

CITY OF WHEELER

CITY COUNCIL – JANUARY MEETING MINUTES

January 16th, 2024

Call to Order

Mayor Kemp called the meeting to order at 6:04 PM.

Roll Call

Present onsite:

City Council: Councilor Deanne Ragnell, Councilor Heidi Stacks, Councilor Gordon Taylor, Councilor Karen Matthews, Councilor Walt Porter, Mayor Clif Kemp

City Staff: Pax Broder

Guests:

Present via Zoom:

Guests: Carrie Richter, Julie Coop

Consent Calendar

Councilor Porter **made a motion to approve the Minutes from 12-19-23.** Councilor Ragnell **seconded the motion. The motion was passed 5-0** (Yes: Matthews, Ragnell, Taylor, Stacks, Porter; No: none).

Pax read the Finance Manager Report. *A copy is included in the Agenda Packet.*

Councilor Matthews asked for clarification on the line item “City Planning and Review Fees.” Pax confirmed that this was supposed to read “City Planning Review Fees.” Councilor Matthews also noted the legal fees to date and asked for the status of any outstanding invoices. *Pax later partnered with Madi to confirm that there were not any outstanding invoices at this time.*

Councilor Stacks asked for clarification on the Water Debt Service Charge on the water bills. Pax confirmed that this is to repay a \$1M loan to replace 3,200 feet of concrete asbestos pipes in the water distribution system. Our letter of interest was well received earlier this year, and we expect to be contacted about the next steps to secure the loan this month.

Councilor Matthews **made a motion to approve the December Financial Report.** Councilor Taylor **seconded the motion. The motion was passed 5-0** (Yes: Matthews, Ragnell, Taylor, Stacks, Porter; No: none).

Mayor Kemp changed the order of the agenda items.

LUBA No. 2022-002 Remand – Fish Processing Plant

A copy of the draft Order of Approval is included in the Agenda Packet.

Mayor Kemp asked if Ms. Richter had any updates from Bott's Marsh, LLC.

Ms. Richter stated that she worked with the City Manager to draft the findings that are for adoption this evening. She did forward them in draft form to the attorney for Bott's Marsh for comment. The comment that she received back was that "they were fine with them." The applicant was hoping to weigh-in on the conditions, but they were unable to do that. Ms. Richter's takeaway was that they found them consistent with the Council's deliberation, and they accept the findings.

Mayor Kemp asked what would happen if the findings were approved and then the applicant came back with any additional comments. Ms. Richter confirmed that the only avenue available to the applicant would be to appeal to the Land Use Board of Appeals.

Mayor Kemp asked if the Councilors had any comments.

Councilor Matthews stated that condition "G(7)" indicates that utility lines are to be placed underground unless impractical. She questioned who would make this determination. Ms. Richter stated that she believed the City's Public Works would make that determination. Councilor Matthews stated that this is a view shed and that the utilities should be located underground, Councilor Stacks agreed.

Councilor Matthews stated that she had emailed a couple of questions to Ms. Richter, but they were answered to her satisfaction. The condition "J" states that the applicant must get all required permits from other local, State, and Federal agencies and must satisfy any restrictions or conditions thereon. Ms. Richter stated that as part of the building permit submittal, City Staff will sign off that these required conditions are satisfied. If the building permit plans don't match what has been approved, the applicant will have to come back and modify this land use approval.

Councilor Stacks asked if these findings are approved, would design changes have to go back through the Planning Commission? Ms. Richter confirmed that modifications would have to come back to the City Council for approval.

Councilor Matthews **made a motion to adopt the Order of Approval for LUBA Remand 2022-002.** Councilor Stacks **seconded the motion. The motion was passed 5-0** (Yes: Matthews, Ragnell, Taylor, Stacks, Porter; No: none).

Presentations, Guests, Announcements

None

Public Comment on Non-Agenda Items

None

City Manager and Public Works Department Report

The City Manager report was read. *A copy is available in the Agenda Packet.*

Councilor Mathews asked if there were any new floodplains identified during the CAC Floodplain

review. Pax confirmed that there were not, however there may be a revision after the Gervais Creek Stormwater System is rebuilt.

Councilor Matthews asked if Tillamook Coast Visitor's Association would be paying for the electrical hookup to the new gateway sign. Pax stated that the desired location is right next to a power line, but he was unsure as to who would be responsible for the installation charge. Councilor Matthews said we should let them know that we are under the assumption that Tillamook Coast Visitor's Association would be paying for it.

Councilor Matthews stated that she doesn't want the sale of the property at 1234 4th Street to close without the blue barrels being removed first. Pax questioned if we had the legal authority to stop the sale from closing. Mayor Kemp said he didn't believe we had that legal authority. He said we had notified the real estate broker months ago that the building and waste system were in noncompliance. The contract with the seller indicates that the human waste system would be disposed of, or the seller will have a financial loss. Mayor Kemp mentioned that we may be able to get a copy of the contract. Councilor Stacks asked if we had a way to follow up with the new owners to verify the situation has been resolved. Councilor Matthews said we cannot go onto the property, but we need to notify the title company that the City is not satisfied with the human waste remediation issue. Mayor Kemp asked who the title company was, and Pax was unsure. Councilor Porter asked if we were sure that the blue barrels were used for human waste. Pax mentioned that based on how they appeared to be connected to an outdoor privy, it really seemed that they were used for human waste. Mayor Kemp asked for clarification about a composting toilet being approved by the County. Pax confirmed that the real estate agent informed him that there had been a composting toilet, but it had already been removed from the property and it appeared to be separate from the blue barrel setup.

Councilor Matthews asked about the process of obtaining an easement for the Gervais Creek stormwater inlet. Pax confirmed that the City had met with the property owner, and he was amenable to having an easement created for the new stormwater project and the ongoing maintenance of the system. The City's lawyers are drafting an agreement currently.

Councilor Porter asked how long a hose would be required to pump out the blue barrels. Pax mentioned that they appear to be quite far away from the property line near a lower structure on the property.

Councilor Matthews asked if Sopko Welding was going to guarantee their work if the City didn't replace all of the dock rollers. Pax said that they would so long as the City gets the first bracket rebuilt.

Councilor Stacks asked what the lease from the Port of Tillamook Bay costs. Pax mentioned that we are still waiting on a new lease (with expanded territory to give the City more control over parking restrictions), but that the old lease was \$480 per year.

Councilor Stacks mentioned that the Wheeler businesses would like to know the timeframe on the Salmonberry Trail project and an explanation of how this is going to help them. Councilor Matthews said she passed out a letter of support for them to say, "do we want to go forward in investigating this?" The trail will be 1800 feet, approximately from the boat launch to the billboard sign on the north

end of town and will include an elevated platform on the north side for the loading and unloading of train passengers. There is another meeting with the Salmonberry Trail folks on Monday. After the meeting, a summary will be drafted and put on the website.

Councilor Ragnell asked if there was a design or drawings yet. Councilor Matthews said there wasn't one yet. Councilor Porter asked how the path would fit next to the rails. Councilor Matthews said the path will be three feet wide, starting six feet away from the outer rail edge.

Councilor Matthews asked about the grant for a new SCADA system and if it would include new computers. Pax said that it would, including new panels and PLC computers at the remote pump sites. Councilor Matthews asked about a prior issue with grounding at City Hall. *Pax later confirmed with Phil that this grounding project had already been completed.*

The Public Works report was read. *A copy is available in the Agenda Packet.*

Councilor Stacks said that Ron did awesome working on his own over the weekend and keeping the roads sanded and Hospital Road cleared. Going forward she'd like him to have a yellow radio on hand or in the Gator in case he needs to call for help.

Councilor Stacks asked where we are on recreational immunity and Waterfront Park. Pax stated that at the time of the CIS assessment, the trails in Waterfront Park had been deeply rutted by the flood event of December 5th. That said, the CIS representative indicated that even in perfect condition, the location of the park and where the trails are make it very easy for someone to claim they are just in transit, not actively recreating. There was less concern about Upper Park, but signs were put out along the unofficial trails to and from it. Waterfront Park and the dock have remained closed since the flooding event and Pax questioned if the Council would like to keep them closed in light of the status of recreational immunity. Councilor Porter questioned how much a sign would protect the City. Pax stated that it isn't guaranteed protection, but it is a measure we can take to try to protect the City as best as possible. Councilor Ragnell asked if there is a legislative fix in the works for this issue. Councilor Matthews stated that there is a lobbying opportunity on February 12th in Salem that she plans to attend, as well as an Oregon Trails Coalition Zoom meeting on January 30th. Councilor Matthews said this isn't something the City can resolve, "we will have to go off of what the State and all the legal minds put together." One strategy would be to revamp the trails so that they aren't an easy conveyance to other locations. Councilor Stacks said that she is satisfied that the Parks Committee is aware of this issue and that they will report back monthly on their findings. Councilor Taylor said it is important for the City to protect itself here. Keeping the park closed will "cover our butts" but may also upset people enough that hopefully they will lobby as well. Councilor Matthews asked if the CIS grant for recreational immunity could be used for a sign that directs citizens to a website informing them of how they can lobby with their representative. Pax said he believed we could include that. Councilor Taylor agreed that this would be a good idea.

Councilor Porter questioned why the City has to pay rent for the property the restrooms are on if we are supplying a place for the railroad customers to use the restroom. Pax confirmed that we lease the area from the Port of Tillamook Bay, but that the railroad customers are from a different agency (The

Oregon Coast Scenic Railroad). Pax also mentioned that the new lease agreement includes additional territory to give the City control over parking restrictions in the future.

Old Business

- a. Employee Handbook Holiday Updates - Pax stated that over the span of 2023 the two Mayors had each closed City Hall in observance of holidays that were not specifically listed in the employee handbook. Those days were Juneteenth, Indigenous Peoples' Day, and the Friday after Thanksgiving. Pax asked if the Council would consider formally adding these as recognized holidays to the Wheeler Employee Handbook.

Councilor Matthews supported the idea of adding the day after Thanksgiving, but felt that the City may not be able to afford adding more days beyond that. Councilor Stacks agreed that the day after Thanksgiving should be a holiday. She mentioned that Juneteenth may be a newer holiday, but it could be important to people who live here. That said, she is not prepared to have more than 11 holidays at this time. Councilor Porter said that if Manzanita has 10 holidays, that is what we should match. He agreed that the day after Thanksgiving should be a holiday.

Councilor Stacks said her vote would be to add the day after Thanksgiving and Juneteenth as recognized holidays.

Councilor Taylor asked what the expense to the City would be if holidays were added. He continued, "if the work is getting done, the work is getting done. And we don't have huge things to offer our City workers. We pay less, it's not the greatest job available around here. And one thing I'm thinking looking at this is, well, why don't we give them this stuff if its not really costing us?" Pax confirmed that three of the four City employees are salaried and would get paid the same regardless of whether it was a recognized holiday or if they were sent home by the Mayor, but hourly workers would only get paid for the holiday if it was formally recognized in the Employee Handbook.

Councilor Porter said that hourly employees at the County are still paid if they are closed due to weather. Councilor Matthews stated that she wasn't sure that was true. Councilor Porter stated that "the bad part with putting a little extra in there is that down the road you ain't taking it back. There is no return on this, so be careful what you offer because it isn't as easy to retract it as it is to add."

Councilor Ragnell asked why we couldn't assume that someone on hourly pay would get holiday pay if the Mayor chose to close City Hall on an unrecognized holiday. Pax felt at that point it might as well just be updated as a paid holiday for all employees in the Employee Handbook.

Councilor Matthews wanted to remind everyone that closing City Hall reduces the service we provide to the community, so it isn't just a financial consideration.

Councilor Stacks stated that the demographics of Wheeler will change over time, and that for some people the Juneteenth holiday is an important date in their heritage. She recommended that we revisit this in the future and perhaps add additional holidays next year.

Councilor Matthews looked online and found 10 holidays for the County. Pax had a 2023 list of County holidays specifying 11 paid holidays, and a recent 2024 job application for a Parks Director for the County indicating 12 paid holidays (and 3 floating holidays).

Councilor Stacks said Wheeler has to take small steps and do things one at a time as they can afford them.

The Council then agreed to add the **day after Thanksgiving as a recognized holiday in the Employee Handbook**. Juneteenth and Indigenous Peoples' Day will not be recognized as formal holidays at this time.

- b. Nuisance Updates – Pax mentioned that there had been repeated complaints about noise from 291 Pennsylvania over the holidays, as well as pictures of a dog off of a leash and obstructions in the City right-of-way. A letter has been sent asking that these issues be addressed. 1234 4th Street was discussed earlier in the meeting. Handy Creek Bakery is actively working on their siding now.

Councilor Matthews said we should be a good role model for paint and fix up City Hall.

New Business

- a. Resolution No. 2024-01 – Budget Adjustment Parks Fund
The resolution was read in full. A copy is available in the agenda packet.
- b. Resolution No. 2024-02 – Budget Adjustment Stormwater Drainage Fund
The resolution was read in full. A copy is available in the agenda packet.

Councilor Matthews wished to ensure that the \$2,000 grant money is in restricted funds for the plants and educational signage in Waterfront Park.

Councilor Stacks **made a motion to adopt Resolution No. 2024-01 and Resolution No. 2024-02**. Councilor Taylor **seconded the motion**. **The motion was passed 5-0** (Yes: Matthews, Ragnell, Taylor, Stacks, Porter; No: none).

- c. NBHD Site Survey and City Property – Mayor Kemp wished to table this until the City is able to get a deed in hand. Pax informed the council that the NBHD surveyors realized they didn't have ownership of the entire lot next to City Hall, and that a small football-shaped piece on the eastern side of the lot appears to belong to the City of Wheeler. This will be the proposed location of some buried utility lines, part of the driveway, and the tip of a few parking spaces. As such, the NBHD would like to assume ownership of this piece of

property. Councilor Taylor would like to find out what the property's value is. Councilor Porter stated that the land should still be assessed appropriately based on the survey lines.

- d. Recreational Immunity Report – Discussed above.
- e. Hotwash of 12-5-23 Flooding Even and Emergency Response – Councilor Stacks had created some follow-up forms for the Flooding Event and Emergency Response, but Pax dropped the ball and didn't include them in the Councilor's Agenda Packets. Councilor Stacks asked that Pax send them to Council, and that Council please reply with anything that she had missed. *Pax will get Phil's input (after the current water emergency) and will then send them out to the Councilors.* Councilor Stacks said she got an "after-action report" from the County, but it is not necessarily what the City would need. She is looking for a better form and will present all these follow-ups at the next meeting.

Councilor Matthews asked how we are to make the determination of a weather event being considered an emergency. There aren't official guidelines, but Councilor Stacks said that in this most recent event she only had one Public Works Tech, it was a weekend, Councilors were out of town, there was an ice storm, and a power outage. If the power goes out for over an hour it should be considered an emergency and yellow radios should be turned on.

Committee Reports

- a. Waterfront Development Citizens Advisory Committee – Councilor Matthews said the members all have their notebooks. They are still determining the day and time that they are going to meet bi-weekly, likely in the afternoons at City Hall. There is a master book in the bookcase downstairs across from the empty desk in City Hall if anyone else is interested.
- b. Parks & Recreation – Councilor Matthews said they are on a winter hold. They will partner with the City Manager on recreational immunity signage. Pruning will likely happen in late January or February.
- c. WET – Councilor Stacks said she would like to thank everyone for participating and listening-in this weekend. Some policies and procedures are going to be written out so the next people who come to this table will know what the expectations are. Councilor Matthews wished to thank the WET Committee for purchasing battery powered flasher lights to be used for road closures during emergencies (in lieu of road flares).
- d. Planning Commission – The Planning Commission Report was read. *A copy is available in the Agenda Packet.*
- e. Port of Nehalem – Mayor Kemp stated that they are not going to be able to help us with the dredging project.

Pax mentioned that Councilor Porter had asked him to look into the City's insurance policy and how it relates to the dock and gangway. Pax discovered that the dock and gangway are

insured with a total value of \$110,107.00 and with a \$1,000.00 deductible. When the damage was reported in early 2023, the insurance company estimated the damage to the dock and gangway combined to be \$42,845.02, however there is a \$100,000.00 “flood deductible for the action of wind and waves” and so the claim was denied.

Councilor Matthews stated that the Manzanita Police Report wasn’t on the agenda. She would like to see the year-to-date column updated. Councilor Stacks asked that we put this on the agenda going forward. There was only one citation this month, and we want to make sure that the revenue we get from those is offsetting the expense of the Police contract. The Councilor’s felt that Police presence in Wheeler seems to be less than usual.

Mayor and Councilor Comments

None

Adjournment

Mayor Kemp called the meeting to close at 7:37 PM.

Dated: January 16, 2024

Clif Kemp, Mayor

Pax Broder, City Manager/Recorder

Recorder: Pax Broder