

Council: Mayor Andrea Rogers, Tim Mortenson, Kathy Fitzpatrick, and Steve McKibben
Staff: City Attorney Dan Kearns and City Recorder Jean Hadley
Absent: None Excused: Peny Wallace, and Hector Kent.

CALL TO ORDER

Meeting was called to order by Mayor Rogers at 7:16 p.m. and roll call was taken.

ADDITIONS OR CORRECTIONS – A second list of bills for inclusion in the consent agenda, #6 discussion about use/safety signage at Rock Creek Park for users, #7 discussion ODOT material storage in Quarry for Mosier Creek Bridge replacement CUP 2008

BUSINESS FROM THE AUDIENCE – None

CONSENT AGENDA

1. Approval of Minutes June 27, 2012
2. Review/Approve Bills
3. Resolution 2012-05 - establishing a fee for filing an election petition
4. OLCC License renewals – recommend option #3

A motion was made by Councilor Fitzpatrick to approve the consent agenda including the new list of bills. Councilor McKibben seconded. There was no discussion. Motion passed unanimously.

BUSINESS

1. Povey decision/staff report RE: ADU's; CUP/Variance application

Mayor Rogers turned the meeting over to City Attorney Dan Kearns who explained that the Poveys withdrew their appeal of the City's permit and the permit for their Accessory Dwelling Units (ADUs) is now final. Mr. Kearns explained the important key conditions of approval for the Conditional Use Permit/Variance application submitted by the Povey's; to legitimize two unpermitted ADU's and a Variance in size of the Pool House. Kearns reminded Council of compliance by the Povey's to meet those conditions and the building permits and occupancy approvals for ADU in the barn and the pool house, of which the pool house is currently being rented, and the City did not receive applications or allow these to be built or used as ADU's. Kearns recommended allowing testimony from the Povey's who were in attendance. David Povey passed out copies of an eight page document and reviewed the document with Council. The pages included a proposed timeline to satisfy conditional use requirements. Povey mentioned the immediate vacation of the ADU's and asked the Council to consider allowing the use of the Barn and Pool House apartments until August 31, 2012 in order to meet contractual obligations and family events. Povey assured Council of his intent to comply with the requirements by the end of October and keep staff informed one way or the other. Povey spoke about his contacts of neighboring property owners with regard to the road and its improvements and possibly forming a road ownership group and an agreement for maintenance and services. Kearns explained the road dedication requirements; the 1998 conditions stating the road dedication is required but hedges with regard to what City road standards are going to be with regard to width, bike lanes, right-of-way, and such. Kearns said the road standards provided by the Povey's are reviewed by the City Engineer who will determine exactly what those standards are with regard to this limited use roadway. The dedication requirement can be satisfied by Poveys executing an irrevocable commitment to dedicate the roadway upon demand by the City. Kearns said the ADU's must be vacated in order to resolve the current code violation, but when to vacate is up to the Council. Kearns advised Council as to what is being presented to them; vacating ADU's is a zoning requirement. Zoning issues can be addressed but conditions of approval for the

CUP/Variance cannot be altered from what is in the city's decision, which is now final. Kearns said the time frame established on the last page of the handout provided by the Povey's was reasonable and hopeful. Fitzpatrick asked what happens if they do not meet the conditions of approval in the time frame of two years. Kearns said they can obtain an extension, which is allowed in the code, and if that is not completed the permit goes away and enforcement will be required for the ADU's and their use.

A motion was made by Councilor Mortenson to require both ADU's to be vacated no later than August 31, 2012 and Povey's will allow inspection to confirm this action, and the City will accept as compliance of the dedication requirement a recorded irrevocable commitment to dedicate the road on demand by the City recorded with title to the Povey property. Councilor McKibben seconded. There was no discussion. Motion passed unanimously.

Mayor Rogers suspended the regular Council meeting and opened the Public Hearing at 8:29pm. and turned it over to the City Attorney.

PUBLIC HEARING : *Council meeting continued immediately following public hearing*

2. Ordinance 160: adopting regulations for the use of open water areas within the City limits as Chapter 8.50 of the Mosier Municipal Code

A statement about the hearing was included in the June utility bill newsletter. Notice was posted at City Hall, the Post Office, and 10-Speed Coffee Company for more than one week saying there were three copies available for inspection at City Hall. The City Council received the Ordinance before them more than 7 days previous to the hearing.

City Attorney Dan Kearns said the State of Oregon allows regulation of the water within the City limits. Certain uses create a safety hazard for other water recreationists and the mooring currently in the Columbia River does pose a safety issue and set precedent for others who think they can establish a permanent; more than 48 hours, mooring. Kearns recommended that Mosier Council adopt some sort of regulations in order to require a permit and gives the City the ability to site (subpoena) into Circuit Court any violators. Kearns stated that the regulatory authority and enforcement authority of the City of Mosier is defined in this ordinance/code language.

A motion was made by Councilor Fitzpatrick to read Ordinance 160 for the first and second time by title only. Councilor McKibben seconded. There was no discussion or objection. Motion passed unanimously.

Mayor Rogers read Ordinance 160 by title only.

A motion was made by Councilor Fitzpatrick to approve the reading of Ordinance 160 for the second time and final time by title only and adopt Ordinance 160. Councilor McKibben seconded. There was no discussion or objection. Motion passed unanimously.

Mayor Rogers read Ordinance 160 by title only for the second and final time and announced its adoption and stated that it will become law in 30 days.

Mayor Rogers closed the public hearing and reconvened the Council meeting at 8:51pm.

3. Staff report/recommendation/discussion and possible action on Mosier Bluffs reservoir proposal

City Attorney Dan Kearns told Council that Mosier Bluffs development is under foreclosure by the bank. Kearns updated Council about the actions being taken by staff, Mosier Heights (Tanawashee) developers, and the bank. Mosier Heights wants Mosier Bluffs to deed Tract B over to them, the bank says they will allow it and release the lien and dedicate the tank and the lot over to the City when the tank is complete. Mosier Heights wants the bank to release the lien now. Mosier Heights is ready to start something and it is contingent on being able to provide the utilities which are contingent on the pump station or the reservoir being built. The City would keep its current tank lot and when the new tank is built we can demolish the old tank and sell the lot where it is located. This scheme does not include Mosier Bluffs but it does require cooperation of the Bank, Mosier Heights, and the City.

4. Mosier Bluffs building permits recommendation

The staff recommendation is to not allow building permits on the lots on Mosier Bluffs because they are currently served by a substandard private water pump that is being infrequently maintained by Mosier Bluffs Mike Rockwell. Kearns reminded Council of the Water Facilities Maintenance agreement where Mosier Bluffs (Rockwell) is required by legal agreement to maintain the Mosier Bluffs water system in working order.

Kearns reminded Council of the agreement to build a replacement/permanent booster pump station as a condition of land use approval which has not been met. Mosier Bluffs is not in compliance and the permit for Phase III has expired and Mosier Bluffs cannot provide adequate water service. The water supply is inadequate for fire suppression or adequate for any more homes in that subdivision. Kearns requested a formal action by Council to clearly state that no building permits will be approved issued until construction of the tank is guaranteed and legally funded.

A motion was made by Councilor Mortenson to suspend issuance of building permits in the Mosier Bluffs subdivision until such time as the construction of a water tank is guaranteed and funded. Councilor Fitzpatrick seconded. There was no discussion. Motion passed unanimously.

5. Recommend award of the contract for Phase 1 of Well No. 3 Decommissioning and Well No. 2 Rehabilitation contract to Summit Excavation

Mayor Rogers requested a motion to accept the bid and award the contract to Summit Excavation for Phase 1 of Well No. 3 Decommissioning and Well No. 2 Rehabilitation.

A motion was made by Councilor McKibben to accept the bid and award the contract to Summit Excavation for Phase 1 of Well No. 3 Decommissioning and Well No. 2 Rehabilitation. Councilor Fitzpatrick seconded. Discussion: Fitzpatrick said she was disappointed about the response to the bid. Motion passed unanimously.

➤ 6. Rules/signage at Rock Creek Park

Fitzpatrick updated Attorney Kearns of actions regarding a confrontation between users of the beach at Rock Creek Park and the suggestion of signage regulating certain use of a beach we do not own. Hadley voiced her opinion of changes to the suggested signage. Kearns said the first statement should be; **“Use at your own Risk, The City of Mosier assumes no responsibility”**. Kearns also suggested involving State Parks Kevin Price and someone confer with the City insurance agency representative Mike Courtney. Mayor Rogers said the temporary sign must come down and more work done about signage language.

➤ 7. ODOT Permit for staging areas from 2008 Bridge Work

Fitzpatrick said the notice of work done on the Bridge was 2008 and there is currently certain equipment still in the Quarry. Kearns said a call to ODOT would be necessary and the City has jurisdiction over the haul road which would require a permit. Fitzpatrick volunteered to contact Patrick Cimiotti at ODOT and ask about the removal of the equipment.

COMMITTEE REPORTS – Suspended until next Council meeting July 18, 2012

1. Cemetery committee;
2. Park committee;
3. Public Art committee

CORRESPONDENCE – Hadley reported the election application of Arlene Burns.

Meeting adjourned at 9:30 p.m.

Approved this 18th day of July, 2012

Attest:

Andrea Rogers, Mayor

Jean M. Hadley, City Recorder