

Council Present:

Omar Bowles  
Brent Gifford  
Dave Stram

Holly Campbell  
Ted Romoser

Staff Present:

Michelle Amberg  
Roberta Tharp  
Cliff Bellew  
Shelley Humble  
Layli Nichols  
Denise Walters  
Ross Williamson  
Madeline Phillips  
Sgt. Billy Halvorson

City Administrator  
City Recorder  
Public Works Director  
Airport Manager  
Finance Director  
City Planner  
City Attorney  
Planning Technician  
Lane County Sheriff

Council Absent: 2 - Jane Vincent – Adam Pelatt  
Press: 1 – Creswell Chronicle – Scott Olson  
Audience: 18

The regularly scheduled City Council meeting was called to order by Mayor Dave Stram at 7:03 pm and the Pledge of Allegiance was given.

Mayor Stram announced that Councilor Pelatt and Councilor Vincent are excused from the meeting this evening.

**Public Forum**

Ron Janssen, Creswell resident addressed the Council asking them to look towards providing new sidewalks downtown.

**Mayor's Report**

Special Recognition

Jacob Daniels and Glen Charles

Mayor Stram presented Jacob Daniels with an appreciation plaque for his service as a City Councilor. Mr. Charles was not able to attend the meeting this evening so Mayor Stram read aloud his plaque and will deliver it to him. Mr. Charles served on the Airport Commission.

Charge for Airport Commission

Mayor Stram removed this item from the Agenda.

Marijuana Tax

Mayor Stram announced he placed this item on the agenda in order for the Council to hold a discussion on the Marijuana Tax issue with the City Attorney, Ross Williamson. Mr. Williamson addressed the Council and passed out an outline on Regulating Medical Marijuana and Preparing for Recreational Marijuana. The outline contained:

- Policy Considerations
- Taxation
- Time, Place and Manner Regulations (Business Regulation)
- Land Use Regulations

Mr. Williamson reminded the Council that it is important to understand that public actions respond to policy decisions. Measure 91 (a complete copy included in the packet) will be on the November ballot and a statewide tax could be implemented on recreational marijuana. Lane County is also considering a tax on recreational marijuana and a third layer of tax could be implemented by the City of Creswell. He reminded the Council that they have an interest in protecting the citizens in public health, public safety and public welfare through police and tax power. He also noted the Council also has the option of doing nothing for regulations and taxation of marijuana. Under Measure 91, state regulations and taxation will be set in place; County and City regulations and taxation would just be additional layers.

Mr. Williamson said one of the big topics at the League of Oregon Cities Conference this year was whether or not you can tax marijuana. Mr. Williamson explained that he believes that under Measure 91 you do not have the authority to impose a tax. There are two different provisions in the measure that state local governments can't

pass fees or taxes on recreational marijuana. Should the measure pass, the appeals process could take five to six years before a final decision will be issued by the Supreme Court.

He also reminded the Council that the tax would come at a cost to the City. The City would be required to purchase a new software and billing system and staff would be required to administer the tax taking time away from other duties.

Mr. Williamson cautioned the Council should they implement a tax or grandfather a tax in, to not spend that money as the decision of the court may require it be refunded after an appeals decision. He continued by saying that if Measure 91 is passed by the voters, it can include taxation and disbursement down to the local level. He clarified that Measure 91 is addressing recreational marijuana.

Mr. Williamson pointed out that OHA (Oregon Health Authority) will be regulating medical marijuana and OLCC (Oregon Liquor Control Commission) would regulate recreation marijuana.

Mr. Williamson discussed the US Constitution 5<sup>th</sup> amendment issue; taxation of a legal activity. At the state level dispensing and consuming marijuana under Measure 91 would be considered legal although at the federal level it would still be considered an illegal activity.

Councilor Romoser asked if the Council passes an Ordinance to impose a tax on recreational marijuana, and someone challenges the tax, would the City have a legal liability to fund a defense against that suit. Mr. Williamson said it could be a possibility but he suspects that the League of Oregon Cities (LOC) would want to help defend a case of this sort but that doesn't always mean it would be free.

Councilor Campbell asked if the Council would need to have an ordinance in place before the November 4<sup>th</sup> election date. Mr. Williamson said that is the position presented by the LOC but as he sees it Measure 91 if approved will take effect thirty days after the election or December 4<sup>th</sup>, and feels the Council would need to have something in place by that date if that is the direction they choose to proceed.

Councilor Romoser asked what kind of burden will be placed on city staff if we pass a taxation ordinance on marijuana. Michelle Amberg stated we currently don't have anything in place for a program of this sort; we would need to create a whole new system depending on how complex the adopted resolution would be. Mr. Williamson responded that his office has developed a model ordinance based on the transient room tax model. This would be something new for Creswell as currently Lane County handles and disperses the Transient Room Tax. Dispensaries would be required to submit quarterly returns showing net revenues and collections. There would be a reporting process and cash intake. Ms. Amberg said one of the issues would be to identify who is taxed as well as tracking them down because we currently don't have a business license ordinance in place.

Councilor Campbell asked how it would affect our federal grants if we accepted cash for a marijuana tax. Mr. Williamson responded that he would have to review our grants to see what their requirements are but doesn't think there would be an issue because the City is not condoning marijuana, just taxing it.

Councilor Bowles commented that because of the size of our community, and the presented cost requirements for the tax, we would be better served in spending our resources and time on the other regulations that involve the protection of our community and regulation of this business.

Councilor Gifford asked what the risk would be if this Council chooses to do nothing and then the community becomes a magnet for those folks. Mr. Williamson responded that we are close enough to Eugene and is unsure how much we would draw away from them. He doesn't see smaller communities around Eugene as being targets.

Mayor Stram reminded everyone that the City has placed a moratorium on marijuana dispensaries that will expire on May 1, 2015. The Council will be discussing the marijuana issue at its November work session. Mayor Stram asked if other entities had opted to tax medical marijuana. Mr. Williamson said there has been one or two who have implemented a placeholder ordinance (taxing scheme); the Council would adopt an ordinance effective before December 4<sup>th</sup> and set the tax rates for marijuana at zero, allowing us to have something in place before the effective date. Mr. Williamson reminded the Council that Measure 91 is not a constitutional amendment but a statutory amendment which means the legislature can change it.

Mayor Stram asked the Council their thoughts on moving this agenda item forward or dropping it. Councilors Gifford and Campbell stated they like the infrastructure in place and using a placeholder ordinance setting the tax rate at zero which can be changed at a later date. Mayor Stram asked how enacting a tax changes any of the

risks the City may have in a lawsuit or impact on our staff. Mr. Williamson responded the City could be included in a lawsuit but feels the legal risks are reduced if you are not collecting any money although it doesn't give staff much time to implement the program.

The council gave unanimous consensus to bring the marijuana agenda item forward to an October 27<sup>th</sup> special meeting and directed Mr. Williamson to prepare a draft ordinance and resolution leaving the tax amount blank for Council to determine an amount at a later time. Mr. Williamson reminded the Council it would be best to have the Ordinance adopted prior to November 4<sup>th</sup> and the possibility of the Ordinance taking two readings for adoption.

### **Correspondence**

Councilor Gifford inquired about the letter from the Food Pantry and if there was a plan for repairing the leaks in the roof of the Cobalt Building. Ms. Amberg announced that the Pantry has received an EPUD (Emerald People's Utility District) grant for renewable energy to place solar panels on the roof of the building. Cliff Bellew has received two repair bids, both close to \$5,000 and a third bid is anticipated in the very near future. The bids reflect a low cost of materials but high cost of labor. The roof repair project was approved as part of the budget process.

Mayor Stram thanked Shelley Humble for a revising the Code Enforcement Report format.

### **Consent Calendar**

Brent Gifford moved Ted Romoser seconded to approve the consent calendar as presented. Voted on and the motion carries unanimously.

### **Administrative Report**

With no objection from the Council, Mayor Stram moved agenda item 6B forward.

Authorize the City Administrator to Execute an Intergovernmental Agreement (IGA) with the Oregon Department of Environmental Quality (DEQ) for a Phase II Assessment to be performed on the DeBerry Landfill – Michelle Amberg

Ms. Amberg introduced Mary Camarata from the Oregon Department of Environmental Quality (DEQ) to answer any questions the Council may have in regarding assistance in performing a Phase II Assessment of the DeBerry Landfill. On February 25, 2014 Ms. Camarata presented an opportunity to the Council in the form of a \$100,000 grant to perform the assessment, managed and administered by DEQ.

Ms. Camarata responded to Councilor Campbell's question that this process takes approximately six to eight months from the beginning to end. The DEQ will get a contractor and create a work plan collaboratively with the City.

Councilor Romoser asked if the City had addressed the concerns of an adjacent landowner in regards to wells in the area. Ms. Camarata responded that DEQ has looked at the wells in the area using well logs and they feel that all of the wells are deep and there shouldn't be any issues. Ms. Amberg said she is unaware of any concerns; an adjacent land owner is interested in purchasing the property and by completing the Phase II assessment this will fulfill our due diligence before we decide to sell the property.

A discussion ensued that the City can choose to contract the work themselves or have the DEQ do the work. Ms. Camarata reminded the Council that the grant is for \$100,000 and she cannot predict whether or not it will cover the cost of the entire assessment. She is not anticipating any problems; the grant is limited and DEQ will only complete \$100,000 worth of work. DEQ will propose to drill wells and put in soil gas, and will probably ask the city for in kind work such as providing a backhoe.

Holly Campbell moved Omar Bowles seconded that the City Council authorize the City Administrator to review and execute an Intergovernmental Agreement with the Oregon Department of Environmental Services to Perform a Phase II study on the DeBerry Landfill. Voted on and the motion carries unanimously.

### Administration

#### i. Drinking Water Protection Planning – Denise Walters

Denise Walters provided a progress report on the Oregon Health Authority (OHA)/Infrastructure Finance Authority grant accepted by the Council in January of 2014.

A Technical Advisory Committee has been formed and they will help identify potential contaminant sources for our drinking water such as septic tanks, railroads or mills. Members of that committee include Cliff Bellew and Mike Howard from Creswell, Amanda Ferguson of Cottage Grove, Keir Miller of Lane County Land Management, Sarah Puls of Lane County Environmental Health, Jacqueline Fern from DEQ, Pam Reber of Coast Fork Watershed Council, Jeff Ziller and Shannon Richardson of the OR Dept. of Fish and Wildlife. In November a public workshop will be held to gather input from the community. The committee will then combine the input with their prioritized list of the contaminants and create a draft report. Ms. Walters said she is hoping to have the draft report for the Council by their December meeting

ii. Goal Setting with Stan Biles – Michelle Amberg

Goal setting session will be held on Saturday October 25, 2014 from 9:00 am to 2:00 pm at the Community Center. Mr. Biles will be meeting with Councilors one on one on Tuesday, October 21<sup>st</sup>.

iii. Draft Municipal Building Use Policy and Procedure – Michelle Amberg

Ms. Amberg reported the City has had a request from a nonprofit to use the Cobalt Building for an auction. The City does not have a policy in place for the rental of that facility. After looking at the Community Center policy she is having RARE participant Maia Hardy work to revamp the policy to include the Cobalt Building, conference rooms at City Hall and add language and regulations to allow alcohol to be served at functions in a limited way. Ms. Amberg hopes to have a complete draft at a work session in the near future.

Councilor Romoser asked about the availability of staff to provide cleanup of the facilities as outlined in the draft policy as well as the number of responsibilities placed on the receptionist. Ms. Amberg responded the Cobalt Building responsibility has been placed on the RARE participant and Ms. Hardy is working with the front desk on this policy.

Mayor Stram commented that he would like the policy to begin with the same wording as Resolution 93-03, the current Community Center policy, outlining the common Council's goal.

Airport

No report was given

Finance

Finance report was distributed prior to the beginning of the meeting.

Public Works

Councilor Bowles thanked the Public Works Department for their good work and quick responses to issues around town.

**Council Action Items**

Sanipac Rate Increase – Michelle Amberg

Public Hearing

Ms. Amberg noted that Mr. Johnson made a presentation to the Council at the September 22, 2014 work session regarding an increase to waste disposal services provided by Sanipac. Ms. Amberg stated the proposed increase is \$1.65 a month for residential customers. (Sanipac increase is \$1.05 and the tipping fee increase is \$0.60 for the landfill).

Mayor Stram opened the Public Hearing on the Rate Increase for Sanipac.

Richard Zeterval, a resident of Creswell addressed the Council and asked about the fee for a yard debris cart. Mayor Stram noted the yard debris cart is not part of the proposed increase. Mr. Zeterval noted he doesn't have any other comments other than he supports their rate increase proposal.

There being no other public comment, Mayor Stram closed the public hearing.

Councilor Campbell asked about the rate increase for commercial customers. Mr. Johnson addressed the Council stating the biggest issue with commercial is the volume of waste; approximately nine to ten times larger in size than a residential customer. The rate increase for commercial customers will be \$13.25 per month.

Councilor Bowles asked if there was any way to avoid the increase by not using Lane County waste site and taking the waste to another landfill. Mr. Johnson reported Coffin Butte is another landfill up north. At this time there is an Intergovernmental Agreement in place with Lane County that states Creswell's material will be placed

at Short Mountain. Mr. Johnson also noted he doesn't think the increase could be avoided as Sanipac has not had the opportunity to raise its rates during the past four years.

Councilor Romoser asked how the amount of increase was determined. Michelle Amberg responded that a lot of the information presented in their meetings is proprietary and should not be discussed in public meetings. Ms. Amberg reiterated the list of considerations taken while discussing the increase and stated she is recommending the Council grant the request of a rate increase as presented.

Councilor Gifford asked if in the future, if material can be transported to Coffin Butte would prices be rolled back. Mr. Johnson said he is not able to answer that question at this time as transportation, fuel and other costs could be different than they are now.

A discussion ensued on the yard debris program.

Resolution 2014-20 A Resolution Adopting New Rate Structure for Solid Waste Disposal Services  
Proposed by Sanipac for the City of Creswell and Rescinding Resolution 2010-06. – Michelle Amberg

Ted Romoser moved Brent Gifford second that the City Council adopt Resolution 2014-20 A Resolution Establishing a New Rate Structure For Solid Waste Disposal Services Proposed by Sanipac for the City of Creswell and Rescinding Resolution 2010-06. Voted on and the motion carries unanimously.

Approval of Scope of Work for a Policing Study – Michelle Amberg

Ms. Amberg reported Brent Gifford, Chair of the Public Safety Committee presented at the September 22<sup>nd</sup> work session, the committee's recommendations to be included in the Scope of Work for a Policing Study. After discussion the Council asked for the Policing Study Scope of Work to be placed on the Agenda for Council action at the regular October meeting.

Councilor Gifford commented that the scope of work presented tonight contains the edits requested by the Council at the work session.

Holly Campbell moved Omar Bowles seconded that the City Council approve the Scope of Work for a Policing Service Study as recommended by the Public Safety Committee.

Mayor Stram asked about consulting services from Portland State University (PSU) and their proposal. Mr. Gifford responded that the City has received a lot of information from PSU and the committee will be recommending that the Council direct Michelle Amberg to obtain a substantive quote and give her the authority to negotiate an agreement with PSU. A discussion ensued regarding the cost of the study. Mayor Stram responded that the original quote was \$18,277. Ms. Amberg reported that there has been an amendment to the scope of work (requiring more detail) which could raise the cost an additional \$3,500 for each additional item. This would increase the cost of the study to \$25,000 to \$30,000. PSU will present a report that has evidence based decision making models and can begin work as soon as we execute a contract with them.

Further discussion ensued that included in the original quote (\$18,000) were five tasks:

- Contracting with other Policing Agencies/Departments (Cottage Grove or Veneta)
- Current service levels/program
- Reduce to two Lane County Deputy's
- Establish our own police department
- Law enforcement special district

Mayor Stram stated he has concerns with the scope the committee has presented that includes three additional tasks recommended from the work session:

- Creswell Police Department to include the verbiage Current City Limits – Policing Alternatives
- Potential supporting programs that prevent crime – report format
- Creswell Police Department (Special Taxing District Limits) – Policing Alternatives

He stated he is not seeing the need for these items at a cost of an additional \$10,000.

Councilor Gifford remarked that the committee included Cottage Grove and Veneta as examples to contract services with or share services, and it could be any entity not necessarily those towns. He went on to say the committee eliminated or listed as a very low priority rolling back to two officers. Mr. Gifford said we could reduce the options we present to PSU and doesn't want to waste taxpayer money but at the same time he wants the study to be complete.

Mayor Stram stated the only changes he would like to see to the recommendations is the elimination of Contracting with another Police Department under Policing Alternatives and the Low Priority Options.

The Council voted on the motion which carries with councilors Romoser, Campbell, Bowles and Gifford voting in favor and Mayor Stram voting in opposition.

Brent Gifford moved Omar Bowles seconded to direct City Administrator to peruse a contract with Portland State University to conduct a Policing Study. Voted on and the motion carries unanimously.

Pay Request – Nagao Pacific Architect (Invoice 13046) – Parking Lot Project – Michelle Amberg

Brent Gifford moved Holly Campbell second that City Council approves Invoice No. 13046 for Nagao Pacific Architecture and Planning P.C. in the amount of \$18,134.85 and Invoice No. 13058 in the amount of \$2,927.00 for services on the City Hall Parking Lot Project as presented. Voted on and the motion carries unanimously.

Ordinance No. 483 An Ordinance Establishing a Sign Code for the City of Creswell and repealing Ordinance 482 An Ordinance Establishing a Sign Code for the City of Creswell – Michelle Amberg/Madeline Phillips

Ms. Amberg noted the repeal of Ordinance 482 and the adoption of Ordinance 483 is a result of housekeeping in clerical errors.

Omar Bowles read twice by title and moved, Ted Romoser seconded that the City Council Repeal Ordinance 482 An Ordinance Establishing a Sign Code for the City of Creswell and Adopt Ordinance 483 An Ordinance Establishing a Sign Code for the City of Creswell. Voted on and the motion carries unanimously.

At 9:12 pm Mayor Stram recessed the meeting in order to enter into executive session.

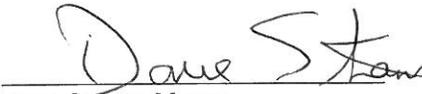
Executive Session pursuant to ORS 192.660 (2)(i) – To review and evaluate the employment related performance of the chief executive officer of any public body, a public officer, employee or staff member who does not request an open hearing.

At 9:40 pm Mayor Stram reconvened the regular session and announced that Ms. Amberg is doing a good job in her position as City Administrator.

#### **Adjournment**

There being no further business to come before the council, Mayor Stram adjourned the meeting at 9:41 pm.

  
Roberta J Tharp, City Recorder

  
Dave Stram, Mayor