramer, Associate Planner, provided Council with information

regarding the property in question. Additionally, information related to future building potential of this property was discussed.

Councilor Hamblin called for a reading of Ordinance 2019-16.

Moved by Jeremy Pietzold, seconded by John Hamblin

Motion to approve the First Reading of Ordinance 2019-16 by title only.

CARRIED.

Moved by Jeremy Pietzold, seconded by John Hamblin

Motion to approve the Second Reading of Ordinance 2019-16 by title only.

CARRIED.

13. New Business

13.1. Parks Board Bylaws, Roles & Responsibilities

Staff Report - 0176

Tanya Richardson, Community Services Director, delivered the staff report on behalf of Sarah Richardson, Recreation Manager. Director Richardson detailed the updated bylaws, roles, and responsibilities for the Parks and Trails Advisory Board.

Council had a few questions related to the documents. Specifically, Council asked that the language stating that meetings are conducted in Council Chambers be removed, so that the Board has the flexibility to meet at a convenient location.

Moved by John Hamblin, seconded by Bethany Shultz

Motion to adopt the Parks and Trails Advisory Board bylaws, roles, and responsibilities, as amended.

CARRIED.

13.2. IGA with Clackamas County for SandyNet ISP Services

Staff Report - 0174

Greg Brewster, Interim IT/SandyNet Director, provided Council with information related to a potential intergovernmental agreement with Clackamas County to provide internet services. Council discussion occurred.

Moved by Jeremy Pietzold, seconded by Carl Exner

Motion to authorize the Mayor to sign the intergovernmental agreement between City of Sandy and Clackamas County.

CARRIED.

13.3. 2019-2021 Special Service Contract Program Outlay & Approval

Staff Report - 0177

David Snyder, Economic Development Manager, addressed Council regarding the Special Service Contract Program. The grant review board met to review the grant applications, and about \$48,000 in grant funding is expected to be approved. One notable change in the program is that the review board would like to allow the remaining balance (\$12,000) be rolled over into the next biennium.

Moved by Carl Exner, seconded by Bethany Shultz

Motion to approve the 2019-2021 Special Service Contract Program.

CARRIED.

13.4. Highway 26 Bypass Feasibility Study Scope and Funding

Staff Report - 0171

Jordan Wheeler, City Manager, provided Council with information related to the possible bypass feasibility study conducted by Oregon Department of Transportation (ODOT). Discussion related to the bypass occurred. Councilors expressed both their concern and support for the project. Councilor Hamblin noted that the title of this project is somewhat misleading in that this is much larger than just a bypass study, and includes overall transportation and traffic review throughout the city. Discussion related to funding the study occurred.

Overall, the project will cost up to \$100,000, with the city's share being \$30,000 less than the total project cost, as ODOT will be contributing those funds. The approximate cost to the city is \$70,000.

Moved by Jeremy Pietzold, seconded by Laurie Smallwood

Motion to authorize the City Manager to move forward with the Highway 26 Bypass Feasibility Study, up to a cost of \$70,000.

CARRIED.

14. Report from the City Manager

Jordan Wheeler, City Manager, sought direction from Council regarding the survey for the Community Campus. Three members of Council volunteered to assist in the survey process with a contracted firm. Those volunteers include Councilor Smallwood, Councilor Shultz, and Mayor Pulliam.

Manager Wheeler also reminded Council of the upcoming Rip City event on September 13th.

15. Committee /Council Reports

Councilor Exner provided Council with various pictures related to PGE's facility in Sandy.

Councilor Lee provided information related to Water Infrastructure Program through the State of Oregon.

Councilor Pietzold thanked staff for their hard work this summer on various events, clean up, and maintenance projects.

Mayor Pulliam thanked various council members for their recent attendance at various events.

16. Staff Updates

16.1. Monthly Reports

17. Adjourn



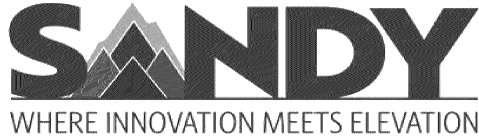
Mayor, Stan Pulliam



City Council
September 3, 2019

City Recorder, Karey Milne

Draft



MINUTES
City Council Meeting
Monday, September 16, 2019 City Hall- Council Chambers, 39250
Pioneer Blvd., Sandy, Oregon 97055 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: Karey Milne, Recorder Clerk, Jordan Wheeler, City Manager, and Mike Walker, Public Works Director

MEDIA PRESENT:

1. **Work Session 6PM**
2. **Roll Call**
3. **Work Session Items**
 - 3.1. Agenda Review
 - 3.2. Wastewater Treatment Plant Operations Update

Mike Green, Project Manager, delivered a six month "progress" and status report to Council. The report included information for both water and sewer, but was geared more towards sewer, given that is where the bulk of issues are located currently.

Council asked questions of Mr. Green, and discussion occurred.

4. **Adjourn Work Session**
5. **Regular Council Meeting 7PM**
6. **Pledge of Allegiance**
7. **Roll Call**
8. **Changes to the Agenda**

9. Public Comment

9.1.

John Taylor, Vice President of the Sandy Lions Club, addressed Council in regards to placing a "Welcome to Sandy" sign on the west end of town. Mr. Taylor is seeking input from Council with respect to the sign design and location.

Councilor Exner provided information to Mr. Taylor regarding the Arts Commission and their next meeting.

Council liked the idea and asked that further research be conducted and brought back to Council at a later date.

10. Presentation

10.1. 2020 Census Presentation

Sarah Bushore, US Census Bureau, presented to Council information related to the 2020 Census.

Council asked various questions related to the census, to which Ms. Bushore provided answers.

11. Consent Agenda

11.1. Clackamas County IGA with SandyNet

Staff Report - 0179

Moved by Jan Lee, seconded by Jeremy Pietzold

Staff Report - 0179

Staff respectfully recommends City Council approval for the City Manager to enter into the IGA with Clackamas County.

CARRIED.

12. New Business

12.1. Wastewater Facilities Plan

Staff Report - 0180

Mayor Pulliam opened the Public Hearing at 7:38 pm. Mike Walker, Public Works Director, provided Council with background information on the Wastewater Facilities Plan report. Staff from MurraySmith were in attendance to provided additional information.

Preston van Meter, MurraySmith, delivered a presentation to Council related to the challenges and drivers of our current and future facilities plan.

Janet Davis, 40606 SE Kubitz Road, addressed Council and thanked them for the research being done on "green" alternatives.

Julie Stephens, 12933 SE Ten Eyck Road, provided Council with information related to her property and Roslin Lake, which includes past flooding issues, as well as other water issues. Ms. Stephens has future concerns related to flooding, should the City use Roslin Lake as a wastewater cooling location.

John Taylor, 18000 Langensand Road, questioned the future loan proceeds to pay for the project.

Moved by John Hamblin, seconded by Carl Exner

Staff Report - 0180

Motion to continue the Public Hearing to October 7, 2019.

CARRIED.

12.2. Proposed Water and Wastewater Rate Increases

Staff Report - 0178

Mayor Pulliam opened the Public Hearing at 8:09 pm. Jordan Wheeler, City Manager, provided Council with background information related to the rate increases for water and sewer rates.

Council discussion occurred related to wastewater rates and the proposed increased over the next decade.

Greg Becker, 14585 Bluff Road, addressed Council to provided comment on the proposed rate increases, and his disappointment in City leadership.

Council discussion continued, with input provided from various members.

Manager Wheeler provided final comments related to the facilities plan, rate increases, and future capital projects.

Moved by John Hamblin, seconded by Bethany Shultz

Motion to continue the Public Hearing to October 7, 2019.

CARRIED.

13. Report from the City Manager

13.1.

Jordan Wheeler, City Manager, provided his report to Council. An update was provided in regards to the By-Pass Study. Council approved Staff to move forward.

In addition, an update was provided related to the future survey of residents for input on the future of the Sandy Community Campus.

14. Committee /Council Reports

14.1.

Councilor Shultz provided an update on the recent Library Committee meeting, which was held this week, and upcoming events, including "The Library of Things."

Councilor Exner requested an update from Director Walker in regards to the sidewalk along Highway 26 to Vista Loop. Director Walker delivered an update to Council. In addition, and recap of the Rip City Rally was provided. Lastly, information related the Tree Committee was provided.

Councilor Lee notified Council of the upcoming Transit Board meeting. Additionally, information on community forests was discussed.

Councilor Hamblin thanked MurraySmith, Public Works, Council, and Manager Wheeler for their hard work on the wastewater facility plan and future rates. Information for his Halloween light show was provided.

Councilor Smallwood provided Council with an update on the recent Parks Board meeting.

Councilor Pietzold added to Councilor Exner's comments related to the Tree Committee. In addition, the upcoming Library Haunt was highlighted. More

information will be provided at the next Council meeting.

Mayor Pulliam notified Council that he will be meeting with Steve Brown to discuss possible new routes for the Sandy Mountain Festival Parade. Additionally, he thanked staff for their work in coordinating the Rip City Rally event. The question was also posed as to when the next Council Retreat will be held. Council determined that the meeting should be held in January. This Wednesday, the Chamber will be hosting "Good Morning Sandy" event at 7:30 am at Avemere.

15. Staff updates

15.1. Monthly Reports

16. Adjourn

Draft



Mayor, Stan Pulliam



City Recorder, Karey Milne



Staff Report

Meeting Date: October 7, 2019

From Mike Walker, Public Works Director

SUBJECT: Continuation of Hearing on Wastewater System Facilities Plan

Background:

City Council opened a public hearing at their September 16th meeting to hear testimony regarding the Wastewater System Facilities Plan and the preferred alternative (Alternative D). Murraysmith presented an overview of the facilities planning process and the preferred alternative. Alternative D includes construction of a new treatment plant in the city limits to divert high flows upstream of the existing plant, and treat these flows and pump them to a site (to be determined in Phase II) in the Sandy River basin. Staff recommended that the Council adopt the preferred alternative but not select a discharge method or site until further study (funded by a \$0.5M grant from the Oregon Legislature) is conducted on various discharge alternatives.

Two members of the public provided testimony and one written question was received prior to the hearing. In addition written testimony received on the Plan during the public comment period is attached to this staff report. The Council chose to continue the hearing to the October 7th meeting in order to receive additional public testimony.

The Facilities Plan is posted online at <https://www.ci.sandy.or.us/sewer-wastewater-system-facilities-plan>.

Recommendation:

Solicit testimony from the public, close the hearing, and adopt Alternative D. Direct staff to perform additional analysis of discharge alternatives in the Sandy Basin.

9/30/2019

City of Sandy Mail - Re: new waste water treatment plant



MW <mwalker@ci.sandy.or.us>

Re: new waste water treatment plant

1 message

MW <mwalker@ci.sandy.or.us>

Mon, Sep 16, 2019 at 2:27 PM

To: "manleyde@frontier.com" <manleyde@frontier.com>

The proposed location is on City-owned land near the intersection of University Ave and Sunset St. please let us know if you need additional information.

On Fri, Sep 13, 2019 at 6:08 PM manleyde@frontier.com <manleyde@frontier.com> wrote:

Would you tell me where the new treatment plant will be built?

Thank you,

--

Mike Walker
Director of Public Works
City of Sandy
39250 Pioneer Blvd.
Sandy, OR 97055

8/15/2019

City of Sandy Mail - Wastewater System plan comment



MW <mwalker@ci.sandy.or.us>

Wastewater System plan comment

1 message

Janet Davis <phnjanet@hotmail.com>

Thu, Aug 1, 2019 at 11:22 AM

To: "wsfp@ci.sandy.or.us" <wsfp@ci.sandy.or.us>

As a land owner and resident on the Sandy River, I urge the City of Sandy to use the \$500,000 budgeted by the State Legislature to conduct a "green alternative analysis" for the future wastewater system needed. The current plan available for review on-line and at the library does not utilize the currently available technologies. Putting treated wastewater in the Sandy River is NOT an appropriate or necessary solution.

Janet Davis
40601 SE Kubitz Road
Sandy, OR 97055
phnjanet@hotmail.com



Clackamas River Basin Council

P.O. Box 1869 • Clackamas, OR 97015 • www.clackamasriver.org • Email: info@clackamasriver.org
503.303.4372 FAX 503.303.5176

April 4, 2019

Stan Pulliam, Mayor
Jordan Wheeler, City Manager
City of Sandy
39250 Pioneer Blvd.
Sandy, OR 97055

Re: City of Sandy Draft Sewerage Facilities Plan

Dear Mayor Pulliam and Mr. Wheeler;

Thank you for inviting representatives of the Clackamas River Basin Council to your February 13, 2019, meeting at Sandy City Hall concerning the future of the city's sewerage facilities. We found it very informative and especially appreciated the wide range of comments. Your city council has a broad range of challenging issues to contemplate and resolve, complicated by substantial costs and a broad diversity of interests.

That said, our council is especially impressed with your consultant's presentation of realistic options for sewerage system improvements and the firm's responses to difficult questions and statements.

Our mission is to foster partnerships for clean water, improve fish and wildlife habitat and enhance the quality of life for those who live, work and recreate in the Clackamas River watershed. Our river is home to several key protected fish species, including spring and fall Chinook and Coho salmon, winter steelhead, bull trout and Pacific lamprey. Our main focus on your system is the fate of Tickle Creek, a spawning stream and important tributary to Deep Creek.

Our concerns include:

1. Chlorinated discharges which may kill – and, recently, have killed – protected salmonids, and other fish and invertebrates.
1. Violations of TSS, BOD, and disinfection standards which, if not addressed, may adversely impact Clackamas River municipal drinking water users. Close to half a million residents in the metropolitan area depend on this source of clean drinking water.

The Clackamas River Basin Council urges the City of Sandy to immediately take action to prevent additional water quality violations in Tickle Creek, rather than wait for construction of the new sewer system improvements. We're aware conditions at the treatment plant have improved under new management, but hope the city can do more.

For example, we request that the Sandy City Council immediately: 1) monitor effluent more frequently and establish an alarm system to instantly notify operators when there is a problem so they can quickly respond to avert the overflow or repair a break in a pipe; and, 2) construct additional storage ponds to prevent overflows.

As you know, the Oregon Department of Environmental Quality (DEQ) developed a “three basin rule” decades ago to specifically protect municipal drinking water supplies from the Clackamas, North Santiam, and McKenzie rivers (OAR 340-041-0350). DEQ correctly anticipated population growth that would both increase demand for drinking water and potentially increase sewage pollutant discharges. The rule sharply restricts any increases in wastewater discharges in the Clackamas River Basin and must be given careful consideration in your future planning and implementation.

Dilution is also an ally for temperature mitigation for effluent from ordinary sewage treatment plant operating conditions. Flow in Tickle Creek, however, ranges from 3 cfs in the summer low flow periods to about 35 cfs under normal winter conditions (not counting flood events). Thus, Tickle Creek, while convenient, is a challenging location for accidental discharge. While the DEQ may levy fines with each violation, those do little to mitigate permanent damage to fragile fish and wildlife populations.

In addition to providing critical habitat to protected fish species, as mentioned, the Clackamas River supplies potable water and recreational opportunities to the entire metropolitan area.

As within the City of Sandy, projected growth will continue to increase the demand for clean water and safe recreational opportunities from the Clackamas River.

The Clackamas River Basin Council looks forward to working with the City of Sandy and assisting in any way we can to continue to protect Tickle Creek.

Thank you for this opportunity to comment.

Sincerely,



Bill Monroe, Chair-Elect



Cheryl McGinnis, Executive Director

Copy: City of Sandy City Council Members
Rob Lee & Michael Carr, Murraysmith
Randy Bailey, Tiffany Yelton-Bram & Mike Greenburg, DEQ
Jeff Boechler & Ben Walczak, ODFW
Kim Swan, Clackamas River Water Providers
Steve Wise, Sandy River Watershed Council



March 1, 2019

Mayor Stan Pulliam
City of Sandy

Dear Mayor Pulliam:

The Sandy River Basin Watershed Council is concerned about potential impacts from expanded wastewater treatment infrastructure, and regarding issues raised in the City's draft Wastewater Treatment Plan regarding potential future effluent release to the Sandy River. Both the Sandy and Clackamas Rivers represent wild salmon strongholds whose health, water quality and temperature are essential to regional recovery effort in the Lower Columbia River.

After reviewing the draft plan and attending recent information sessions, we have identified missing components in Draft Facility Plan. In particular, we see the opportunity to integrate conservation-based, green infrastructure approaches that would enhance the effectiveness of treatment and pipe infrastructure expansion currently considered in the plan.

In short, Sandy needs to think outside the pipe, evaluating and incorporating natural drainage systems, conservation-oriented approaches to reduce or eliminate discharge directly to rivers. The City's infrastructure approach needs to support Salmon Strongholds represented by both the Sandy and Clackamas and their wild fish, anchor populations for regional recovery where multi-partner, decades long efforts are investing in restoring habitat.

That particularly means:

- addressing effluent temperature, a factor highlighted in the current analyses but neither analyzed nor assigned a cost (capital or operating) in the draft plan;
- ensuring compliance with 303d listings and temperature TMDL for the Sandy (one of several potential regulatory hurdles that may be costly and so far unaccounted for.)

Appropriately addressing and preventing adverse impacts to both the Sandy and Clackamas is an opportunity to support the millions invested by conservation partnerships including public and private agencies and thousands of volunteers, including USFS, Portland Water Bureau, two counties' SWCDs, watershed councils and many many more. By potentially utilizing landscape approaches, and enhancing the effectiveness of conventional treatment systems, green, conservation based approaches will save money, reduce the capacity needed in new pipe and treatment infrastructure, and be a more sustainable investment for Sandy's future.

We recommend that Sandy evaluate the potential functional and cost efficiency of available green solutions. The primary issue for the City, in the short term, seems to be peak volumes for wastewater and stormwater. Existing or expanded facilities could accommodate expected discharge if the system produced a reduced peak flow. The plan seeks to "characterizing non-wastewater flows, evaluating the opportunities to reduce those flows and determining the benefits of reduced flows to reduce needed capacity improvements in the conveyance and treatments systems." but doesn't analyze how to reduce those flows through demand management, conservation, and sustainable stormwater management.

Sandyriver.org

503-622-9144

@SandyWatershed

We recommend the City of Sandy should expand analysis to include:

- **Inventory the sewershed basins that discharge highest volumes** of effluent and develop a conservation strategy for those basins specifically.
- **Quantify volume reduction available through conservation-based retrofits** of efficient fixtures, appliances or other scaled voluntary retrofits that could mitigate short-term challenges related to peak flow;
- **Assess of green stormwater management opportunities** and the potential reduction in stormwater volumes such as tree canopy expansion, raingardens, downspout disconnections, infiltration trenches and other types of natural drainage or green stormwater infrastructure.

We commend the City for having a stormwater management incentive program and for establishing a stormwater utility fee. The City also has code which requires effective stormwater management for all new development. However, the City's Stormwater Master Plan has not been updated since 2005 and is no longer publicly available on the City website. AND the majority of the City's impervious surfaces and peak storm flows occur in areas of the City where the code does not apply: previously built structures that have been grandfathered in. Typical Master plans are revised every 10 years. The City's Plan is 14 years old. There is an opportunity to develop a revised Stormwater Master Plan that inventories all existing stormwater infrastructure with a specific focus on controlling water at the source. It may be possible to adapt elements of sustainable stormwater plans from other municipalities, such as the City of Portland's Stormwater Master Plan, which identifies and prioritizes retrofit opportunities there, or master planning process as nearby Oregon cities such as Canby, Dallas, and Tigard.

Sandy's plan **needs to evaluate other potential re-uses for treated water, including further distribution for agriculture, treatment wetlands and other options.** The City should be commended for currently using the green solution of beneficial use of summer wastewater for irrigation at Iseli Nursery. Other communities distribute treated water through 'purple pipes' to parks, golf courses and other non-potable re-uses as alternatives to disposing of effluent in river outfalls. There may be other nurseries besides Iseli, or other agricultural or industrial consumers, who could reduce flow to outfalls.

Oregon examples include Medford, Eugene, Clean Water Services. The City of Woodburn used of designed wetlands and irrigation of poplar plantations to receive treated effluent thereby drastically reducing discharges to the Pudding river from May 1 through October 31.

The preferred alternative identified in the Facilities Plan (partial discharge to Sandy and Clackamas) **fails to include environmental permitting, or approaches to comply with temperature standards including the Sandy TMDL as major capital and energy costs**

- The plan's analysis of regulatory issues (section 4.5.3.2) refers Tickle Creek but does not address temperature an existing TMDL in Sandy. Analysis must account for Sandy temperature TMDL and seasonal temperature ranges needed to protect wild fish migration.
- EPA recently declared the Sandy a Cold Water Refuge for migrating fish in the Columbia, so the issue of temperature is greater than the Sandy's own fish populations. The temperature effect of potential Sandy effluent must support future cold water refuge values.
- The plan's energy analysis says the biggest cost driver between Sandy options is pumping cost; but it **does not analyze temperature** (cooling) energy requirements to meet Sandy TMDL restrictions. Future plans need to include Net Present Value energy cost to meet temperature requirements In both the Sandy and Clackamas.

- A potential release of 7 MGD represents approximately 10 CFS of flow, a significant component of Sandy River summer flows that may be 300 cfs or lower, particularly with climate change models projecting lower stream flows and higher summer temperatures for longer periods.
- Similar compliance studies conducted recently cost upwards of \$2 million. These studies often occur in several iterations of several years. The City of Sandy needs to be prepared for several years of environmental studies on the Sandy River, a wild and scenic river and regional jewel.

We also recommend that Sandy consider **innovative permitting to meet temperature and other requirements through green infrastructure**. Several communities in our state have encountered similar crossroads and have been challenged to cost-effectively and adequately address their wastewater needs. And several communities in our State have worked with the regulatory and conservation communities to develop innovative wastewater solutions. We encourage City staff and City council to reach out to colleagues at City of Eugene, Medford, and Cleanwater Services of Washington County to learn from their development of innovative permits utilizing green infrastructure.

In summary, we encourage the City of Sandy to **extend the Wastewater Treatment Plan's analysis to evaluate and invest in green solutions**, including conservation based approaches, green infrastructure stormwater, and natural systems and re-use for treated effluent. Conservation based, demand management at the front end and natural systems at the back end will produce a more affordable, sustainable system that supports regional salmon recovery, quality of life, and put the City of Sandy in a leadership position for coping with the impacts of growth.

The Sandy River Watershed Council looks forward to working with the City of Sandy to identify and implement solutions that protect the Sandy and Clackamas Rivers' extraordinary natural values, while cost-effectively support sustainable infrastructure for Sandy's future.

Sincerely,



Steve Wise
Executive Director

Questions / Comments from February 13 WSFP Presentation

- LS – Is there potential for an option other than Sandy River discharge?
- Steve Rayne?– Do the estimates include the cost of temperature mitigation measures?
- Steve Rayne? - Have you looked at wetland treatment in the Clackamas River basin?
- ? – A TMDL for temperature in the Columbia has not been established. Any allocation for temperature in the Sandy Basin may be affected by a Columbia River temperature TMDL – has this been considered?
- ? When would the temperature evaluation be complete?
- ? Is there an opportunity to reduce stormwater impacts to the sanitary collection system by improving the stormwater system?
- ? What about multiple satellite plants?
- Would a satellite plant be operational on Day 1 or would it only be used for peak flows?
- Jan Lee – Would property owners be required to pay for lateral repairs or upgrades?
- Carl Exner – Would a Cascadia Subduction Zone earthquake impact the existing or upgraded collection system?
- ? Does all treated water go to re-use now (May-October)? Why not use treated water for re-use instead of discharge to Sandy River?
- Could treated wastewater be infiltrated and used to supplement groundwater?
- Steve Wise – Is temperature mitigation included in the cost estimates for Sandy River discharge? (capital and O&M costs)
- Jeremy Pietzold - Can 3-Basin rule be modified? Can NPDES permit be modified to allow stream discharge during storm events in May and October?
- Population grows – costs go up, what can cities do?
- Have you considered natural treatment systems, wetlands, etc.?
- Could the former site of Roslyn Lake be used for natural treatment system or temperature mitigation?
- Steve Wise - What about demand management? i.e. reducing wastewater flows from homes and businesses during storm events.



Mike Walker <mwalker@ci.sandy.or.us>

RE: report

1 message

Greg Elwell <gelwell@iselinursery.com>

Tue, Dec 4, 2018 at 2:06 PM

To: Mike Walker <mwalker@ci.sandy.or.us>

Cc: Eric Marsh - Iseli <emarsh@iselinursery.com>, Milton Tobie - Iseli <mtobie@iselinursery.com>

Mike,

There have not been overflows from Iseli ponds during the permit period, for this reason the first sentence in the second paragraph on page 9-5 should be removed from the report. The sentence reads, "there have been several occasions when the Iseli ponds have overflowed and Class B recycled water has been discharged to Tickle Creek in violation of the City's NPDES Permit." This is not factual, Iseli ponds have not overflowed and I am certain documentation of overflows which haven't occurred do not exist.

Can this be changed so that a more accurate reflection of Iseli's stewardship regarding use of the recycled water is provided in the report?

Greg Elwell

From: Mike Walker [mailto:mwalker@ci.sandy.or.us]

Sent: Monday, November 26, 2018 10:02 AM

To: Greg Elwell

Subject: Re: report

Greg,

Here are links to the draft plan and appendix:

Volume 1

<https://msaep.sharepoint.com/:b:/s/EFS/EfXZr3fROI9GoBuIEOwcQskBndZiNIFYc3a011h8PBbGQ?e=xSsdqE>

Appendices

<https://msaep.sharepoint.com/:b:/s/EFS/EZuz6bdmrORMsomTUE5kdSwBy1tUcclrquJYxNmX8kQxfA?e=jlQFyl>

Sections 9 and 10 in Volume I are the detailed discussion of the alternatives.

December 20, 2018

Carl Exner, City Councilor
39250 Pioneer Blvd
Sandy, OR 97055

Dear Mr. Exner:

On December 11, 2018, I attended an informational meeting put on by the City of Sandy. The topic was “Waste Water Treatment Plant Design Update” but said meeting also covered the entire City of Sandy sewerage system, that including the sewage collection system and the sewage treatment plant (STP).

Murraysmith, the city’s engineering consultant firm, made an excellent presentation in my opinion regarding the status of Sandy’s sewage facilities plan (FP). Understandably, no copies of the FP presentation were made available given this early stage of the city’s planning and approval process. However, you have agreed to share murraysmith’s PowerPoint presentation with interested persons. Please include me in that list.

My principal interest in this matter is Tickle Creek, a small tributary of Deep Creek, a tributary of the Clackamas River. Sandy sends their STP effluent to a pond at a nursery more or less during the summer months where the effluent is subsequently irrigated on containerized trees. During the winter, the STP discharges directly to Tickle Creek primarily at the location of the tree-farm pump station some distance downstream on the creek from the STP.

Numerous effluent violations have been observed from the STP which has resulted in unfortunate discharges to Tickle Creek. Some violations have been enforced upon by the Oregon Department of Environmental Quality (DEQ). Of most concern to me are those that have resulted in the discharge of chlorine to Tickle Creek, causing death of salmonids and other fish in that stream.

Murraysmith did an excellent job of describing alternatives for remediation of the above problems in their early draft of the facilities plan. Unfortunately, none of those alternatives immediately address the problems in Tickle Creek – i.e. before implementation of the ultimate solution(s) 2 to 4 years from today. Thus, my concern is that there will be more, perhaps many more, fish kill events before this problem is hopefully solved permanently four (4) years from now.

Accordingly, I offer the following commentary, suggestions, and questions for your consideration.

INTERIM STEPS BEFORE IMPLEMENTATION OF THE “FINAL” SOLUTION(S)

It appears that the need for additional storage during the summer months is essential and urgent, but geographic-space at the existing STP site is very limited. How about:

1. Constructing more ponds ASAP on the limited space of the STP?

2. Iseli Nursery apparently has opportunities to use more than the one (1) pond currently used by the City. How about using more of Iseli's ponds? Or constructing more ponds there for Iseli's use if such additional ponds do not exist? Iseli appears to have vastly more than ample acreage than that needed to meet effluent irrigation limitations for the city's STP.
3. How about finding additional container nurseries for ponds and subsequent irrigation? Surely this could be less expensive than piping effluent to Deep Creek as suggested in one of murraysmith's alternatives.
4. About Iseli themselves, are they dependable for use of their pond(s) into the future, or is their pond and use thereof a vulnerable asset? If vulnerable, Sandy is at risk, perhaps great risk, for lacking additional effluent storage ponds in the summer and/or for storage of "upset condition" effluent that does not meet NPDES discharge standards, especially for chlorine residual.
5. Upset conditions at the STP also appear to be a significant problem in the winter. What about the use of the above combination of ponds in the winter to hold said upsets, then irrigation later by Iseli or returning the material to the STP for treatment during non-storm events? I heard during the presentation that the Iseli pond(s) are full at the end of summer, but is that really the case? In other words, does not irrigation on the containerized-trees from the pond(s) cause the pond(s) to be drawn down thus have available storage capacity?
6. If additional ponds are constructed, obtained from the Iseli's, and/or permitted/acquired from other nurseries, great flexibility in effluent management could be obtained for Sandy year round rather than use just in the summer months.
7. Finally, I did not see any discussion of dechlorination either at the STP or at potential overflows from the Iseli pond. It is relatively inexpensive and effective.

ULTIMATE SOLUTION ALTERNATIVE(S)

I was very impressed with murraysmith's presentation of potential options for total or partial discharge of Sandy's treated effluent to the Sandy River.

The satellite STP alternative rang bells for me because it offered the following possibilities that I would think the City of Sandy would find compelling:

1. Regardless of Sandy's considerable and expensive I&I improvements, Tickle Creek simply can not lawfully accommodate the city's growth in effluent load without extraordinary and costly STP improvements.
2. Murraysmith suggests that a satellite STP could be modular. In other words, as growth occurred, more modules could be added likely without significant additional pumping costs. Perhaps SDC's could pay for much of the initial satellite construction, but if not, SDC's could perhaps at least support the addition of modules to increase treatment capacity.
3. This approach dramatically lends itself to phasing of projects, thus to scheduling and cost-control management.
4. The satellite STP could become the ultimate, singular, target STP over time as force mains were constructed by degrees with the aim of eventual elimination of the Tickle Creek STP.

OTHER COMMENTARY

Operation and maintenance of Sandy's current/existing STP has been a problem and I did not hear anything about how that problem might be addressed in the near term. Clackamas County Water and Environmental Services (WES) runs nearby wastewater treatment plants beyond the Tri-City plant in Oregon City, e.g. Hoodland which currently discharges to the Sandy River. Should WES be considered for being an operator of Sandy's new STP(s)? And perhaps even an owner? What about WES management of the existing STP? I noted that Hoodland and City of Boring STP operators were at the December 11 meeting but did not publicly speak or answer questions.

I was impressed by Sandy's interest in the generation of electricity from ultimate sewerage facility system improvements. A possibility that I did not hear mentioned was that of placing a generator(s) in the discharge pipe to the Sandy River. If membrane or other technology were to be used at the satellite plant, solids would not be a problem for the turbines; such discharge could provide significant head for power generation, possibly exceeding that required for pumping of raw sewage to the satellite STP. Why? Because the head associated with the drop to the Sandy River exceeds the "uplift" required to pump sewage to the satellite.

Sincerely,

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Cc: Jim Myron, NFS, Waterwatch
Todd Alsbury, ODFW
Rob Lee, murraysmith
Randal Bailey, DEQ
Tiffany Yelton-Bram, DEQ
Zach Bergen, CRBC



Staff Report

Meeting Date: October 7, 2019

From Mike Walker, Public Works Director

SUBJECT: Wastewater SDCs, Resolutions 2019-17 and 2019-18

Background:

As part of the work to update the City's wastewater rates FCS Group also developed new System Development Charges (SDCs) for the sewer system. SDCs are funds collected from new development when building permits are issued intended to offset the costs to expand or enlarge capacity in the system to accommodate growth. The Capital Improvement Plan developed as part the Wastewater System Facilities Plan includes several projects that increase the capacity of the system to accommodate new development. These projects include expanding or adding pump stations in the collection system, enlarging some pipelines to handle additional flows and most notably a new wastewater treatment plant. The cost of all or parts of these projects are included in the proposed SDC. The methodology used to develop the SDC and the proposed charges are in the attached report prepared by FCS Group.

Notice was mailed to interested parties (Metro Home Builder's Assn.; Oregon Manufactured Housing Assn.; Black-Helterline, LLC and Nail Construction) on our notification list 90 days in advance of the hearing and the SDC methodology and the proposed charges were made available for review on the City's website on August 5th per the requirements of ORS 223.304. In addition staff recently sent notice of the hearing to active single-family home builders in Sandy.

The existing SDC is \$1,834 per Equivalent Dwelling Unit (EDU - the equivalent amount and strength of sewage generated by a single-family dwelling). The proposed SDC is \$4,889 per EDU. A chart comparing our current charge to SDCs in comparable communities is included on p. 11 of the report.

Recommendation:

Open the hearing and solicit testimony on the methodology and proposed SDCs. Adopt Resolution 2019-17 establishing the methodology and Resolution 2019-18 changing the Master Fee Schedule to reflect the new System Development Charge for wastewater service.

City of Sandy

WATER RATE, WASTEWATER RATE, AND WASTEWATER SYSTEM DEVELOPMENT CHARGE UPDATE

DRAFT REPORT
October 1, 2019

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Section I. INTRODUCTION

This section describes the policy context and project scope upon which the body of this report is based. Because the water and wastewater utilities operate as self-supporting entities, the report provides a financial plan that will allow the City of Sandy (City) water and wastewater utilities to implement their respective capital improvement plans (CIPs) while meeting their other financial obligations and policy objectives as stand-alone enterprises. The components of this plan are (1) revenue requirement projections with recommended rate adjustments for both water and wastewater and (2) an updated wastewater system development charge (SDC).

I.A. PROJECT

The City contracted with FCS GROUP to perform both a water and wastewater financial plan and a wastewater SDC update. We conducted the study using the following general approach:

- **Policy Framework for Charges.** In this step, we worked with City staff to identify and agree on the approach to be used and the components to be included in the analysis.
- **Technical Analysis.** In this step, we worked with City staff to perform a detailed financial analysis and revenue requirement for the water and wastewater services. We also worked with staff to isolate the recoverable portion of planned facility costs and calculate an updated SDC for the wastewater utility.
- **Presentation and Report Preparation.** In this step, we presented findings and recommendations to the City Council and documented them in this report.

I.B. REVENUE REQUIREMENT METHODOLOGY

The revenue requirement is the amount of revenue that a utility's rates must generate to enable it to meet its various financial obligations. This analysis has two main purposes. It serves as a means of evaluating the utility's fiscal health and adequacy of current rate levels, and it sets the revenue basis for near-term and long-term rate planning. The rate revenue requirement is defined as the total revenue needs less the revenue generated through non-rate sources. Hence, the revenue requirement analysis involves defining and forecasting both needs and resources.

We begin by defining the City's resource needs. To define operating needs, we forecast operating expenditures as a function of the current operating budget and a set of escalation rates agreed upon with City staff. To define the capital needs, we forecast capital expenditures as a function of the current CIP and an escalation rate for capital project costs agreed upon with City staff. To define fiscal policies, we discuss target reserve levels with City staff and incorporate agreed-upon objectives into the cash needs.

We then determine the rate revenue necessary to accomplish these goals in the context of two revenue sufficiency tests:

- **Cash Flow Test:** The cash flow test requires that annual revenues be sufficient to fund all cash requirements for each year of the planning period. Typically these include O&M expenditures, debt service payments, rate-funded capital outlays, and any additions to reserve balances.
- **Coverage Test:** The coverage test requires that the City meet any applicable debt service coverage requirements, as specified by the City’s bond covenants and internal debt policies. This test focuses on annual performance. Debt coverage calculations generally do not consider use of reserves, so meeting the applicable coverage requirements may result in the generation of excess cash flow that can be used for funding capital projects or any other utility-related purpose.

Based on the resulting multi-year forecast of resource needs and demand projections, we calculate the percent adjustments to rates that would be required to meet all resource needs. If feasible and desirable, we also include the issuance of new debt in our calculations as a means to mitigate near-term rate increases and address intergenerational equity concerns.

I.C. SYSTEM DEVELOPMENT CHARGES

Oregon Revised Statutes (ORS) 223.297 to 223.314 authorize local governments to establish SDCs. These are one-time fees on new development paid at the time of development. SDCs are intended to recover a fair share of the cost of existing and planned facilities that provide capacity to serve future growth.

ORS 223.299 defines two types of SDCs:

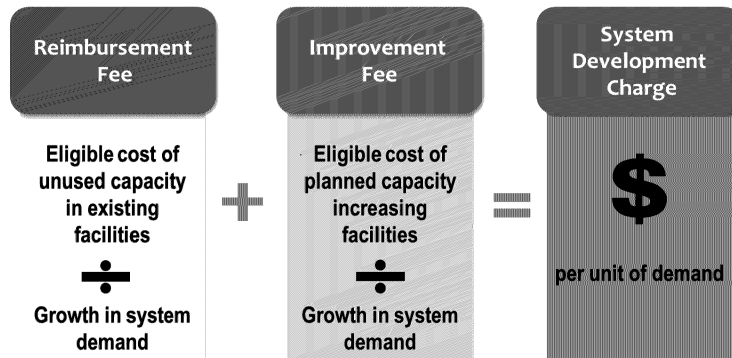
- A reimbursement fee that is designed to recover “costs associated with capital improvements already constructed, or under construction when the fee is established, for which the local government determines that capacity exists”
- An improvement fee that is designed to recover “costs associated with capital improvements to be constructed”

ORS 223.304(1) states, in part, that a reimbursement fee must be based on “the value of unused capacity available to future system users or the cost of existing facilities” and must account for prior contributions by existing users and any gifted or grant-funded facilities. The calculation must “promote the objective of future system users contributing no more than an equitable share to the cost of existing facilities.” A reimbursement fee may be spent on any capital improvement related to the system for which it is being charged (whether cash-financed or debt-financed) and on the costs of compliance with Oregon’s SDC law.

ORS 223.304(2) states, in part, that an improvement fee must be calculated to include only the cost of projected capital improvements needed to increase system capacity for future users. In other words, the cost of planned projects that correct existing deficiencies or do not otherwise increase capacity for future users may not be included in the improvement fee calculation. An improvement fee may be spent only on capital improvements (or portions thereof) that increase the capacity of the system for which it is being charged (whether cash-financed or debt-financed) and on the costs of compliance with Oregon’s SDC law.

In general, SDCs are calculated by adding a reimbursement fee component and an improvement fee component—both with potential adjustments, and perhaps including a fee for compliance costs. Each component is calculated by dividing the eligible cost by growth in units of demand. The unit of demand becomes the basis of the charge. **Figure 1** shows this calculation in equation format.

Figure 1. SDC Equation



Section II. WASTEWATER SDC ANALYSIS

System development charges (SDCs) are one-time fees imposed on new development to recover the cost of system facilities needed to serve that growth. This section provides the rationale and calculations for proposed wastewater SDCs. As discussed in **Section I**, an SDC can include three components: a reimbursement fee, an improvement fee, and compliance cost recovery. Below we provide detailed calculations for the reimbursement and improvement fee components. This analysis draws on the Wastewater System Facilities Plan, produced in January 2019.

II.A. CUSTOMER BASE/GROWTH

Before identifying costs included in the SDC we must arrive at the customer base which serves as the denominator for the equation. The City currently charges sewer SDCs on the basis of equivalent dwelling units, (EDUs) where one EDU is equivalent to 181 gallons per day (gpd) of flow. This calculation continues that assumption.

In addition, to estimate the total number of EDUs expected by the end of the planning period in fiscal year FY 2039-40, the average dry weather flow (ADWF) of the total sewer system is considered for both FY 2016-17 and FY 2039-40. Using ADWF allows us to approximate the total flow of the system related to customer demand and not to rain derived infiltration or inflow, which in turn makes ADWF a good approximation of the total number of customers.

In FY 2016-17, the City had 1.0 million gallons per day (MGD) of flow in the total sewer system when measured in average dry weather flow. The System Facilities Plan expects that in FY 2039-40, there will be 2.0 MGD of average dry weather flow in the system. Note that because 181 gpd is defined as one EDU, we can divide the total flow of the system at 2017 and 2040 by 181 to arrive at the total EDUs for both years. The calculations are summarized below and show that the wastewater system is expected to add 5,525 EDUs over the period between 2017 and 2040. This estimate of growth serves as the denominator in the SDC calculation.

Figure 2. Current Customers and Customer Projections

	2017	2040	Growth
Avg. Dry Weather Flow (MGD)	1.0	2.0	1.0
EDUs	5,525	11,050	5,525

Source: System Facilities Plan

II.B. REIMBURSEMENT FEE COST BASIS

As stated in **Section I**, the reimbursement fee is based on the value or cost of unused capacity available to future system users. Discussions with City staff revealed that there is currently no

capacity available to future system users. Thus, there is no basis on which to charge a reimbursement fee.

II.C. IMPROVEMENT FEE COST BASIS

The improvement fee portion of the SDC is based on a list of planned capacity-increasing capital improvements. The portion of each project that can be included in the improvement fee cost basis is determined by the extent to which the project creates capacity for future users. The City provided SDC eligibility for each project. Total SDC-eligible costs for the improvement fee are \$26,548,200, as shown in **Figure 3**. Note that the original costs in are inflated to 2019 dollars in column 4 using the 20-City Average of the Engineering New Record Construction Cost Index. The original estimates were in 2018 dollars.

Figure 3. Wastewater Capital Improvement Program

Description	\$ Original Cost	Timing	% SDC Eligibility	\$ Capacity Expanding (2019)
Sandy Bluff: Additional pumping capacity, mechanical and electrical upgrades	2,600,000	2021-2022	0%	-
Jacoby/Timberline Trails: Additional pumping capacity	100,000	2020-2021	0%	-
Marcy Street: Additional pumping capacity, mechanical and electrical upgrades	400,000	2020-2021	0%	-
Meinig Avenue: Additional pumping capacity, mechanical and electrical upgrades	700,000	2031-2032	100%	720,300
Snowberry Pump Station: Additional pumping capacity	100,000	2033-2034	100%	102,900
Sandy Bluff: FM upgrades	200,000	2019-2022	0%	-
Jacoby/Timberline Trails: FM upgrades	200,000	2019-2022	0%	-
Sandy Heights - Dubarko Road: Gravity upgrade	900,000	2025-2028	100%	926,100
Dubarko Road at Tupper Rd: Gravity upgrade	500,000	2035-2036	100%	514,500
Sandy Bluff : Gravity upgrade	300,000	2037-2038	100%	308,700
Site-specific: Flow Monitoring (minimum 5 locations, permanent and temporary)	300,000	2019-2021	0%	-
33% of System: Condition Inspection (CCTV)	510,000	2020-2022	0%	-
System-wide: Smoke Testing	170,000	2019-2020	0%	-
Basin 2 : Rehabilitation (piping and laterals)	3,400,000	2019-2022	0%	-
Basin 8 : Rehabilitation (piping and laterals)	2,800,000	2019-2022	0%	-
System-wide: Stormwater Disconnects	1,500,000	2019-2022	0%	-
System-wide: \$200k/yr ongoing RDII	1,600,000	2025-2031	0%	-
System-wide: Collection system repair and replacement program	1,600,000	2033-2040	0%	-
Existing WWTP: Headworks Upgrade	2,280,000	2025-2026	100%	2,346,120
Existing WWTP: Primary Clarifiers	4,150,000	2028-2029	100%	4,270,350
Existing WWTP: Anaerobic Digester	5,150,000	2029-2030	100%	5,299,350
Existing WWTP: Dewatering Upgrades	7,100,000	2026-2027	100%	7,305,900
Existing WWTP: Dryer	1,120,000	2027-2028	100%	1,152,480
Existing WWTP: Filter/UV	1,400,000	2033-2034	100%	1,440,600
Existing WWTP: Condition Assessment Improvements	2,500,000	2019-2020	0%	-
Existing WWTP: Iseli Pump Station Upgrades	1,400,000	2021-2022	0%	-
Eastside Treatment Facility: Diversion Pump Station	7,200,000	2019-2022	0%	-
Eastside Treatment Facility: Force main to Sandy Outfall	1,000,000	2019-2022	0%	-
Eastside Treatment Facility: Sandy River Outfall	12,800,000	2019-2022	0%	-
Eastside Treatment Facility: Headworks	4,510,000	2019-2022	0%	-
Eastside Treatment Facility: Membrane Bioreactor	15,360,000	2019-2022	14%	2,160,900
Eastside Treatment Facility: Disinfection	1,080,000	2019-2022	0%	-
Eastside Treatment Facility: Satellite Solids Return	350,000	2019-2022	0%	-
Total	85,280,000			26,548,200

II.D. ADJUSTMENTS

The improvement fee costs basis must also be adjusted to account for any unspent SDC monies the City has available to avoid double-charging customers for improvements. However, the City currently has no unspent wastewater SDC revenues.

ORS 223.307(5) authorizes the expenditure of SDCs on “the costs of complying with the provisions of ORS 223.297 to 223.314, including the costs of developing system development charge methodologies and providing an annual accounting of system development charge expenditures.” The city provided an estimate of \$20,132 in compliance costs for each year between 2017 and 2040.

II.E. CALCULATED SDC

Dividing the cost bases by the projected growth in MCEs produces the proposed SDC. **Figure 4** summarizes the components of the SDC. The proposed SDC is \$4,889 per EDU. This includes a \$4,805 improvement fee and an \$84 compliance fee.

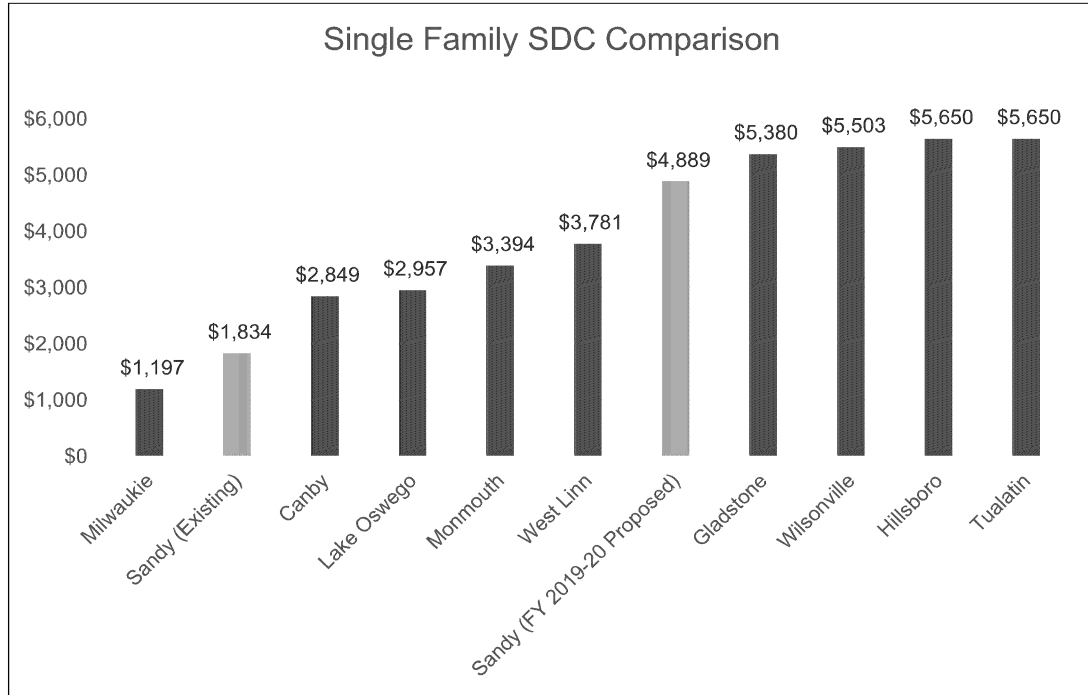
Figure 4. Calculated SDC

SDC	SDC-Eligible	
Reimbursement Fee		
Cost of Unused Capacity		
Less: Contributions		
Less: Pro-Rata Share of Debt Principal		
Less: Reimbursement Fee Fund Balance		
Reimbursement Fee Cost Basis		
Growth to End of Planning Period		
Reimbursement Fee		
Improvement Fee		
Cost of Future Capacity	\$ 26,548,200	
Less: Projects Funded by Outside Sources	-	
Less: Improvement Fee Fund Balance	-	
Improvement Fee Cost Basis	\$ 26,548,200	
Growth to End of Planning Period	5,525	EDUs
Improvement Fee	\$ 4,805	per EDU
Compliance Fee		
Cost of Compliance (total for all 20 years)	\$ 463,036	
Growth to End of Planning Period	5,525	EDUs
Compliance Fee	\$ 84	per EDU
Total System Development Charge		
Reimbursement Fee		
Improvement Fee	\$ 4,805	
Compliance Fee	\$ 84	
Total SDC	\$ 4,889	per EDU

II.F. SDC COMPARISON

In **Figure 5**, the current and proposed wastewater SDC for the City are compared to a selection of other cities. Even after the proposed increase of \$3,468 per EDU, the City will mostly be in line with comparable cities.

Figure 5. SDC Comparison



II.G. INDEXING

Oregon law (ORS 223.304) also allows for the periodic indexing of system development charges for inflation, as long as the index used is:

- “(A) A relevant measurement of the average change in prices or costs over an identified time period for materials, labor, real property or a combination of the three;
- (B) Published by a recognized organization or agency that produces the index or data source for reasons that are independent of the system development charge methodology; and
- (C) Incorporated as part of the established methodology or identified and adopted in a separate ordinance, resolution or order.”

We recommend that the City index its charges to the Engineering News Record Construction Cost Index for the 20-City Average and adjust its charges annually. There is no comparable Oregon-specific index.

Section III. WASTEWATER REVENUE REQUIREMENT

This section provides a summary of the wastewater revenue requirement analysis based on a framework of fiscal policies that promote the financial integrity and stability of the wastewater utility.

III.A. POLICY FRAMEWORK

The ensuing discussion provides a brief summary of the key policies addressed by the City and incorporated into this analysis. Additionally, a summary of assumptions in the revenue requirement is discussed.

III.A.1. Reserve Policies

Like any business, a municipal utility requires certain minimum levels of cash reserves to operate. These reserves address the variability and timing of revenues and expenditures as well as occasional disturbances in activities. Given the City's responsibility to provide essential services to its customers at a certain standard, protection against financial disruption is even more important than it would be for private-sector or non-essential counterparts. In addition, a defined reserve structure serves to maintain appropriate segregation of funds and promote the use of resources for their intended purposes. This analysis assumes that only one reserve is maintained by the wastewater utility:

- **Operating Reserve.** Operating reserves provide an unrestricted fund balance to accommodate the short-term cycles of revenues and expenditures, addressing unanticipated expenditures or revenue shortfalls. This study incorporates a target operating reserve balance of 45 days of operating expenditures.

III.A.2. Capital Funding Policy

City staff has elected to consider bond issuance to cover some capital expenditures and mitigate rate increases. We use the following assumptions for future debt issues:

- Debt service payments are assumed to start in the fiscal year of issuance.
- Bonds will have a 20 year repayment period, a 4.0 percent interest rate, issuance costs equal to 1.0 percent of the debt, and a bond reserve equal to one year's principal and interest payment.

- When bonds are issued, the City will maintain a minimum debt service coverage ratio of 1.5. Put differently, the City has to generate enough revenue to pay operations and maintenance (O&M) expenses plus 150 percent of annual revenue bond debt service.

In addition, City staff is considering the special terms of a Water Infrastructure Finance and Innovation Act (WIFIA) loan, administered by the EPA, to cover some capital expenditures and mitigate rate increases. We use the following assumptions for future for the WIFIA loan:

- Debt service payments are assumed to start five years after the completion of the project for which the loan is taken out.
- The loan will have a 35-year repayment period, a 2.48% percent interest rate, no issuance costs, no reserve requirements, and no coverage requirements.

Finally, City staff is considering other special loan programs to cover some capital expenditures and mitigate rate increases. We use the following assumptions for these loans:

- Debt service payments are assumed to start in the fiscal year of issuance.
- The loan will have a 20-year repayment period, a 2.27% percent interest rate, no issuance costs, no reserve requirements, and no coverage requirements.

III.B. FORECAST ASSUMPTIONS

Below is a list of the customer, cost, and non-rate revenue growth factors used in the analysis to project future cash flows.

- **Annual Account Growth.**
 - Account Growth: 2.80 percent. City staff supplied the growth rate based on a 2015 Sandy Urbanization Study.
- **Annual Cost Escalation.**
 - General Cost Escalation: 1.56 percent. This escalator applies to materials and services expenditures and is based on a ten-year average of the Consumer Price Index.
 - Labor Cost Escalation: 1.63 percent. This escalator applies to salary and wage expenditures and is based on a ten-year average of the Employment Cost Index for Wages and Salaries.
 - Construction Cost Escalation: 2.90 percent. This escalator applies to the capital projects and is based on a ten-year average of the 20-City Average of the Engineering New Record Construction Cost Index.
 - Benefit Cost Escalation: 3.04 percent. This escalator applies to all non-wage benefit expenditures and is based on a ten-year average of the Employment Cost Index for Benefits.
- **Non-Rate Revenue.**
 - Investment Interest: 2.75 percent. This escalator applies to interest accrued by the City's Operating and Debt Reserve Funds and is based on the April 2019 Local Government Investment Pool rates for Oregon.
 - Other non-rate revenue: We assume that other non-rate revenues remain constant over time and therefore do not escalate them.

III.C. OPERATING FORECAST

Total rate revenues are \$1,454,635 in FY 2019-20. The City also has non-rate revenue equal to \$29,983 in FY 2019-20. Non-rate revenue includes \$1,233 of investment interest, which will increase each year as fund balance grows.

O&M costs include on-going annual expenditures for the City such as personnel, materials and services, and regular maintenance. Based on the budget, we estimate total O&M for FY 2019-20 to be \$1,420,132. Based on escalation factors, costs increase on average \$25,850 until FY 2029-30.

The City also has existing debt service of \$202,340 until FY 2022-23. The City then has \$102,340 in debt service for FY 2022-23 and \$51,168 in debt service for FY 2023-24, with no existing debt service after that. The debt service is comprised of two loans; the USDA rural development loan retires in FY 2021-22 and the current wastewater state revolving fund loan retires in FY 2023-24.

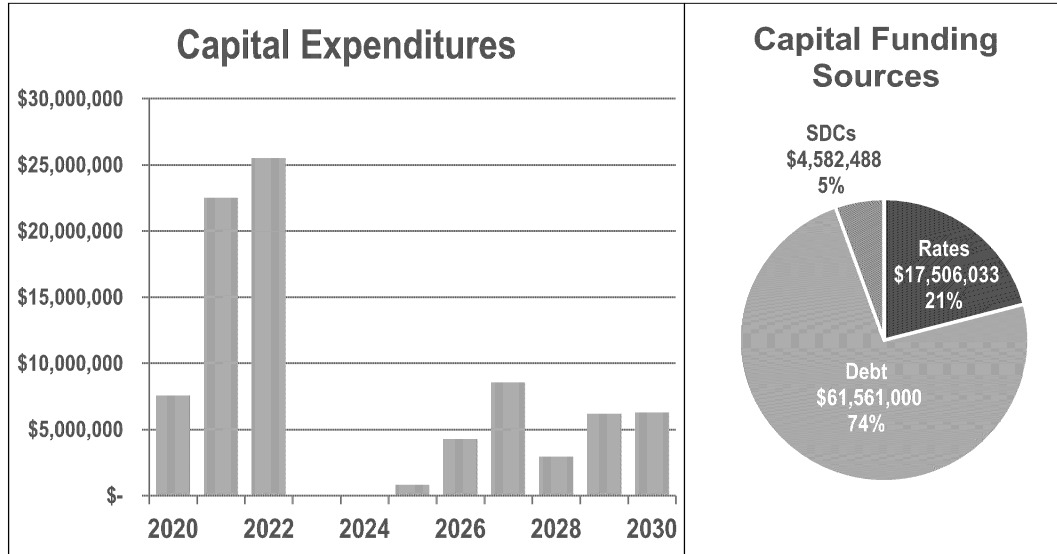
In addition, the City has elected to set aside money from operations for system reinvestment. The budgeted amount for system redevelopment in FY 2019-20 is \$86,249 and is escalated each year by the construction cost escalation factor described above. The average increase per year is \$2,850.

III.D. CAPITAL FORECAST

The capital forecast is a strategy for the funding of projects provided by the City or listed in the Capital Improvement Program of the 2019 Wastewater System Facilities Plan. The analysis includes all planned projects that have not yet been completed. Potential funding sources include existing cash balances, incoming rate and SDC revenues, and debt.

Figure 6 shows the annual capital costs until FY 2029-30 as well as the capital funding sources to be utilized to fund the projects.

Figure 6. Wastewater Capital Costs and Funding Strategy



The utility’s projected spending pattern is highly variable based on the planned timing of projects. Between FY 2019-20 and FY 2029-30, the City has 27 projects as well as some anticipated costs that don’t currently correspond to projects. The total cost of the CIP is \$84,712,122 over the ten years.

The construction of a new Eastside Treatment Facility comprises around \$40.9 million of the total CIP between FY 2019-20 and FY 2029-30. Upgrading the existing wastewater treatment plant will cost \$29M over the ten years. Reducing system-wide rain derived infiltration and inflow will comprise about \$9.5M of the costs. Finally, other capacity upgrades total \$5M.

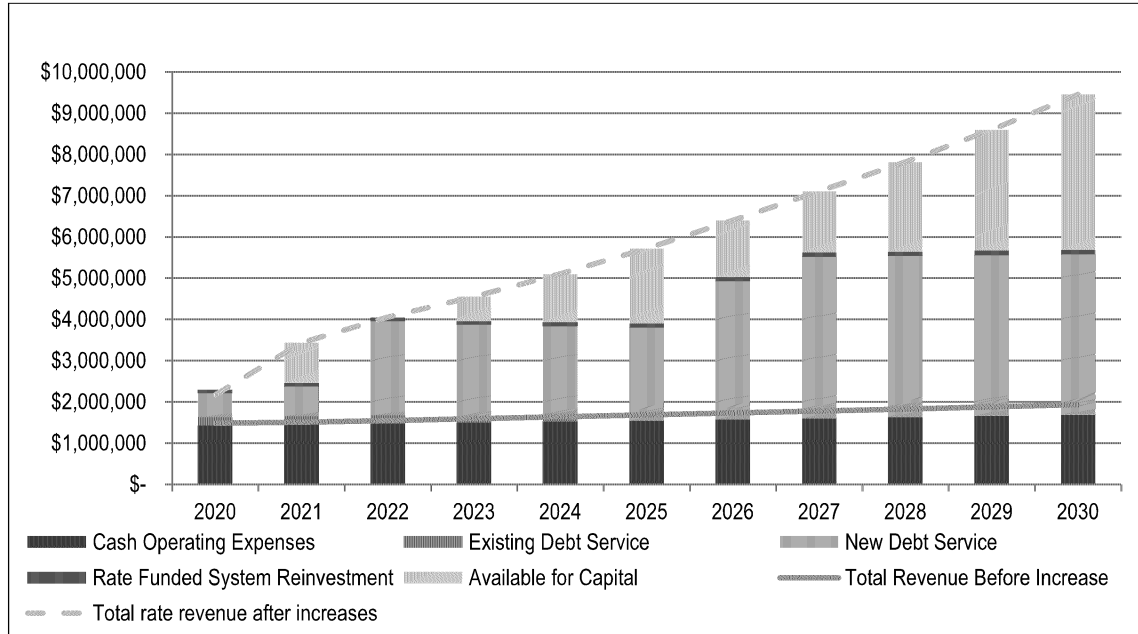
The sizeable cost of the CIP necessitates large amounts of debt issuance in order to avoid extreme rate increases. Rates and SDCs cover approximately 26 percent of total capital expenditures, while debt covers the remaining 74 percent. Around \$61.6M in debt must be issued between 2020 and 2030. It’s important to note that this revenue requirement is assuming the wastewater SDC is set at the rates proposed in Section II.

In revenue bonds, \$7.3M must be taken in FY 2019-20, \$15.3M must be taken in FY 2021-22, and \$7.1M must be taken in FY 2026-27. In addition, a special program loan of \$6.2M must be taken in FY 2020-21. The WIFIA loan of \$25.7M will comprise the remainder of the debt.

III.E. REVENUE REQUIREMENT

Figure 7 summarizes the annual revenue requirements for the water utility based on the forecast of revenues, expenditures, and fund balances.

Figure 7. Wastewater Revenue Requirement Summary



Revenue Requirement (in thousands)	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Expenditures											
O&M	1,420	1,444	1,468	1,493	1,518	1,544	1,570	1,596	1,623	1,651	1,679
System Reinvestment	86	89	91	94	97	100	102	105	108	112	115
Debt Service	788	929	2,482	2,375	2,316	2,257	3,355	3,919	3,912	3,905	3,897
Total	2,295	2,462	4,042	3,962	3,931	3,901	5,027	5,621	5,644	5,667	5,691
Revenues											
Rate Rev. (Existing Rates)	1,455	1,495	1,537	1,580	1,625	1,670	1,717	1,765	1,814	1,865	1,917
Other Revenue	29	13	13	13	13	13	13	13	13	13	13
Interest	1	1	1	1	1	1	1	1	1	1	1
Total	1,485	1,509	1,551	1,594	1,639	1,684	1,731	1,779	1,828	1,879	1,932
<i>Debt Issued (Reference)</i>	7,300	31,866	15,275	0	0	0	25,666	7,120	0	0	0
NET CASH FLOW (Existing Rates)	-810	-953	-2,490	-2,367	-2,292	-2,216	-3,296	-3,842	-3,815	-3,787	-3,759
Annual Rate Increase	98.00%	16.00%	15.00%	9.00%	9.00%	9.00%	9.00%	8.00%	7.00%	7.00%	7.00%

Revenue Requirement (in \$ thousands)	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Rate Revenue (After Increases)	2,167	3,435	4,060	4,550	5,098	5,712	6,401	7,107	7,817	8,598	9,458
Net Cash Flow (After Increases)	-97	987	33	602	1,181	1,826	1,388	1,500	2,188	2,946	3,781
Coverage Ratio (After Increases)	1.94	4.06	1.82	1.93	2.25	2.60	3.00	2.55	2.85	3.17	3.49
Ending Fund Balance (Ops)	175	178	181	184	187	190	194	197	200	204	207
Ending Fund Balance (Capital)	230	11,006	1,553	2,682	4,434	6,079	3,869	4,567	4,480	1,923	76
Total	405	11,184	1,734	2,866	4,621	6,269	4,063	4,764	4,680	2,127	283

Figure 7 indicates that the utility must raise rates to cover operating expenditures and budgeted capital expenditures. The City’s rate revenue, \$1.455M, is enough to cover current O&M expenditures. However, when considering the system reinvestment policies and the heavy debt service required to fund the CIP, the City’s cash flow turns negative by a large margin. Although the heavy debt service presents a significant strain on cash flow, it’s important to note that this heavy debt service reduces the rate increases that would have been required to fund the CIP with less debt.

The City must raise rates by 98.00 percent in FY 2019-20 in order to raise the revenue required for debt service on the \$7.3M revenue bond in that year. After that, rates increases slowly trail from 16.00 percent in FY 2020-21 down to 7.00 percent in FY 2029-30. The rate increases will ensure that the City has enough revenue to cover all future debt service.

III.F. RATE SCHEDULE

Figure 8 shows the City rate schedule after the recommended rate increases. The City distinguishes between residential and commercial/industrial customers. Both classes are charged a base and a volume rate. In addition, residential customers outside of the city limits pay a flat rate. The year 2020 is broken into two columns, one labelled “Budgeted” and the other labelled “Additional.” The 2020 (Budgeted) column includes the rate increases for FY 2019-20 that the City has already passed. The 2020 (Additional) column and all further columns include the further rate increases recommended by the revenue requirement.

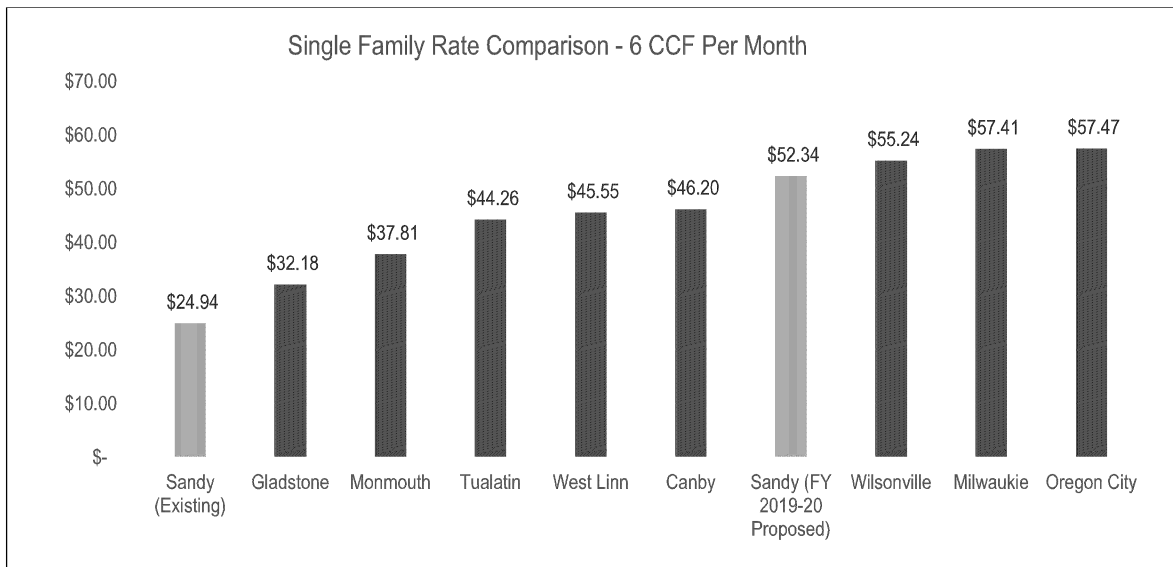
Figure 8. Wastewater Rate Schedule After Recommended Increases

Rates	2019	2020		2021	2022	2023	2024	2025	2026
		Budgeted	Additional						
ATB Increases		6%	98%	16%	15%	9%	9%	9%	9%
Residential									
Base	\$9.82	\$10.41	\$20.61	\$23.91	\$27.49	\$29.97	\$32.67	\$35.61	\$38.81
Volume (CCF)	2.52	2.67	5.29	6.14	7.06	7.69	8.38	9.14	9.96
Outside City Flat Rate	35.42	37.55	74.34	86.23	99.17	108.09	117.82	128.43	139.98

Rates	2019	2020 Budgeted	2020 Additional	2021	2022	2023	2024	2025	2026
Commercial/Industrial									
Base	\$9.82	\$10.41	\$20.61	\$23.91	\$27.49	\$29.97	\$32.67	\$35.61	\$38.81
Volume (CCF)	3.42	3.63	7.18	8.33	9.58	10.44	11.38	12.40	13.52

Figure 9 shows a comparison of single-family monthly bills in the region. Sandy rates are currently much lower than many cities in the region. While the budgeted 6.00 percent increase and the 98.00 percent increase recommended by the revenue requirement will make Sandy's wastewater rates higher than many of the cities in the comparison, there are still a number of cities in the region with higher rates.

Figure 9. Wastewater Rate Comparison



Section IV. WATER REVENUE REQUIREMENT

This section provides a summary of the water revenue requirement analysis based on a framework of fiscal policies that promote the financial integrity and stability of the water utility.

IV.A. POLICY FRAMEWORK

The ensuing discussion provides a brief summary of the key policies addressed by the City and incorporated into this analysis. Additionally, a summary of assumptions in the revenue requirement is discussed.

IV.A.1. Reserve Policies

Like any business, a municipal utility requires certain minimum levels of cash reserves to operate. These reserves address the variability and timing of revenues and expenditures as well as occasional disturbances in activities. Given the City's responsibility to provide essential services to its customers at a certain standard, protection against financial disruption is even more important than it would be for private-sector or non-essential counterparts. In addition, a defined reserve structure serves to maintain appropriate segregation of funds and promote the use of resources for their intended purposes. This analysis assumes that only one reserve is maintained by the water utility:

- **Operating Reserve.** Operating reserves provide an unrestricted fund balance to accommodate the short-term cycles of revenues and expenditures, addressing unanticipated expenditures or revenue shortfalls. This study incorporates a target operating reserve balance of 90 days of operating expenditures.

IV.A.2. Capital Funding Policy

City staff has elected to consider bond issuance to cover some capital expenditures and mitigate rate increases. We use the following assumptions for future debt issues:

- Debt service payments are assumed to start in the fiscal year of issuance.
- Bonds will have a 20 year repayment period, a 4.0 percent interest rate, issuance costs equal to 1.0 percent of the debt, and a bond reserve equal to one year's principal and interest payment.

- When bonds are issued, the City will maintain a minimum debt service coverage ratio of 1.5. Put differently, the City has to generate enough revenue to pay operations and maintenance (O&M) expenses plus 150 percent of annual revenue bond debt service.

IV.B. FORECAST ASSUMPTIONS

Below is a list of the customer, cost, and non-rate revenue growth factors used in the analysis to project future cash flows.

- **Annual Account Growth.**
 - Account Growth: 2.80 percent. City staff supplied the growth rate based on a 2015 Sandy Urbanization Study.
- **Annual Cost Escalation.**
 - General Cost Escalation: 1.56 percent. This escalator applies to materials and services expenditures and is based on a ten-year average of the Consumer Price Index.
 - Labor Cost Escalation: 1.63 percent. This escalator applies to salary and wage expenditures and is based on a ten-year average of the Employment Cost Index for Wages and Salaries.
 - Construction Cost Escalation: 2.90 percent. This escalator applies to the capital projects and is based on a ten-year average of the 20-City Average of the Engineering New Record Construction Cost Index.
 - Benefit Cost Escalation: 3.04 percent. This escalator applies to all non-wage benefit expenditures and is based on a ten-year average of the Employment Cost Index for Benefits.
- **Non-Rate Revenue.**
 - Investment Interest: 2.75 percent. This escalator applies to interest accrued by the City's Operating and Debt Reserve Funds and is based on the April 2019 Local Government Investment Pool rates for Oregon.
 - Other non-rate revenue: We assume that other non-rate revenues remain constant over time and therefore do not escalate them.

IV.C. OPERATING FORECAST

Total rate revenues are \$1,627,219 in fiscal year (FY) 2019-20. The City also has non-rate revenue equal to \$35,536 in FY 2019-20. Non-rate revenue includes \$12,330 of investment interest, which is set to escalate each year.

O&M costs include on-going annual expenditures for the City such as personnel, materials and services, and regular maintenance. Based on the budget, we estimate total O&M for FY 2019-20 to be \$1,186,333. Based on escalation factors, costs increase on average \$23,000 until 2030.

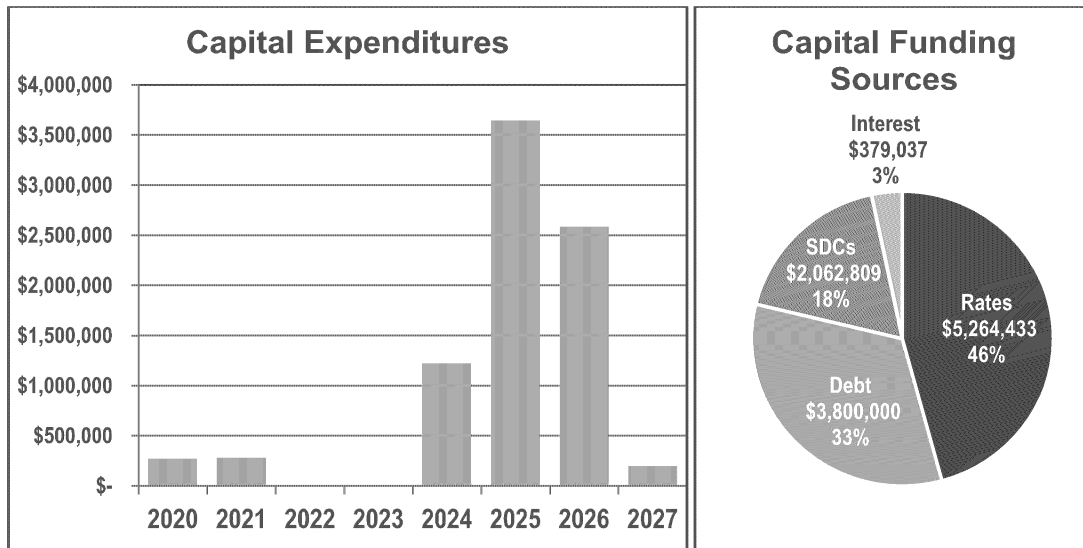
The City also has existing debt service averaging \$598,516 until FY 2021-22 and precisely \$469,595 from FY 2021-22 to FY 2033-34. One loan, from the Clean Water State Revolving Fund, requires an average annual payment of \$127,000 per year and continues until FY 2021-22. The other loan, from Oregon Development Districts, is for \$469,595 per year until FY 2033-34.

IV.D. CAPITAL FORECAST

The capital forecast is a strategy for the funding of projects provided by the City or listed in the Water System CIP of the City’s 2017 Water SDC Methodology. The analysis includes all planned projects that have not yet been completed. Potential funding sources include existing cash balances, incoming rate and SDC revenues, interest earnings from the capital fund, and debt.

Figure 10 shows the annual capital costs until FY 2026-27 as well as the capital funding sources to be utilized to fund the projects.

Figure 10. Water Capital Costs and Funding Strategy



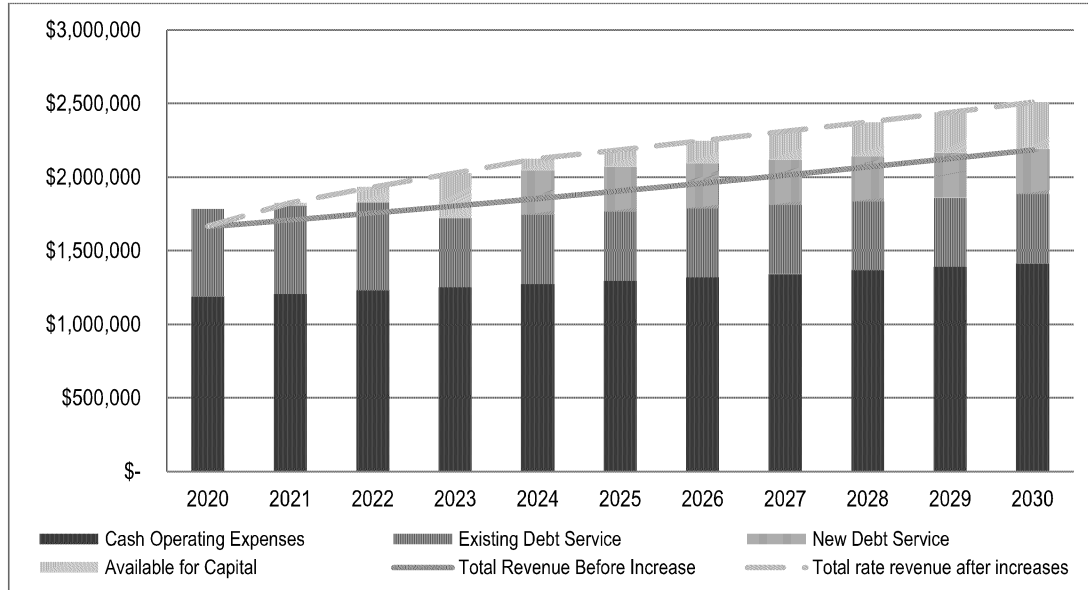
The utility’s projected spending pattern is highly variable based on the planned timing of projects. Between FY 2019-20 and FY 2029-30, the City has three projects as well as some anticipated costs that don’t currently correspond to projects. The total cost of the CIP is \$8,203,208 over the ten years.

Rates and SDCs cover approximately 64 percent of total capital expenditures, with debt and interest covering the remaining 36 percent. In FY 2022-24, about \$3.8M in debt is issued to mitigate rate increases. The largest expenditure of \$3.6M in FY 2024-25 is for an anticipated but unassigned \$2.5M expenditure and for a \$1.1M expenditure on the 1 MG South East Area Storage Reservoir for the area of the city east of the Vista Loop reservoir service area.

IV.E. REVENUE REQUIREMENT

Figure 11 summarizes the annual revenue requirements for the water utility based on the forecast of revenues, expenditures, and fund balances.

Figure 11. Water Revenue Requirement Summary



Revenue Requirement (in \$ thousands)	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Expenditures											
O&M	1,186	1,207	1,229	1,251	1,273	1,295	1,318	1,342	1,366	1,390	1,415
Debt Service	598	598	599	470	775	775	775	775	775	775	775
Total	1,785	1,806	1,828	1,720	2,047	2,070	2,093	2,117	2,141	2,165	2,190
Revenues											
Rate Rev. (Existing Rates)	1,627	1,673	1,720	1,768	1,817	1,868	1,920	1,974	2,030	2,086	2,145
Other Revenue	23	23	23	23	23	23	23	23	23	23	23
Interest	12	13	13	13	14	14	15	15	15	16	16
Total	1,663	1,709	1,756	1,804	1,854	1,906	1,958	2,012	2,068	2,125	2,184
<i>Debt Issued (Reference)</i>	0	0	0	0	3,800	0	0	0	0	0	0
NET CASH FLOW (Existing Rates)	-122	-97	-72	84	-193	-165	-135	-104	-73	-40	-6
Annual Rate Increase	5.00%	4.00%	3.00%	2.00%	2.00%	0%	0%	0%	0%	0%	0%
Rate Revenue (After Increases)	1,668	1,827	1,934	2,028	2,127	2,186	2,247	2,310	2,375	2,441	2,510
Net Cash Flow (After Increases)	-81	57	143	345	116	153	192	232	273	315	359
Coverage Ratio (After Increases)	n/a	n/a	n/a	n/a	3.73	4.13	3.99	3.95	4.10	4.27	4.46
Ending Fund Balance (Ops.)	1,819	298	303	308	314	319	325	557	830	1,145	1,504
Ending Fund Balance (Capital)	0	1,467	1,817	2,383	5,320	2,156	6	4	207	422	648
Total	1,819	1,765	2,120	2,692	5,634	2,475	331	561	1,037	1,567	2,152

Figure 11 indicates that the utility must raise rates to cover operating expenditures and budgeted capital expenditures. The City’s rate revenue, \$1.63M, is slightly lower than O&M expenditures plus debt service, \$1.79M. Even after factoring in non-rate revenue to get a total revenue of \$1.66M, the City experiences largely negative cash flow throughout the ten years.

Since cash flow under existing rates is mostly insufficient to cover operating expenditures, it is certainly insufficient to cover capital projects. While the CIP may project only a few small projects over the next couple of years, beginning in FY 2023-24 there are several large projects that lack adequate funding. Therefore, while modest increases in rates may cover the O&M deficiencies, the primary driver in rate increases is the CIP, which costs \$8.2M over the next 10 years.

The City must raise rates by 5.00, 4.00, 3.00, 2.00, and 2.00 percent respectively for the years FY2019-20 through FY2023-24. The projected rate increases will fix the O&M deficiencies over the next couple of years. Afterwards, the increases will ensure the city meets its debt service and coverage requirements for the \$3.8M revenue bond issued in FY 2023-24. This debt issuance will prevent more extreme rate increases by decreasing the short-term costs of funding the CIP.

IV.F. RATE SCHEDULE

Figure 12 shows the City rate schedule after the recommended rate increases. The City charges a class rate, a meter rate, and a volume rate. Items listed as “Outside” are charged to customers outside city limits. The year 2020 is broken into two columns, one labelled “Budgeted” and the other labelled “Additional.” The 2020 (Budgeted) column includes the rate increases for FY 2019-20 that the City has already passed. The 2020 (Additional) column and all further columns include the further recommended rate increases.

Figure 12. Water Rate Schedule After Recommended Increases

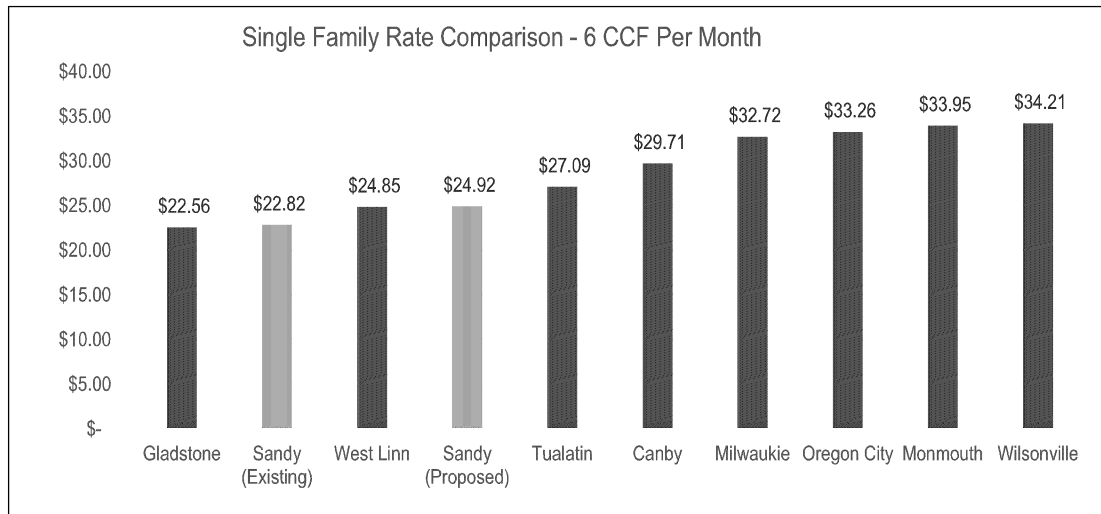
Class Rates	2019	2020	2020	2021	2022	2023	2024	2025	2026
		Budgeted	Additional						
ATB Increases		4%	5%	4%	3%	2%	2%	0%	0%
Single Family	\$6.62	\$6.88	\$7.23	\$7.52	\$7.74	\$7.90	\$8.06	\$8.06	\$8.06
Single Family (Outside)	9.95	10.35	10.87	11.30	11.64	11.87	12.11	12.11	12.11
Multi-Family	6.62	6.88	7.23	7.52	7.74	7.90	8.06	8.06	8.06
Commercial/Industrial	6.62	6.88	7.23	7.52	7.74	7.90	8.06	8.06	8.06
Wholesale	7.92	8.24	8.65	8.99	9.26	9.45	9.64	9.64	9.64

Meter Rates	2019	2020 Budgeted	2020 Additional	2021	2022	2023	2024	2025	2026
ATB Increases		4%	5%	4%	3%	2%	2%	0%	0%
Inside City									
5/8"	\$0.24	\$0.25	\$0.26	\$0.27	\$0.28	\$0.29	\$0.29	\$0.29	\$0.29
3/4"	0.36	0.37	0.39	0.41	0.42	0.43	0.44	0.44	0.44
1"	0.61	0.63	0.67	0.69	0.71	0.73	0.74	0.74	0.74
1 1/2"	1.17	1.22	1.28	1.33	1.37	1.40	1.42	1.42	1.42
2"	1.88	1.96	2.05	2.14	2.20	2.24	2.29	2.29	2.29
3"	3.56	3.70	3.89	4.04	4.16	4.25	4.33	4.33	4.33
4"	5.91	6.15	6.45	6.71	6.91	7.05	7.19	7.19	7.19
6"	11.84	12.31	12.93	13.45	13.85	14.13	14.41	14.41	14.41
8"	18.94	19.70	20.68	21.51	22.16	22.60	23.05	23.05	23.05
10"	27.24	28.33	29.75	30.94	31.86	32.50	33.15	33.15	33.15
Outside City									
5/8"	\$0.35	\$0.36	\$0.38	\$0.40	\$0.41	\$0.42	\$0.43	\$0.43	\$0.43
3/4"	0.55	0.57	0.60	0.62	0.64	0.66	0.67	0.67	0.67
1"	0.90	0.94	0.98	1.02	1.05	1.07	1.10	1.10	1.10
1 1/2"	1.78	1.85	1.94	2.02	2.08	2.12	2.17	2.17	2.17
2"	2.80	2.91	3.06	3.18	3.28	3.34	3.41	3.41	3.41
3"	5.28	5.49	5.77	6.00	6.18	6.30	6.43	6.43	6.43
4"	8.80	9.15	9.61	9.99	10.29	10.50	10.71	10.71	10.71
6"	17.58	18.28	19.20	19.97	20.56	20.98	21.40	21.40	21.40
8"	29.33	30.50	32.03	33.31	34.31	34.99	35.69	35.69	35.69
10"	40.47	42.09	44.19	45.96	47.34	48.29	49.25	49.25	49.25

Volume Charges per CCF	2019	2020	2020	2021	2022	2023	2024	2025	2026
		Budgeted	Additional						
ATB Increases		4%	5%	4%	3%	2%	2%	0%	0%
Single Family	\$2.66	\$2.77	\$2.90	\$3.02	\$3.11	\$3.17	\$3.24	\$3.24	\$3.24
Single Family (Outside)	3.98	4.14	4.35	4.52	4.66	4.75	4.84	4.84	4.84
Multi-Family	2.50	2.60	2.73	2.84	2.92	2.98	3.04	3.04	3.04
Comm./Ind.	2.29	2.38	2.50	2.60	2.68	2.73	2.79	2.79	2.79
Comm./Ind. (Outside)	3.56	3.70	3.89	4.04	4.16	4.25	4.33	4.33	4.33
Wholesale	2.80	2.91	3.06	3.18	3.28	3.34	3.41	3.41	3.41
Skyview ACs	0.69	0.71	0.75	0.78	0.80	0.82	0.83	0.83	0.83

Figure 13 shows a comparison of single-family monthly bills in the region. Sandy rates are currently lower than many cities in the region. The 5.0 percent rate increase recommended by the revenue requirement added to the budgeted 4.0 percent increase in FY 2019-20 will not dramatically change the position of Sandy relative to other cities, and it will remain lower than most cities in the comparison.

Figure 13. Water Rate Comparison





NO. 2019-17

A Resolution Establishing a new methodology for Wastewater System Development Charges

Whereas, Section 15.28.050 of the Sandy Municipal Code requires that methodologies used to establish systems development charges be approved by a Resolution adopted by the Council; and

Whereas, the City engaged FCS Group, Inc. to review the City's Wastewater System Facilities Plan and Wastewater Capital Improvement Plan and develop a methodology to create Systems Development Charges that equitably apportion costs for capacity-increasing improvements to serve new development; and

Whereas, the City Council at their October 7th, 2019 meeting adopted a new Wastewater Capital Improvement Plan upon which the revised Systems Development Charges are based; and

Whereas, the methodology developed by FCS Group, attached as Exhibit A equitably apportions the cost of the Wastewater projects attributable to new development; and

Whereas, the Sandy City Council desires to adopt the methodology for Wastewater Systems Development Charges and revise the existing Wastewater SDCs accordingly.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sandy

SECTION 1. The methodology for Wastewater Systems Development Charges as set forth in Exhibit A attached hereto and incorporated herein by this reference is adopted. The per Equivalent Dwelling Unit (EDU) rate and dollar amounts of the systems development charge will be established by separate resolution of the City Council.

SECTION 2. The Wastewater Systems Development Charge imposed by this resolution shall be revised at least annually, or more frequently as necessary based on the Engineering News Record Construction Cost Index (ENR CCI) per the provisions of ORS 223.304(8)(b).

SECTION 3. This Resolution replaces the methodology previously established through Resolution 1991-19.

#2019-17

This Resolution shall be effective on October 7th, 2019 and the revised system development charges shall be imposed on building permit applications submitted on October 8th, 2019 and afterwards.

This resolution is adopted by the Common Council of the City of Sandy and approved by the Mayor this 07 day of October 2019

Stan Pulliam, Mayor

ATTEST:

Karey Milne, City Recorder

#2019-17



NO. 2019-18

A Resolution Amending the Master Fee Schedule to establish a new System Development Charge for Wastewater Service

Whereas, the City Council imposes municipal fees and charges by Council Resolution and;

Whereas, the Council has reviewed and adopted the methodology for Wastewater System Development Charges (SDCs).

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sandy that the City's Master Fee Schedule is amended to reflect a new wastewater SDC as specified below:

5. System Development Charges

B. Sewer

- a. City-wide per Equivalent Residential Unit
(as defined in 13.16.020(b) of the Municipal Code) \$4,889.00

This Resolution and the fees and charges herein shall be effective on October 7th, 2019 and imposed on all building permit applications submitted on October 8th, 2019 and afterwards.

This resolution is adopted by the Common Council of the City of Sandy and approved by the Mayor this 07 day of October 2019

Stan Pulliam, Mayor

ATTEST:

Karey Milne, City Recorder

#2019-18



Staff Report

Meeting Date: October 7, 2019

From Mike Walker, Public Works Director

SUBJECT: Continuation of Hearing on Utility Rate Changes

Background:

At their September 16th meeting the City Council solicited testimony from the public regarding proposed changes to water and sewer rates. Notice of the hearing was included in the July utility bill newsletter, on the City's Facebook page, and on the City website. Since the amount of public testimony was limited, the Council decided to keep the hearing open for further comment prior to and at the October 7th meeting. As of October 2, staff has received no written comments on the proposed rates.

The staff report and attachments from the September 16 meeting can be found [here](#).

Recommendation:

Solicit and consider testimony from the public, provide direction to staff on the rate increases amount and timing of implementing the rate increases.



A RESOLUTION OF THE CITY OF SANDY AMENDING THE MASTER FEE SCHEDULE TO REFLECT WATER AND SEWER RATE CHANGES

Whereas, The Council desires to update the Master Fee Schedule and impose municipal fees and charges by Council Resolution; and

Whereas, The Council engaged FCS Group to update the City’s utility rate model and water and sewer charges; and

Whereas, The City must fund significant capital projects for wastewater system improvements and cover increased sewer system operating costs and repair and replace piping in the collection system; and

Whereas, The City must also fund capital projects for water system improvements and cover increased water system operating costs; and

Whereas, A cost-of-service rate model has been used to determine rates that would support water and sewer operating costs as well as the cost of debt service for major system improvements; and

Whereas, FCS Group reviewed the financial position and capital improvement plan for the water and sewer utilities and developed revised rates for each utility as described in their report attached hereto and incorporated herein as Exhibit A; and

Whereas, A Council work session with FCS Group was held on September 3rd and public hearings were held on September 16th, and October 7th, 2019 to solicit public comments on a proposed 9% increase in water rates and a 104% increase in sewer rates;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sandy That the schedule of city fees and charges be amended as follows:

Section 7 - Water Rates

Base Monthly Fee	Existing Charge	New Charge
Single-Family	\$6.62	\$7.23
Commercial/Industrial	\$6.62	\$7.23
Multi-Family	\$6.62	\$7.23

#Resolution 2019-16

Outside City Single Family	\$9.95	\$10.87
Wholesale	\$7.92	\$8.65
Charge by Meter Size (per month), Inside City		
5/8"	\$0.24	\$0.26
3/4"	\$0.36	\$0.39
1"	\$0.61	\$0.67
1 1/2"	\$1.17	\$1.28
2"	\$1.88	\$2.05
3"	\$3.56	\$3.89
4"	\$5.91	\$6.45
6"	\$11.84	\$12.93
8"	\$18.94	\$20.68
10"	\$27.24	\$29.75
Charge by Meter Size (per month), Out of City		
5/8"	\$0.35	\$0.38
3/4"	\$0.55	\$0.60
1"	\$0.90	\$0.98
1 1/2"	\$1.78	\$1.94
2"	\$2.80	\$3.06
3"	\$5.28	\$5.77
4"	\$8.80	\$9.61
6"	\$17.58	\$19.20
8"	\$29.33	\$32.03
10"	\$40.47	\$44.19
Volume Charge per hundred cubic feet (CCF)		
Single Family	\$2.66	\$2.90
Multi-Family	\$2.50	\$2.73
Commercial/Industrial	\$2.29	\$2.50
Outside City Single Family	\$3.98	\$4.35
Outside City Commercial/Industrial	\$3.56	\$3.89
Wholesale	\$2.80	\$3.06
Skyview Acres*	\$0.686	\$0.75

* Plus COP pass through, effective July 1, 2020

Section 8 - Sewer Rates

Type	Existing Charge	New Charge
Residential		
Base Fee (per month)	\$9.82	\$20.61
Volume (per 100 cubic ft)	\$2.52	\$5.29

#Resolution 2019-16

No Water Service Flat Rate (monthly)	\$35.42	\$74.34
Commercial/Industrial		
Base Fee (per month)	\$9.82	\$20.61
Volume (per 100 cubic ft)	\$3.42	\$7.18

The fees and charges herein shall be effective for all customers except Skyview Acres Water Company as of the November 15, 2019 to December 15, 2019 utility billing cycle. The new charge for Skyview Acres Water Company shall be effective July 1, 2020.

This resolution is adopted by the Common Council of the City of Sandy and approved by the Mayor this 07 day of October 2019

Stan Pulliam, Mayor

ATTEST:

Karey Milne, City Recorder

#Resolution 2019-16



Staff Report

Meeting Date: October 7, 2019
From: Jordan Wheeler, City Manager
SUBJECT: Community Campus Community Survey

Background:

Following the Council's work session on the community campus, the city contracted with Campbell Delong Resources Inc. to develop a survey to gather input on priorities and funding options for the community campus. Councilors Shultz and Smallwood and Mayor Pulliam volunteered to be the Council's subcommittee to meet with the firm and staff to discuss the purpose and intent of the survey and review the proposed questions.

The subcommittee met on September 19 and is scheduled to meet on October 7 to review the draft questionnaire.

The firm recommends that the City distributes a mail-out and online survey to help identify priorities and clarify a district concept to test with voters. The general community survey will be to provide the Council with better information about what the community desires at the campus, including input on the pool and aquatics, and the type of special district that the Council could consider putting before voters. The survey would be sent to the larger district boundary.

Recommendation:

Review the draft questionnaire and provide input on the questions for a final survey to be prepared and distributed.