

**CITY OF SILVERTON  
CITY COUNCIL MINUTES**

**Silverton Community Center – Council Chambers – 421 South Water St.**

**May 6, 2019, 7:00 p.m.**

**I. OPENING CEREMONIES – Call to Order, Pledge of Allegiance & Roll Call**

Council President Jason Freilinger called the meeting to order at 7:02 p.m.

<u>Present</u>	<u>Absent</u>	
<u>          </u>	<u>Excused</u>	Mayor
<u>          </u>	<u>          </u>	Kyle Palmer
<u>          </u>	<u>          </u>	Council President
<u>          </u>	<u>          </u>	Jason Freilinger
<u>          </u>	<u>          </u>	
<u>          </u>	<u>          </u>	Jim Sears
<u>          </u>	<u>          </u>	
<u>          </u>	<u>          </u>	Matt Plummer
<u>          </u>	<u>          </u>	
<u>          </u>	<u>          </u>	Dana Smith
<u>          </u>	<u>          </u>	
<u>          </u>	<u>          </u>	Laurie Carter
<u>          </u>	<u>          </u>	
<u>          </u>	<u>          </u>	Crystal Neideigh

Staff Present:

City Manager, Christy Wurster; Chief of Police, Jeff Fossholm; Public Works Director, Petra Schuetz; Community Development Director, Jason Gottgetreu; Finance Director, Kathleen Zaragoza; Assistant to the City Manager/HR Coordinator, Elizabeth Gray; and Assistant to the City Manager/City Clerk, Angela Speier

**II. APPROVAL OF MINUTES**

Councilor Smith made motion to approve the minutes from the Regular Meeting held on April 1, 2019 and the Joint Work Session held on April 15, 2019. Councilor Sears seconded the motion. Councilor Carter noted on page 5 of the April 1, 2019 minutes (line 41) the word “weary” should be changed to “wary.” There was no further discussion and the motion passed approving the April 1, 2019 minutes as amended 5-0, with Councilor Carter abstaining. The April 15, 2019 minutes passed as presented unanimously (6-0).

Councilor Plummer left the meeting at 7:04 p.m. and returned at 7:06 p.m.

**III. OATHS OF OFFICE/PUBLIC RECOGNITION**

**3.1 Proclamation – Day of Decency**

Council President Jason Freilinger read the proclamation and declared May 14<sup>th</sup> as Day of Decency. Roger Benedict with Day of Decency accepted the proclamation and stated he is proud of Lisa Cholnoky who is launching this across the country.

**IV. PUBLIC COMMENT**

Gene Pfeifer, 1392 S Water Street. Mr. Pfeifer said he was on City Council when the dam was built in the 1970s and has been keeping documents related to its construction and hazardous condition. He said

there needs to be an alternative if the dam is removed. His alternative would be to provide a transmission line from below Silver Creek Falls that would flow similar to the Abiqua transmission line and serve the water treatment facility on Reserve Street. He stated that the Silverton Dam will fail; whether it is next week or in 50 years is unpredictable. The geology reports in his files say that it was only intended to be a source of potable water. A hydrology engineering report released in January, 2000 illustrates that if the dam fails there will be about 8 feet of water in South Water Street within 40 minutes. He emphasized that the City needs to have an Emergency Action Plan that relates to citizens, so they know what do in the event of an emergency. There should be a list of things they need to consider such as turning off utilities and their emergency escape route. Councilor Carter asked Public Works Director Petra Schuetz what the latest studies show. Director Schuetz said the annual inspection took place in August and indicated that the dam is well maintained and the latest report is posted online.

Molly Ainsley, 1115 Mill Street. Ms. Ainsley stated she and others are concerned about the impact of the proposed expansion of the rock quarry south of the reservoir. She said that the state did not require an environmental impact statement as a condition of approval. She asked what the City's position is at this point and if there has been a challenge in court. Community Development Director Jason Gottgetreu explained the City is keeping an eye on what the operation will entail. The quarry will have to go through a DOGAMI permit and application form. The City has requested to be a reviewing agency when it is submitted. The City is unaware of a court challenge. Councilor Plummer said his understanding is that the challenge is not on the land use, but the purchase process and legitimacy of the property transfer. Once that is settled then they will apply for the mineral rights and submit an application and permits for the mineral extraction. Ms. Ainsley asked if an environmental impact statement will be required at any point. Director Gottgetreu said the DOGAMI application will request a lot of information with regard to what is in and around the site and how the site will operate. City Manager Christy Wurster explained that in 2015 the current property owner applied and was granted a conditional use permit from Marion County. The permit expires in 2020, so the owner has until then to finalize the mineral rights transfer and then they can apply for their operators permit through DOGAMI. There are a number of safety measures that are put in place for this type of permit. Staff met with the property owner this afternoon and they are aware of the City's concerns regarding the protection of Silverton's drinking water source and they assured staff that they are good stewards of the land.

Aaron Mengucci, 3486 Edison Rd NE. Mr. Mengucci explained that the rock pit has been in existence since the early 1900s and is approved. It has not had any impact on the water source. There are two other pits near the Abiqua that are much closer to the water source than this pit is. The industry is highly regulated by DOGAMI and DEQ to ensure that there is no negative impact to water sources, and if there is they will shut down the operation. Councilor Carter said the community is concerned about the mineral rights. Mr. Mengucci explained the mineral rights were not on the title when the application was made, so they are going through the process to acquire 63 acres of mineral rights to mine rock.

Charles Baldwin, 3301 Seminole Rd. Mr. Baldwin congratulated staff on their job on the improvements and maintenance of the swimming pool. He is supportive of the staff tracking the happenings at the rock quarry. He encouraged the staff to do further research on the lawsuit and if needed join the lawsuit. The quarry is potentially a real impairment to the reservoir which is already silted and more siltation will only aggravate that problem. If chemicals are used in the mining process those will have negative impacts to the water quality. It is a serious issue, because water flows downhill and it is a drinking water source. Due to the environmental impacts City staff should continue to monitor the situation.

## **V. SCHEDULED PRESENTATIONS**

### **5.1 Silverton Chamber of Commerce Monthly Update – Stacy Palmer**

Stacy Palmer, Silverton Chamber of Commerce Executive Director distributed her monthly report. She reviewed their points of contact and invited the Council to the Silverton Business Group. She distributed the newest Visitor Guide. The Chamber Classic Golf Tournament will be held on Friday. The flower baskets will be hung next Tuesday. She said the Chamber is about \$1,500 short of being able to keep the baskets up into September, so donations are appreciated. She said May 5-11<sup>th</sup> is National Small Business Appreciation Week and encouraged everyone to support local businesses. She provided an

update on legislation that they are watching, including HB 3427-A which is a bill they are opposing that would establish a gross receipts tax on all Oregon businesses with a least \$1 million in sales. Councilor Carter asked how many Silverton businesses would be impacted by that. Ms. Palmer responded that at least the manufacturing businesses in town, but perhaps more. Councilor Carter asked the percentage of the tax. Ms. Palmer said that it has changed a number of times and that she was unsure of the latest number. Councilor Carter said she read it is .06 percent.

## **5.2 Presentation of Pay Equity results for the City of Silverton – Jillian Girard**

Assistant to the City Manager/HR Coordinator Elizabeth Gray introduced Jillian Girard with Portland State University. Ms. Girard provided an overview of the pay equity project and reviewed her approach to the analysis. She studied the pay for people performing the same job and assessed the factors driving pay differences. She said they did not find gender or race/ethnicity pay inequity within classifications. The project team also looked at the unadjusted pay difference and females tend to be concentrated at the lower end of the pay spectrum which reflects national patterns. She explained that education was a significant source of pay difference and is valued in the organization. Tenure also made a difference. Ms. Girard reviewed the rules of the state pay equity legislation that became effective in January 2019. The following recommendations came out of the study: 1) consider collecting additional information (such as education); 2) identify recruiting opportunities particularly for higher paid positions, to ensure diverse candidate pools; 3) discuss how pay is determined upon hire; and 4) continue to monitor the state of pay equity. Councilor Plummer thanked Ms. Girard for performing the Pay Equity Study.

## **VI. PUBLIC HEARING**

### **6.1 Consider the removal of 1355 South Water Street from the city limits**

Director Gottgetreu said in April, City Council adopted a resolution that declared the intent to withdraw territory from the city limits. Tonight is the public hearing to accept testimony on the withdraw of territory. After the public hearing Council will decide schedule the final hearing on the matter at the June 3<sup>rd</sup> meeting. Council President Freilinger opened the public hearing 7:59 p.m. No members of Council wished to declare a conflict of interest, exparte contact, or abstain from this matter. There were no members of audience that wished to challenge the jurisdiction of City Council to hear this matter.

#### **Testimony in favor**

Don Kelley, 110 N. 2<sup>nd</sup> Street. Mr. Kelley spoke for his client Rose Hope. Mr. Kelley thanked staff for their procedural help in this matter. He explained that this arises from the desire of Ms. Hope to put a small addition on her house that would allow her sister to live with her. Ms. Hope had requested to be annexed in order to gain access to City sewer in order to accommodate the addition. At the time it was thought that she would not be allowed to improve her septic system; however, the cost to hook into city sewer is too expensive. They are asking to be removed from the city, because Marion County will allow enough of an expansion of the septic in order to accommodate the addition. Councilor Carter inquired about the cost to hook into the City sewer and why it is so high. Mr. Kelley explained that it has to do with the fact that it is a state highway, the length of the pipe, and that the sewer there would need to be fairly deep.

#### **Testimony in opposition**

None.

Councilor Smith made a motion to close the public hearing. The motion was seconded by Councilor Carter. Council President Freilinger closed the public hearing at 8:05 p.m.

Councilor Carter made a motion to enter an order declaring the Council still favors the withdrawal of territory pursuant to Resolution No. 19-10 with a final hearing on the matter to occur at the June 3, 2019 City Council meeting. Councilor Neideigh seconded the motion. There was no discussion and the motion passed unanimously (6-0).

## VII. CONSENT AGENDA

Council President Freilinger said that item 7.3 on the Consent Agenda will be pulled per staff and a councilor's request. Councilor Sears made a motion to accept the Consent Agenda consisting of agenda items 7.1, 7.2, 7.4, 7.5, 7.6, 7.7, 7.8, 7.9, 7.10, 7.11, and 7.12. Councilor Plummer seconded the motion. There was no discussion and the motion passed unanimously (6-0).

- 7.1 Resolution No. 19-17 – Increasing the appropriation authority related to legal costs**
- 7.2 Resolution No. 19-18 – Adopting City of Silverton Employee Handbook**
- 7.4 Resolution No. 19-20 – Adopting a Plan of Action for the City of Silverton**
- 7.5 Resolution No. 19-21 – Updating the Silver Trolley FTA Procurement Policy, the Silver Trolley Reasonable Modification Policy, and the Silver Trolley Maintenance Plan**
- 7.6 Resolution No. 19-22 – Adopt Revised Salary Schedule**
- 7.7 Resolution No. 19-23 – Supporting the establishment of a Continuum of Care for the Mid-Willamette Region**
- 7.8 Forklift for Maintenance Division**
- 7.9 Authorization to purchase new playground equipment for Lincoln Park**
- 7.10 Ratify the approval of the Silverton Community Pool joint repair project by Underground Tech**
- 7.11 Sidewalk infill at Bartlett St. along North Church St., Mill St. east along Robinson St. and along Main St to Rock St.**
- 7.12 Approval to award Engineering Services for Silver Creek Water Intake and Transmission Line (EDA) to Keller Associates**

### **7.3 Resolution No. 19-19 – Relating to the processing of annexations in the City of Silverton**

Director Gottgetreu said this resolution is a continuation of two prior resolutions and places a hold on the City making a decision on any annexation greater than two acres. The applicant would need to refer any annexation greater than two acres to the voters for approval. The Oregon State Legislature passed SB 1573 which removed cities ability to send annexations to the voters. The cities of Corvallis and Philomath challenged the legality of SB 1573 based on Home Rule provisions. This challenge is currently sitting in the courts waiting a decision where it has been for a number of years. Staff spoke with the City Attorney who recommends that City Council not take action on Resolution No. 19-19 due to the length of time SB 1573 has been in the courts. The City Attorney feels that the City's strongest position regarding approving or denying an annexation would be through the typical land use process given the additional review criteria that the City has adopted. So if there is an annexation that is not in the public's best interest the City Attorney would prefer to defend an annexation denial through the land use process rather than through this potential resolution which places a hold on annexations.

Ken Roth, 14479 Evans Valley Road. Mr. Roth is a property owner of land impacted by the resolution. He is opposed to it, because it is not consistent with state law. He explained in Benton County, Judge Donohue ruled that SB 1573 should be enforced. He said his property meets the requirements for annexation, but it was denied by the voters in 2005. He explained what he sees as the problem with voter annexation and why SB 1573 was passed. He asked Council to adhere to their oaths of office and support the laws of the State of Oregon and vote no on this resolution. Councilor Carter asked about the current process and what staff does with annexation requests that are larger than two acres. Director Gottgetreu said that they have not been processed due to the past resolutions. She asked if Corvallis is now processing annexations. Mr. Roth said that they are acting on annexations. She asked if there are other communities following a similar path as Silverton. Director Gottgetreu said not his knowledge.

Dean Oster, 239 Rock Street. Mr. Oster said that as part of the oath of office Councilors are required to support the Oregon Constitution and the laws of the state which SB 1573 is a state law. He said in his mind by not adhering to that the City Council is violating Oregon law. Councilor Plummer indicated that City Council has been advised by legal counsel concerning this matter.

Councilor Plummer explained the struggle for Council concerning annexations was serving the people. At the time the state passed the annexation laws there was a lot of push back on removing the power from

the people to make decisions. It seems that there were legitimate appeals to SB 1573 and it was the City's decision to wait and see if the appeals would change the outcome, but as time passed it doesn't appear that is going to be the case. Council decided to not take action on Resolution No. 19-19.

## **VIII. DISCUSSION/ACTION ITEMS**

### **8.1 Urban Forestry Proposal**

Chelsea Starner with the Silverton Public Works Department provided an update on the City's progress in formalizing an Urban Forestry Program and applying for Tree City USA recognition. Staff launched an Urban Forestry page on the City's website and will continue to share tree information through social media. The Public Works and Community Development Departments are working towards accomplishing the Council Goal of increasing street trees and protecting heritage trees in Silverton. They will be looking at implementing improvements to the street tree permitting process and strengthening code enforcement as it relates to new development and street trees. The departments are working to develop a street tree inventory. Staff is looking at examples of successful tree incentive programs to see if something similar could work for Silverton. Council has prioritized the protection of heritage and significant trees as a goal. Staff is working with the Heritage Society to find trees that would meet nomination criteria standards for Oregon Heritage Tree designation. In the future staff would like to work on a future designation for the trees located on Eugene Field Commons. At a future meeting staff will present modernized code language to include protection of heritage and significant trees.

Councilor Smith said it is her hope that the landscape requirements for street trees and front yard trees are not too rigid in interpretation and allows for staff to exercise their judgement as to what is most important when significant trees are in the right-of-way (ROW) or too close to the ROW. Councilor Carter said the list of recommended street trees are mostly decorative and discourage the planting of big old giant trees which are the ones that sequester the most carbon dioxide. She hopes the City will be able to loosen some of the standards and encourage the planting of bigger trees. Ms. Starner responded the City is trying to promote the right tree in the right place.

Councilor Carter made a motion to launch the Urban Forestry Program. Councilor Smith seconded the motion. There was no discussion and the motion passed unanimously (6-0).

### **8.2 Presentation of the draft Eugene Field Commons Concepts**

Director Gottgetreu explained these concepts were developed by MIG through a series of stakeholder meetings and a public open house. This outreach process was funded by a grant the City received through the Department of Land Conservation and Development. Director Gottgetreu reviewed the four Eugene Field Commons site concepts and their elements. He explained that the diagonal parking will have to be approved by ODOT. The City does have a special transportation designation which will allow the state to consider this request, but the City will have to meet a number of criteria for it to be approved.

Director Gottgetreu explained the next step in the process is to provide MIG with comments that will help them prepare a more refined single concept. He said the most efficient way would be to hold a work session to further discuss the concepts. Councilor Carter asked Chief of Police Jeff Fossholm which concept that he prefers and would work best for the Police Department. She said she didn't really like any of the concepts and would like to see more green space surrounding the building. Chief Fossholm said he needs a new modern police facility and all the designs would provide good access. Councilor Smith asked if there is parking requirements included in the Police Facilities Study. Director Gottgetreu said yes there are parking requirements. There has not been a formal space needs assessment performed for City Hall.

Councilor Carter said she would like to see a bandstand on the site. Council discussed the need for a work session and getting public input on the options and any other Council concepts prior to the final being prepared by MIG. Discussion ensued about ways to solicit comments on the concepts and when that should occur. Director Gottgetreu indicated that staff can also provide Council with the comments that were made during the stakeholder meetings. Councilor Smith described the process the City used for the Downtown Street Scape Plans and felt it was a good way to get community input.

Council decided to solicit written input from residents prior to the May 20<sup>th</sup> work session through online sources and not allow for public comment during the work session. At the work session Council will also develop a process for additional public outreach moving forward. City Manager Wurster noted that the agreement the City entered into with MIG expires in October allowing for time to work through a public process.

## **IX. APPOINTMENTS TO COMMITTEE AND ADVISORY GROUPS**

### **9.1 Ratify the appointment of Dave Ullan, Colin Scott, and James Rise to the Parks and Recreation Task Force**

Councilor Carter made a motion to ratify the Mayor's appointment of Dave Ullan, Colin Scott, and James Rise to the Parks and Recreation Task Force. The motion was seconded by Councilor Smith. There was no discussion and the motion passed unanimously (6-0).

## **X. CITY MANAGER UPDATE**

City Manager Wurster updated the Council on the first meeting of the Parks and Recreation Task Force. At that meeting the Task Force directed staff to work with Portland State University (PSU) to identify an area to broadcast the survey. After a discussion with PSU the decision was made to survey the entire school district in order to better gauge interest in support. The survey allows the respondents to pin point where they live on a map, which will help staff to determine where there is support. This will help further define the possible boundaries. The survey has been released. The next meeting will take place on Wednesday, May 29, 2019.

She noted that the Oregon Garden Foundation Annual Report is included in the packet for Council review. Also included in the packet is a financial update for the City and a memo outlining fuel sale prior to the enactment of a local gas tax. There is information included with the Public Works report regarding the capital project needs of the Community Center. She reminded Council that May 18<sup>th</sup> is the Pet Parade.

## **XI. COUNCIL COMMUNICATIONS**

Councilor Sears thanked the Silverton High School Seniors who worked so hard during the Spring Clean-up Day and indicated that the park and other areas of town look great. It fosters community support and spirit. He also recognized Pam Craig and Kathy Hatteberg who pick up trash while walking through the city. He asked if Public Works staff has looked into a thermal plastic for the Walk Your Wheels signs located in downtown, so they would last longer. Director Schuetz said that staff is looking into that. He asked for an update on 2<sup>nd</sup> Street. Director Schuetz said the 2<sup>nd</sup> Street cost estimate has been completed and it will be incorporated into the budget proposal for next year. He said that he tried to click on the link for the advertisement for the circulation study and couldn't get it to work. Staff provided an update on what was included in the RFP and will send Councilor Sears a copy. Councilor Sears asked about the patch work on McClaine and if that is being done instead of moving the center line. Director Schuetz said the crew is trying to catch up on patch work, but both might need to be done depending on the timing of the project. Moving the center line is more involved than previously thought.

Councilor Plummer asked about the pool cover and staff indicated it will be removed on May 10, 2019. He thanked staff for the park path that will keep bikes and pedestrians out of the vehicle lane at Coolidge-McClaine Park. He also followed up on a request regarding a gap in the railing on the creek bank. He said he will be following up with Marion County Tobacco Prevention Team about tobacco licensing and Kratom, since the Marion County recommendation that the state take action did not go anywhere. May is National Bike and Bike Safety Month and he highlighted the Bike More Challenge. He would also like to formally pursue a ban on single-use plastic straws and/or plastic utensils if the support is there.

Councilor Smith referred to Gene Pfeifer's written testimony regarding the water transmission line for the Silver Creek Water Intake and asked staff to clarify the size of the water line. Director Schuetz said that

the 12-inch line will be replaced with a 16-inch line and there was an error in Keller's Scope of Work. Councilor Smith indicated his testimony also said there was no emergency plan for the dam. Director Schuetz said the City does have an Emergency Dam Operations Plan. She asked staff to clarify which gate the high school will be closing. Director Gottgetreu responded that it is the gate on campus between the parking lots. They are still allowing students to park in the north lot for this year only. Next year the students will have to park in the south lot and the north lot will be faculty only. Councilor Smith expressed her concern about the new parking lot which will continue to create traffic issues on Western Avenue and Grant Street. Director Gottgetreu said staff will be conducting a traffic count in order to observe the count during the peak am/pm hours. She has been hearing concerns that the high school isn't doing anything to limit how many students are parking on James Street near the baseball field. She will be attending a meeting hosted by Marion County to discuss what cities in the county are doing to incentivize affordable housing and what they can do to help. The Fun Run will be taking place on Saturday. She will be participating in the Pet Parade and will be holding a recycle right event throughout town.

Councilor Carter said she shares Mr. Baldwin's concerns regarding the mining operation and there was Council consensus to direct the staff to keep Council informed on any action taken there. She commended Allison Pennell for her work with the Oregon Garden Foundation and preparing the Annual Report. She reported on the first Garden Gala which was held last Saturday and it turned out to be a good fundraiser for the Foundation. She said Beaverton and Tigard have Parks and Recreation Districts that are healthy and vibrant with incredible sports fields. She said it is incredible what districts with their own bonding authority can do. She voiced her concern about pedestrian safety at the intersection of C and McClaine Street and urged greater oversight in the area.

Councilor Neideigh thanked staff regarding their help on the tree placement at Pioneer Park to allow for a large area for the kids to play soccer and flag football in.

Council President Freilinger is glad the City is working with the property owners of the quarry and is hoping that staff can find out what has been done or what is planning to be done in terms of an environmental impact to Silverton's water supply. He would like to get regular updates as things proceed with the quarry. He asked about the timing of when Council will be considering the adoption of Wifi and broadband standards in residential areas. Staff said it will come before Council at their June 3<sup>rd</sup> meeting.

## **XII. ADJOURNMENT**

Councilor Sears made a motion to adjourn the meeting and Council President Jason Freilinger adjourned the meeting at 9:32 p.m.

Respectfully submitted by:

/s/Angela Speier, Assistant to the City Manager/City Clerk