

The City Council for the City of Junction City, met in regular session at 6:30 p.m. on Tuesday, November 12, 2019, in the Council Chambers of City Hall, 680 Greenwood Street, Junction City, Oregon.

PRESENT: Mayor, Mark Crenshaw; Councilors Sandie Thomas, Robert Stott, Andrea Ceniga, Dale Rowe, and Bill DiMarco; Excused Absence: Councilor John Gambee; City Administrator, Jason Knope; City Attorney, Carrie Connelly; Police Chief, Bob Morris; Public Works Director, Gary Kaping; Finance Director, Mike Crocker; HR/Admin Services Manager, Stephanie Moran; and City Recorder, Kitty Vodrup.

1. Call to Order and Pledge of Allegiance

Mayor Crenshaw called the meeting to order at 6:30 p.m. and led the Pledge of Allegiance.

2. Changes to the Agenda

Item 6 Lifesaving Award Presentation moved to later in the meeting.

3. Approval of Minutes – October 8, 2019

MOTION: Councilor Stott made a motion to approve the October 8, 2019 minutes. The motion was seconded by Councilor DiMarco and passed by unanimous vote of the Council.

4. Review of Previous Month's Expenditures

Mayor Crenshaw asked if there were any Council comments or questions on the previous month's expenditures. Councilor Thomas asked about the SAIF Claims Reimbursement payment. Director Crocker responded that the City had an option under the Workers' Compensation Plan to pay a portion of the claims and that was what that payment was for.

5. Public Comment on Items not Listed on the Agenda

Mr. Jeff Ware, 1346 Cloudmont, Junction City, stated that he came to the Council in June to bring up some nuisance issues on properties on Oaklea Drive. The Council sent that to the Public Safety Committee, who acknowledged there was a problem, but little had been done. He noted that the City's code provided strict guidelines on abatement and he wondered why those were not being followed.

Director Kaping responded that those properties had been noticed, some clean-up had been done, and he was still working with property owners on these issues. He continued that this would be going to the Public Works Committee on December 2, 2019, as Public Works staff needed clarification from the Council on the desired timeframes to allow citizens to come into compliance on code enforcement issues. In the past, Public Works had been given direction to work with citizens towards compliance, instead of dropping a hammer.

Councilor Rowe invited Mr. Ware to attend the December 2nd Public Works Committee meeting. Mayor Crenshaw asked Director Kaping to provide an update on this at the December 10, 2019 Council meeting.

Mr. Ryan Vermilyea, 1705 W. 1st, Junction City, noted that Council member contact information was not listed on the City's website, and he thought it would be beneficial for a City of our size and growing to have some sort of way for citizens to officially reach out to their elected officials.

Mayor Crenshaw responded that citizens could contact Council members by writing a letter and mailing or dropping off at City Hall and by attending meetings and sharing comments. Administrator Knope added that citizens could also email comments to the City Administrator or City Recorder and they would forward those comments to the Council.

Councilor Thomas asked if there was a reason why the Council did not have emails through the City. It was noted that it had been because of costs and records retention.

6. Moose Lodge Youth Awareness Program – Appreciation to Police Department

Presentation moved to December 10, 2019 Council meeting, as Police Officers were responding to a call.

7. Public Hearing – Paddock Zone of Benefit

Mayor Crenshaw opened the public hearing for the Paddock Zone of Benefit.

Staff Report

Director Kaping stated that Mr. Jamie Paddock had submitted a proposal for a zone of benefit. He developed the southeast corner of 6th and Oaklea and when he constructed those homes, he had to put in a sewer line to serve them. The sewer line went from 6th and Oaklea to Timothy Street. In accordance with Junction City Municipal Code 13.45.020, the City sent out notice of this public hearing to the property owners within 300 feet and those affected by the zone of benefit. The Public Works Committee reviewed on October 7, 2019 and forwarded to Council.

Director Kaping continued that the developer had the right to request a zone of benefit on a development that would benefit other properties if they hooked up to that sewer line at some point. Property owners did not have to hook up to it and those outside the City limits would not be required to annex into the City. The zone of benefit just meant that the developer paid for the sewer line and if someone hooked up to it, the developer wanted to be reimbursed for part of that. The City's engineer looked at the proposal and did modify it, as some of the homes in the original proposal would not benefit from the sewer line, so they were removed. The cost analysis for each property was in front of the Council tonight.

Proponent Testimony

None.

Neutral Testimony

Ms. Nancy Savusa, 1494 W. 6th Avenue, Junction City, stated that there were a number of property owners still on their own septic and wells, and she asked if they would have to annex into the City if they wanted to hook up. Mayor Crenshaw responded that according to Director Kaping, they would not have to. He asked Ms. Savusa if she wanted to annex. Ms. Savusa responded that she did not, as she had lived in her house for over 28 years and loved her well.

Director Kaping added that Public Works had no desire to annex anybody into the City that did not want to come in. He continued that if a septic tank failed and was within 150 feet of the sewer line, the county would not issue a permit to redo the septic tank.

Opponent Testimony

Ms. Adelle McCranie, 645 Vine Street, Junction City, stated that their septic tank was within 150 feet of the sewer line and asked how the City could tell them what could be done with their septic, since they lived in the county. She added they did not wish to be annexed into the City. Director Kaping responded it was a county rule that if you were within 150 feet of a sewer line, they would not issue a permit for a septic tank. One reason was the groundwater rule, as septic tanks could leak into the ground and the City and local wells drew their water from the groundwater.

Ms. A. McCranie stated that they did not want to hook up to City water, as it was horrible and she would not drink it. She did not understand how Mr. Paddock could propose this and charge exorbitant fees if they decided to hook up. Director Kaping responded that the price was based off of the developable lot size, which was 5,000 square feet. If a person had five acres, that would get multiplied out by the number of lots the property had. The City's code read that if a developer developed a piece of infrastructure on their dime and put in a line at their cost, they had the right to ask for a zone of benefit to be reimbursed in the future if somebody hooked up.

Ms. A. McCranie said that she could be forced to hook up if her septic failed and the county refused to issue a permit. She said that she did not agree to this but could end up paying almost \$22,000 if she had to hook up. She thought this was a horrible thing to do to people and was not okay.

Mr. Ron Edwards, 645 Vine Street, Junction City, asked where the 150 feet started and ended. Director Kaping responded it was from the edge of his property to the sewer line that was in the street.

Ms. Mae Swisher, 1920 W. 6th Avenue, Junction City, asked for confirmation that it did not matter where a septic tank was located, and it only mattered where the property line was. Director Kaping responded that was correct.

Council Questions or Comment

Councilor Rowe asked about a scenario with Ms. McCranie's property where a septic tank failed, there was no zone of benefit, and the county said that she would need to hook up to the City sewer. He asked what the cost would be. Director Kaping responded it would be the cost of having a contractor install the line, plus a tape fee and permits.

Councilor Rowe asked if it would be about the same cost as with a zone of benefit or lower. Director Kaping responded it would be much lower and he would guess could be less than half.

Councilor Rowe asked in terms of process, if Ms. A. McCranie's septic tank failed, would the county then issue an order for her property to be annexed into the City. Director Kaping responded no and that she would not have to annex. What the county would say is they would not issue a permit to fix the septic tank, because her property was within 150 feet of the sewer line. If her property was 400 feet away, they would issue a permit.

Administrator Knope offered one point of clarification and noted that to connect to the City sewer, did not mean a property would have to annex into the City. The City had an extraterritorial extension process that allowed the City to connect folks outside the City and they would not have to annex in. Director Kaping added that there was an additional fee for that process.

Councilor Ceniga asked what would happen if this zone of benefit was denied and the property owners needed to hook up later to City sewer. Attorney Connelly responded that in reviewing City Code language, it was essentially a right that was granted to developers if they oversized or extended lines that were available to other properties that do not only serve their properties. The developer had contributed to City infrastructure, and the City adopted this language to allow them to get some reimbursement from people who would otherwise have had to maybe build the lines themselves or however else it would have happened. Director Kaping noted that the county would issue a permit, if the line was not there.

Attorney Connelly continued that the City could allocate the costs and decide the benefit that each property received. She added that maybe there was a way, but she did not see a mechanism by which the City could say no to a zone of benefit once it was requested. Administrator Knope added that he had not seen one.

Mayor Crenshaw stated that the allocations had been done through a formula of taking the value of the improvement divided by the number of dwelling units or potential dwelling units. Director Kaping responded that was correct and it was referred to as EDUs.

Councilor Ceniga asked if there was a line on 10th Street or if everything on Vine would go to 6th Street. Director Kaping responded that the applicant had included all properties on Vine to 10th Street, but half a dozen properties on Vine towards 10th Street were removed, as they would not be served by the Paddock line.

Councilor Ceniga asked if there was a line on 10th and if someone was closer to 10th could they go to that line. Director Kaping responded it depended on where it was at. Yew Street was where it stopped.

Councilor DiMarco stated that back to Attorney Connelly's remarks about apportionment, he asked who did the analysis. Director Kaping responded that the applicant did their analysis and then he had the City's engineer do the City's analysis. The applicant ended up going with the City's analysis.

Councilor DiMarco noted that there were islands of unincorporated properties within the boundaries of the City limits with the way that annexations had been done in the past that had imposed a possible burden on property owners. He added that there may be some options to discuss when they deliberated.

Councilor Thomas asked if it was an option for the Council not to approve this. Mayor Crenshaw noted that the consequence of the Council saying yes to the zone of benefit would be that people in the room would be dismayed and could have a pretty large bill if they ever had to connect. He asked Attorney Connelly what the consequences would be if

the Council said no to the zone of benefit. Attorney Connelly responded that a developer who was under the impression that it was a matter of right based on the City's code and built a system assuming a zone of benefit would be created if requested could sue the City for a declaratory judgment to enforce this and then a judge would make the decision. The Code language does say that a zone of benefit "may" be established and then it says at the request of the party or parties. So, one could say that if it was requested it would be formed, but the language was not terribly clear.

Councilor DiMarco stated that he wanted to be clear in roughing out some options for deliberation. He interpreted that the Code gave the developer the impression that a zone of benefit would be formed, but it may not have to be this particular one. Attorney Connelly noted that if and when the Council would want to explore that, she had an idea about a different apportionment and was not sure if it was something to be vetted with staff and maybe this was a hearing that would be continued. She noted that the applicant was not even here to speak on the applicant's own behalf.

Administrator Knope stated that when the Council did get to the point of deliberations, he did have an alternative for the Council to consider, based on the City's code and some other things that would be a different approach than what the City had done in the past.

Mayor Crenshaw stated that Ms. A. McCranie's assessment of nearly \$22,000 represented 7 EDUs on that piece of property. He asked Ms. A. McCranie how many houses she had on her property. Ms. A. McCranie responded it was a duplex.

Ms. Savusa asked what an EDU was. Director Kaping responded Equivalent Dwelling Unit. Mayor Crenshaw stated that the Equivalent Dwelling Unit that was fixed to the property was based on how many houses could be built, so if their septic tank failed and they needed to hook up their duplex, two houses, they would pay those 2 EDUs; they wouldn't pay all 7. If they decided to develop the remainder of property later on, then they would have to pay the other EDUs for the rest of that property. Director Kaping responded that was correct.

Ms. A. McCranie noted that they could not develop the lower part of their property, as it was in a flood zone. Director Kaping responded that if her septic failed, she would not have to pay for all 7 to hook up. She would only have to pay for the ones she was hooking up; hooking up the duplex would be 2 and not 7. Councilor Rowe added that she would pay 2/7s of the \$20,000, so that could go down to \$6,000 or something. Ms. A. McCranie responded that she still did not want to pay it. She continued that they had their septic tank pumped recently and it was in very good condition and they expected it to last quite a long time. If the sewer line had not been built and suddenly her septic failed, she could have seen about getting her septic replaced.

Councilor DiMarco asked if the county rule that they would not issue a septic permit if within 150 feet of a sewer line was backed up by a state law. Director Kaping responded that it was a federal EPA (Environmental Protection Agency) rule as part of the Clean Water Act.

Mayor Crenshaw asked Ms. Swisher if she wanted to make a comment. Ms. Swisher stated that she was one of those properties with 7 EDUs and that clarification really helped. She understood the zone of benefit after receiving the certified letter and doing a lot of research. It just seemed that it was not intended for this kind of a situation, where you have a subset of county folks who would be obligated to hook up to it. It seemed like it would be more useful for bringing sewer lines and water lines out to a place that was about to be developed. So down 6th Street, there was going to be the 330 homes and she asked if that would be part of the zone of benefit. Director Kaping responded no and those homes would go to the Reserve Subdivision Sewer System pump station.

Ms. Barb McCranie, 635/645 Vine Street, Junction City, asked when the City decided they wanted to do this, because they did not get anything until they got a bill on this. There was no letter or anything and then all of a sudden, they received a registered letter in the mail that they were going to have to pay and at the end of 20 years would have interest attached to it. Mayor Crenshaw stated that he appreciated the comment but did not believe she was reading that correctly. He asked if there would be interest involved. Director Kaping responded yes. Mayor Crenshaw shared that his understanding was that it would be an option for the property owner to connect, and if the property owner was able to avoid connecting for a period of 20 years, this would no longer apply to them.

Ms. B. McCranie stated that they were out there building and nobody told them where the money was coming from, that they would be the ones paying for it. They tore up the street, put in the pipes and then the property owners were hit and were going to have to pay for what the developer did. She stated that the City had no right to make that decision and this was not discussed. There was no letter, no nothing and now they would owe all this money.

Discussion followed on whether the zone of benefit was for 10 years with one 10-year extension. Attorney Connelly stated that she did not see any extension language that specified 10 years with a 10-year extension, but that it was for 20 years. She noted that City Code 13.45.040 read that if the zone of benefit was paid within 20 years, the City shall pay that to the parties who initiated construction. After the 20 years, the money collected would be the sole property of the City. She added that Section 6 Fee Transfer of Resolution No. 1 read that if the City collected the fees within 20 years.

Mayor Crenshaw asked if there were any additional comments. There were none.

Mayor Crenshaw closed the public hearing.

B. Resolution No.1 – A Resolution Establishing a Zone of Benefit and Imposing Zone of Benefit Fees for a Sewer Project Improvement.

Mayor Crenshaw stated that it was time to deliberate on Resolution No. 1 and whether or not the City would establish a Zone of Benefit.

Councilor DiMarco stated that he thought they were in an area that he would not call mature code and noted that the City had only visited this a couple of times in recent years. Administrator Knope responded that it was probably 4 or 5 times in the last 15 to 20 years. Councilor DiMarco continued that this was probably crafted from a bigger city by a planner 20 years ago. He suggested that they be creative and look at the fact that this was another product from inherited policy of the past where a little bit of random annexations and extensions of facilities may have made this unfair.

Councilor Thomas suggested the Council look at Option 4 on the AIS (Agenda Item Summary) to direct staff to bring back more information.

Mayor Crenshaw asked what the cost of replacing a failed septic tank would be. Director Kaping responded that typically if you had to put in a new septic tank, it would require a filter system and could range between \$15,000 to \$20,000. Mayor Crenshaw noted that there could be a potentially better option for a property owner than the \$15,000 bill of replacing a septic system. It could be a potential positive and less expensive if a property owner's septic failed and they had to hook up under the zone of benefit assessment.

Ms. B. McCranie stated that it wasn't just the cost of the septic tank and replacing it. Someone had to pay already for the line and so you were paying twice. The City was charging them for putting the line through, correct? Mayor Crenshaw responded that he did not see that, but he would address that question in a moment.

Administrator Knope stated that he had mentioned another potential way to look at this and he would throw out an idea for Council consideration. He would recommend continuing the public hearing until next month, to give staff an opportunity to talk with Mr. Paddock. This particular line was in the City's Sewer Capital Improvement Plan, which was also part of the City's System Development Charges (SDCs). In the 13 years that he had worked for the City, they had done a zone of benefit a couple of different times and never once had it been clean. He had always been concerned with how the tool of a zone of benefit was applied in the City, and there were a number of areas where it overlapped with SDCs. On particular projects, he was concerned that folks were paying twice; once through their SDCs and once through a zone of benefit. He recommended that the Council look at revisiting the zone of benefit code with the Public Works Committee. He would recommend removing this code, because he did not believe it was an effective tool and thought there were other options to address these kinds of situations.

Administrator Knope continued that he would recommend the Council consider having staff talk with Mr. Paddock to see if the City would basically reimburse Mr. Paddock out of the

City's Sewer Fund since this was listed in the City's Sewer Master Plan versus forming a zone of benefit. Then there would be time for the City to fix its code or implement different tools. Administrator Knope noted that there was also an overlapping and competing zone of benefit in this, and Mr. Paddock came up with this option instead of connecting to the High Pass pump station and paying Mr. Murry his zone of benefit. If Mr. Paddock was interested in another option and withdrawing the zone of benefit application, the City would not establish any kind of fee on these properties at this point. In the future if they connected, they would pay their portion of that fee through their SDCs, which they would pay at the time of connection. Right now, they would be paying the zone of benefit plus SDCs.

Director Kaping noted that the zone of benefit was super muddy for Public Works and the Building Division and this was not a Code staff enjoyed working with. It was always the burden of the City to collect a fee that the City did not get any part of.

Councilor Rowe asked if staff would have that information ready for the Public Works Committee meeting in December. Administrator Knope responded yes.

Mayor Crenshaw cautioned everyone not to take any of the ideas that had been presented in this discussion as a promise, as they were still just ideas that needed to get worked out. He wanted to make sure Ms. B. McCranie had her question answered. He asked if the letter sent to the property owners demanded payment at this time. Director Kaping responded no.

Ms. B. McCranie stated that had not been clear to her and it was good that they did not have to pay now, as there was no money. She was anxious to see what came out of next month's meeting, as it sounded much better. Councilor Rowe stated that the Public Works Committee meeting would be Monday, December 2, 2019 at 6:30 p.m. here at City Hall.

Mayor Crenshaw asked if it would be possible for the Public Works Committee to discuss on December 2nd and then have this at the December 10th Council meeting. Director Kaping responded yes.

Attorney Connelly asked if there would be an additional hearing in that month or was it going to be solely deliberations. Administrator Knope responded deliberations. Attorney Connelly stated that she just thought it would be helpful for people to understand.

Mayor Crenshaw noted that he had kind of decreed that he would allow public comments on every matter, so he would make an opportunity for people to speak. He encouraged the citizens who spoke to invite their neighbors that would be affected, both outside and inside the City, as he would like to hear from everybody.

Ms. B. McCranie stated that they should be sent a letter. Attorney Connelly responded that this was the notice of this hearing and everybody received that. Director Kaping responded that was correct.

Councilor DiMarco stated that he had a legal point of order. Legally, would it be a better idea to continue the public hearing so Mr. Paddock, who was a citizen, had an opportunity to give testimony. Attorney Connelly responded that what she heard was this hearing was closed and there would be another hearing. Director Kaping noted that Mr. Paddock was notified of this hearing and chose not to come. Mayor Crenshaw stated that it was really not Mr. Paddock that he was worried about hearing from, but the other citizens who were impacted by this. He noted that if Mr. Paddock showed up next month, he would allow him to speak as well.

Councilor DiMarco stated that he thought best practice would be to include a public hearing on the agenda. Mayor Crenshaw responded that was easy enough. Attorney Connelly noted that she thought it was helpful for the minutes to reflect the agenda was going to look a lot like the agenda for this matter and would list a public hearing and then it would list consideration of the resolution if there was one. Mayor Crenshaw responded that was a good idea.

Attorney Connelly stated that they had a date certain, a time, and a place. So even if this was a land use public hearing, that would be sufficient and additional notice would not be required. Councilor DiMarco said thank you.

Director Kaping stated that if citizens had any questions, they were welcome to give him a call or come to his office, as he would be happy to assist them.

8. Ordinance to Make City Prosecutor, City Attorney, City Engineer, and City Public Defender Appointees of the Council

Administrator Knope stated that Ordinance No. 1 was read in full on October 8, 2019 and did not receive the unanimous support to be approved at one meeting; therefore, it was before the Council for second reading by title only and for consideration.

A. Ordinance No. 1 – An Ordinance Establishing Additional City Officers.

Attorney Connelly read Ordinance No. 1 by title only, for its second reading.

Mayor Crenshaw asked if there were any public comments.

Ms. Ronda Deloreno, 932 Kaylee Avenue, Junction City, noted that she used to live in Michigan, where the City Prosecutor was an elected position. She asked questions about the process. It was noted that the City Prosecutor and other positions in this ordinance were not City employees but were all contracted services that were governed by the Oregon Public Contracting Code and City Public Contracting Rules.

MOTION: Councilor Rowe made a motion to adopt Ordinance No. 1. The motion was seconded by Councilor Stott and passed by unanimous vote of the Council.

9. Library Board Appointment

Manager Moran shared that the City received one application for the Library Board vacancy. The Library Board consisted of five members, of which three were to be inside the City limits and two could be outside the City. The Library Board reviewed on November 4, 2019 and recommended appointment of April Harris.

Mayor Crenshaw appointed April Harris to the Library Board.

MOTION: Councilor Stott made a motion to approve the Mayor's appointment of April Harris to a position on the Library Board with a term through July 1, 2023. The motion was seconded by Councilor Rowe and passed by unanimous vote of the Council.

10. Water Treatment Filter Parts Purchase Request

Director Kaping presented the request to purchase the remaining fittings, pipe, and valving to complete the upgrade at the Water Treatment Plant, which was approved by the Council in June of 2019. The City followed procurement rules and requested three bids; two bids were received. The Public Works Committee reviewed on October 7, 2019 and recommended purchase from H.D. Fowler.

MOTION: Councilor Rowe made a motion to approve the purchase of the parts from H.D. Fowler in the amount of \$25,088.53 and authorize the Public Works Director to sign the necessary documents. The motion was seconded by Councilor DiMarco and passed by unanimous vote of the Council.

11. SCADA Computer Upgrade

Director Kaping presented the request to purchase replacement computers and software for the SCADA system. The City followed the procurement rules and requested three bids; two bids were received.

MOTION: Councilor Ceniga made a motion to approve the purchase of the computer hardware from TAG in the amount of \$17,255.00 and authorize the Public Works Director to sign the necessary documents. The motion was seconded by Councilor Rowe and passed by unanimous vote of the Council.

12. Lifesaving Award Presentation

Chief Morris presented a lifesaving award to Officer Brandon Seifried, who on August 23, 2019, performed lifesaving CPR on a citizen that had no pulse and was not breathing.

Chief Morris introduced his new executive assistant, Janet Deckard.

13. Council Agenda Forecaster

Administrator Knope presented the forecaster. Add Paddock Zone of Benefit discussion and Moose Lodge Presentation to December 10, 2019 Council agenda.

Councilor DiMarco asked if any follow-up was needed on a complaint that had been filed against the Police Department and Chief Morris a number of months ago. Administrator Knope responded that the complaint was closed and there was no further action to be taken.

14. Staff Reports

Director Kaping reported: The downtown street work had been completed and Public Works was pleased with the final product. Leaf season was in full swing. He reached out to the attorney of the owner of the burned-out property on Ivy Street to see about the car being removed and the exterior of the building being painted. If he did not hear back by Friday, he would send another email.

Councilor Thomas noted that she waved at an officer in a police car the other day, but the windows were tinted so she could not see the officer waving back, which she liked to see. She asked if the tinting was new. Chief Morris responded that it was not, and the windows had been tinted for quite some time.

Attorney Connelly reported: She would not be at the December 10th Council meeting. Attorney Ross Williamson was scheduled to attend, unless otherwise directed by Administrator Knope. She wished everyone happy holidays.

15. Councilor Comments/Questions

Councilor DiMarco extended holiday wishes to Attorney Connelly.

Councilor Rowe thanked everybody at the City and on the Council for their patience, understanding, prayers, and thoughts regarding a recent family event.

Councilor Thomas thanked everybody that showed up at the meeting. She added that they appreciated people showing up and finding out what was going on.

16. Mayor's Comments

Mayor Crenshaw noted that humor was in his toolbox and sometimes it did not come out the best way, but he had always said that he would guarantee anyone who came to these meetings that they would be heard. He may not agree with someone, as he was a citizen just the same and would make his comments too, but just because he did not agree with someone did not mean he was not allowing someone to be heard. He encouraged people to please come to the meetings and to tell their neighbors to come. He expressed appreciation to the citizens who did come and noted that he would be available to speak to anyone after Council meetings.

17. Executive Session per ORS 192.660(2)(h) to Consult with Legal Counsel Concerning Legal Rights and Duties Concerning Current Litigation or Litigation Likely to be Filed.

Mayor Crenshaw called Executive Session at 8:20 p.m. Regular session reconvened at 8:36 p.m.

18. Adjournment

As there was no further business, the meeting was adjourned at 8:37 p.m.

ATTEST:

APPROVED:

Kitty Vodrup, City Recorder

Mark Crenshaw, Mayor