

GLADSTONE REGULAR CITY COUNCIL MEETING MINUTES of March 24, 2015

Meeting was called to order at 7:30 pm.

ROLL CALL:

The following city officials answered roll call: Councilor Nelson; Councilor Mersereau; Councilor Johnson; Councilor Sieckmann; Councilor McMahon; Councilor Reisner; and Mayor Jacobellis

ABSENT:

None

STAFF:

David Doughman, City Attorney; Jolene Morishita, Assistant City Administrator; Pete Boyce, City Administrator; Stan Monte, Fire Chief; Scott Tabor, Public Works Supervisor; Rhonda Bremmeyer, Senior Center Director

PLEDGE OF ALLEGIANCE:

Led by Mayor Jacobellis

BUSINESS FROM THE AUDIENCE:

None

CONSENT AGENDA:

None

CORRESPONDENCE:

1. Letter of Resignation from Park & Recreation Board - Jessica Veazey
2. Letter of Resignation from Planning Commission, Budget Committee & Police Station/City Hall Advisory Committee - Elliot Veazey

REGULAR AGENDA:

3. Item Removed for Legal Review

ADJOURNED SPECIAL MEETING

None

WORK SESSION

REGULAR AGENDA:

4. RH Development Agreement -- Transue Property, 18121 Webster Road:

City Attorney Doughman brought a request between Scott Tabor, Public Works Supervisor, and the contract city engineer and the developer who proposes to develop the Transue property, which is behind city-owned property on Webster Road.

There have been some issues and they have taken a very, very close look at the site and as part of that discussion with city staff there are some concerns that HT Properties, the developer, looked into, particularly with respect to water and sewer service on the property. So they have had discussions over the last few months and the consensus was they were going to be looking to do some fairly significant upgrades to the sewer service in that area in order to serve their property. And based on some requests from some city staff to look at the potential of moving an existing waterline and upsizing it, the discussion became that in doing this there are going to be some financing issues and would there be a path forward that would allow some potential cost-sharing of some of those improvements. He wanted to be very clear that they are not looking at the development tonight; that has a separate process that would have to go through the planning commission and it could be appealed and then the city council would see it.

City Attorney Doughman said that he and Mike Robinson, attorney for HT Properties, who he has worked with a lot over the course of his career, thought that with these infrastructure issues being as prevalent as they are, they need to ask how would that be handled with the design review process. And taking a look at the city's code there really isn't a lot of clarity, especially with respect to infrastructure issues; they're not really addressed in the city's design review criteria. Actually, with respect to the city's design review, the planning commission is in the process of looking at it and will likely be considering an update to make some of those standards more robust. He said that he will let Mike Robinson and HT speak to this issue and much of what they want to talk to the council about tonight is to get some of that stuff done. Some of it would affect their property and needs to get done if they were ever to develop that site and some of it would not. It wouldn't be triggered by the development of their site, it would be improvements that might benefit the city in a larger context rather than just that development. So the idea here is to gauge council interest and potentially have a development agreement that would spell out how those improvements would be made that would be contingent upon a successful design review.

City Attorney Doughman said that this is a very discretionary decision as he stated in his memo; there is nothing you are required or compelled to do and the better way to look at it would be does it makes sense to do this. He turned it over to HT to spell out what they see the issues as being.

Councilor Sieckmann asked City Attorney Doughman, since this is a work session and council can't make any decisions tonight, what is he asking the council to do tonight. City Attorney Doughman said they would be looking for direction from council, basically if they think it is wise to go forward and draft some sort of development agreement that they can then bring back for their approval, amendment or rejection. The prohibition on any decision in a work session would be a decision you are required by law to make, and certainly tonight there is nothing required to be done, so it is perfectly appropriate and

they do that with a lot with clients in context of a work session that the council would give some direction for the next step, if any.

Hans Tagus, Principle with HT Investment Properties, introduced himself and his team members Mike Robinson with Perkins Coie LLP, Andrew Toll and Kathleen Freeman, PE, Water Resource Project Manager, 3J Consulting, Inc., John Lewis of HT Investment Properties, Project Manager and construction department.

He stated that this has been going on for some time now and they started down this path fourteen months ago. He will present some information to them that comes from the city's water and sewer master plan and handed out copies to the council and they have highlighted some points on the plan. He stated that there are two items on this property that HT Properties needs to address. One is the city water main and the other is the sewer services, in which they did a sewer scope on the service property.

Hans said there is a 6" asbestos concrete (AC) water line that runs through the property and where this property is there are some pressure issues as noted in the water and sewer master plan. This property is at 18121 Webster Road and there is a water line that goes from Webster Road down to Oatfield Road and the AC line runs through this property. Initially they thought they would look at developing around that and try not to impact that line, especially after our pre-app meeting with Sisul Engineering and the public works department. We realized the issues are definitely significant and that line would be easily fractured. There are a lot of issues with that AC water line and we thought we would come onboard with the city and just move that water line and our proposal is to move that water line directly to the south and put it in a 20-foot easement along the north property line that was proposed for the city library.

Hans Tagus, HT Investment Properties said they've highlighted some things. There are seventeen miles of AC water line that the city is proposing to replace over the next thirty years and that proposal has a budget of 24 million dollars, spending about \$820,000 per year. Based on that budget, HT Investment Properties feels they can help the city out and help address some of their issues and take an area with low pressure and increase that water line to a 12-inch line, increase the pressure on it and get rid of some of the 6-inch that is AC for significantly less money. So what they proposed is to split the cost of replacing that water line with the city and they are estimating the replacement of that water line to be \$180,000. There is a lot of rock on site and elevation change too. HT Investment Properties will install it and help solve some of those issues. He asked for questions from the council.

Councilor Sieckmann asked if the 20-foot easement he mentioned was on city property or the property they are developing. Hans Tagus, HT Investment Properties, said they are proposing putting it on the city property. He said that the property they are developing doesn't go the whole distance from Webster Road to Oatfield Road. They feel it would be a plus for a developer that they wouldn't have to put in utilities and they could provide step-ups. They are proposing on doing the same with the sanitary and sewer and putting step-ups for the sanitary out to Oatfield as well. That property would become a lot more

turn-key for whatever develops at that property because those services would be readily available and right on the property line.

Councilor Johnson asked that when they find out they are in the hard rock mining business to put pipe in and the costs go through the roof, whose costs are they going to be? Hans Tagus, HT Investment Properties, said that is where they are looking for the joint venture and shared cost. The city had estimated \$300,000 to do it; there is quite a bit of rock out there and HT Investment Properties has done some testing and some potholing out there on their property and they are willing to bear a significant amount of that cost. Councilor Johnson said he is concerned about the project going way over budget because of what's there. Hans Tagus said he understands and his initial thought was they put a cap on it and said the city participation is up to this level. They bid the project and they are pretty confident their bid is solid. The city participation of \$90,000 is one of the proposals they talked about and the city participation would be in the form of a system development fee credit.

Mayor Jacobellis asked if, as a developer, they run the water line and sewer line easement on their side of the property and jogged it over and down to Oatfield Road, as a developer coming in cold, would that be an issue for you? Hans Tagus said that unfortunately they can run it on their property, they just can't get it all the way to Oatfield and it doesn't solve all of the pressure issues.

Scott Tabor, Public Works Supervisor, stated that there is an eight-inch AC line that is currently on the property to be developed and it was installed in the late 1960's and it is the sole feeder line for the city's intermediate zone. He said that it isn't so much a pressure difficulty as it is a capacity issue in that area. The city is sustaining good pressure, it's the volume of water they need to supply to that area to provide good firefighting capacities on that. They are inner tied on the intermediate zone up at Caldwell with a six-inch inner tie to Oatfield Road pressure reducing/pressure sustaining valve and that has helped. A benefit of replacing that main with a larger size diameter engineered design, probably at least a 12-inch if not more, from getting it off the Transue property is during construction you would be able to put that line in and keep that system viable during construction of that 12-inch or whatever the engineer suggests to put in, and then make one connection and abandon that eight-inch. That eight-inch not only runs through the Transue property, it runs between houses down to Stone oaks Court and out to Oatfield Road. He stated he has often had nightmares about what's going to happen if he had to go in there and replace it or fix a leak or if the city would buy a house that floated away that was demolished by a large water main break and those things are notorious for breaking.

Scott Tabor feels they have an opportunity to look at utilizing their 27-inch water main that is on Webster Road, which is their main feeder line. Back when they put that in they had a blind flange put in for a 24-inch valve to go across Webster Road to a site that was a proposed site for a reservoir at that time. He said they could utilize that by putting the right size piping in there for a future reservoir and necking it down for the sizing of pipe to go to Oatfield Road and our intermediate zone. They could utilize the existing pressure

in that main, which is a static of about 62, and more if there are more pumps at the NCCWC site or pumping station during the summer. Pressure regulating valves can certainly keep that pressure fluctuation at the right area because they want 55 psi (pounds per square inch), so they could certainly utilize the possibilities of this venture and be prepared for the possibility of a reservoir site there and get it off and out of the way. That AC pipe was a poor installation back then and our intermediate system is undersized; he is sure they didn't imagine the development they would have down the road. Pressure is ok, the capacity isn't.

He stated the other benefit of going to the 27-inch main is they could take and utilize the Kirkwood reservoir and still supply water to other areas that are affected in the intermediate zone away from Oatfield Road and increase firefighting capacities. He asked for questions from the council.

Councilor Mersereau asked if the sewer line needed to be moved. Scott Tabor, Public Works Supervisor, said that on his request whatever development was put on that property would not adversely affect the existing infrastructure. So they did a sewer study and it came up with some recommendations for that, which would allow them to complete the development as desired and make sure there are no adverse effects as requested. He wanted that out in the open because there are some problems with that system right now; they've come up with a plan that was reviewed by Sisul Engineering and they have agreed that it is a good plan and they won't have any surprises down the line in the future caused by the increased capacities on those pipes. He said that Hans will address that also.

Councilor Sieckmann asked if it would have an effect on their high pressure zone. Scott Tabor said it won't.

Mayor Jacobellis asked they assume the Transue property went all the way from Webster Road to Oatfield Road. If you went and looked at that property cold and the 20-foot easement was there, would it have a negative impact on your decision to purchase and develop the property? Hans Tagus said that as a multi-family site they would run their water through the parking lot and feed it from the building straight out. If the city doesn't join the venture, then one option is to work around it, which is a big concern because the pipe is only two feet from the surface and after they scrape the site and take off the soil they will have about a foot of cover, so that is definitely a concern there. If they do move the line they would be connecting in someone's yard. Hans Tagus said the study shows that in connecting to the AC line there is a high propensity to leak. He said they can connect to it if they have to, but with the line going through someone's back yard and close to a house, it could be bad if they do leak.

Hans Tagus, HT Investment Properties, said they spent a lot of time and money just trying to locate the lines. When whoever built it got to the rock, they just moved it over and went around it. As Scott Tabor, Public Works, said the best solution is to move it and it solves a multitude of other problems. He said they can set a cap of \$90,000 for the city's participation. He said that for 1,150 feet of line, that's about a \$300,000 proposal

and you know it's at the top of the hill and that's where the rock is. He asked for questions from the council.

Councilor Reisner asked Scott Tabor, Public Works, what utilities they have at Webster Road in regards to water and sewer. Scott Tabor said they have sanitary sewer, but that line takes in a huge area and is at capacity, which goes down Oatfield Road and turns to E. Hereford Street. They have a 12-inch cast iron line that is the primary feeder line for their low pressure zone that goes down out of their reservoirs and gravity feeds via their low pressure system. Bordering that from Cason up there is their 27-inch transmission main. They have a six-inch line that was extended down a number of years ago off of that eight-inch AC line and by the Transue property by their driveway. There is also a gas line out there and on the other side of that there are some fiber optic phone lines. There's a lot in those areas.

Scott Tabor said that over the years working in public works he's tried to eliminate the large infrastructure on private property. It's just not good practice. First of all there are accessibility issues, since accessibility is paramount when you need to fix something quickly and it's difficult to get in where you don't have roads or other access to use. Going into someone's back yard is extremely difficult just to get the equipment there. He told the developer from the get-go that he doesn't want that line on that property because of the high potential of it breaking and the accessibility issue of it when it does.

Hans Tagus, HT Investment Properties said they see the proposal as a win because they are going to be paying significant dollars in system development fees to bring this project into the city of Gladstone, plus it will raise the tax base. So, it's a chance for the city to have 1,150 feet of water line replaced for basically no money out-of-budget because they are asking for that \$90,000 to be in the form of a systems development credit. It solves a lot of problems, gets a piece of property that as a developer they have to have infrastructure in place on a piece of property, especially a piece of property that has a lot of rock on it. He feels it's a win for the city, they are stepping up to the plate and are going to solve a lot of problems for the city, and it's a great way to kick off the city's new master plan.

Mayor Jacobellis asked Scott Tabor if they have a sewer master plan yet. Scott Tabor said they don't have the sanitary sewer master plan yet. Mayor Jacobellis asked about this project being done prior to the master plan being completed. Scott Tabor stated that it is his job to deal with the existing infrastructure they have in place now. The first thing that came to his mind was what is the impact further downstream and that is why he wanted an engineered study showing it wouldn't be adversely affecting or figure out what they could do to change that if it would have an adverse effect downstream. He said he almost went all the way to Portland Avenue with that because he wanted to make sure they weren't going to have surcharges coming out of manhole covers.

Scott Tabor said the sanitary master plan is needed and may elude to some of these other things that would probably be taken care of if this was put into place off Webster Road

and Oatfield Road; they would probably recommend something similar to what the developers have come up with. So yes, we still need a sanitary master plan.

Mayor Jacobellis clarified his question, this could take care of it but until the sewer master plan is done we really don't know, it could be bigger than that. Scott Tabor said that is true, the master plan could be completely different. He also said that is why he wanted an engineering study to be done and they had one done; their engineers and the city engineers looked at it and said it is a good plan.

Councilor Mersereau said that Scott Tabor brought up the high pressure system at the last meeting and said it was a high priority project that needed to be addressed and this one isn't as high of a priority, but said that in his mind this is also a high priority project. Scott Tabor answered that they are both high priority in his mind. Councilor Mersereau asked what other high priority projects there are. Scott Tabor said that those two are number one and two and he could flip a coin for them. He stated there are other areas off their intermediate zone -- Collins Crest Street, Stonehill Street, Ridgeway Drive -- every area they have that has the AC pipes to him is a priority. At some point, because of the problems they've had flowing hydrants in the high level system on Devonshire Drive and Sherwood Forest, those places come to mind because we have had the most breaks there. Scott Tabor said that if they lose the eight-inch pipe there, they lose a whole bunch of things, not only the possibility of houses, but we lose firefighting capacities. To him they are both number ones. He said it's all high priority because at some point the cost of replacing the AC pipe and the requirements that are coming down the pike on how you address it because some people are saying that you must replace it and dispose of it. He doesn't know if that is truly coming and he hopes it doesn't, but then your costs go exponentially higher. His policy is that when they fix a main, they try to leave it in the ground, but there are times when they have to bring it above ground and then they have to treat it as hazardous waste material. The rules and regulations on how you replace existing pipe change and may cost a lot more or they may say don't touch it. There is no way of knowing. He said they need to keep in mind that the longer we wait it could be much more expensive and they need to keep abreast of what the current rules and regulations are.

Mayor Jacobellis asked if Scott Tabor had a ballpark figure on the high pressure zone on fixing it or making it workable, and asked if it had to be taken out of the ground. Scott Tabor said that the good news about that is that he feels it could be engineered to replace those existing pipes up there without putting a new main in the street like it should be and leaving the old pipe where it is. He's not sure what the master plan calls for, but it's not going to be cheap, but at least they have the benefit of going out into the street and leaving the old pipe in the ground and once you transfer services you're done. He believes the cost will be several million. Mayor Jacobellis asked if there were no development occurring on the Transue property, would the number one priority be the high pressure zone. Scott Tabor said it would be; however, he said the AC lines are something that need to be taken care of soon because the firefighting capacities are very much at risk.

Councilor Reisner asked if the development wasn't going in and the eight-inch line was being replaced, where would that line go when it was replaced. Scott Tabor said he would put it exactly where the developer is proposing it goes. It does two things -- you can upsize the pipe and you have a future piping in case you want to build that reservoir on that site which was picked years ago for that, long before the talk about the library. So you have two biggies right there, you have accessibility to supply water to a reservoir and also to our intermediate zone at a higher capacity and at the proper pressures.

Councilor Reisner said there has been a train of thought about selling that property. Scott Tabor said then that would be a boon for the people who bought it because, if this was to go through and if they had that water line in there, he would have a meter for that development right there off that line and say there you go and he doesn't have to worry about going on to private property. Fire protection, everything is covered with that larger main in our property. If someone developed that property you have another area with sustainable firefighting capacities and more capacity for them to use. That is where the engineering comes in, if you put in the right size of main for existing and future infrastructure in that area, either on the city property or on the Transue property.

Councilor Reisner asked if they would have the same thing going down Webster Road. Scott Tabor, Public Works, stated that the 12-inch line on Webster Road just doesn't have the pressure there; at that area, coming off their reservoirs, they probably have 30 psi because of elevation and the reservoirs. He said they still have the 27-inch line and that is where they would feed off for that property, going across with the 12-inch to Oatfield Road.

Councilor Reisner asked about going around instead of going across the northern border of what is now city property. Scott Tabor said it would be extremely expensive and they would be adding 1,000 feet or more. He said he prefers straight lines and they pen out nicely on paper. He said that with the technology of today, the rock excavation can go pretty fast. They have hydraulic hammers and they can always go back to the shooting with dynamite, but that's up to the engineer and how they see it. That's what they did for the SDA property. On Forest Lane in Clackamas County they had to shoot it and once they did that, away it goes. You can shoot it and be on your way or you can spend hours hammering on rock, that's the engineers call.

Councilor McMahon asked if the city had right-of-ways or easements for the water line there right now and who's responsible. Scott Tabor said he believes they had easements all the way through the Transue property, but he's not sure if they stayed to the easements when they put those lines in. Councilor McMahon asked if even though it's on private property, is it still the city's responsibility. Scott Tabor said yes, absolutely.

Hans Tagus, HT Investment Properties, said that they can come back to the water line but their main objective for tonight is to find out what they are up against and what issues the city has. He said the study that Brown and Caldwell did has it all laid out and the information on what they are dealing with. There are additional issues, they were able to solve a lot of issues for the drainage basin for sewer by some simple proposals of some

fixes in a few locations on Webster Road, and there is surcharging and some flow issues. He said they spent a lot of money studying the city's sewer line in this area and came up with four solutions that readily serve this property.

Councilor McMahon asked about the system development charges he keeps talking about and asked how much they anticipate them being for this potential development that they are going to knock \$90,000 off. Hans Tagus answered just over \$500,000 for the SDC's. He asked Kathleen to talk about the sanitary issues and the solutions. He said that she did a very extensive study that he has been involved in and they got a lot of things covered here.

Kathleen Freeman, PE, Water Resource Project Manager, said that they had talked with Scott Tabor, Public Works Supervisor, about some possible surcharge issues and some downhill and downstream flooding issues. Through their modeling and their discussions with Scott Tabor there are some existing issues on Hereford Street and once the Transue property is developed it would be exacerbated. She looked at what they could do to improve that downstream system so the Transue property could get developed for future flows and also any other future developments in the entire sanitary sewer basin that could go down Hereford Street. She came up with a few recommendations and discussed them with Sisul Engineering and they gave further recommendations on that. One of their recommendations would be to replace an existing 48-inch manhole at Hereford Street and Oatfield Road with a 60-inch manhole and that would increase the capacity through that manhole down Hereford Street. Keeping all of the storm line in Hereford Street, not changing that, but adding an eight-inch bypass line down Oatfield Road to Gloucester Street with a six-inch orifice plate could be used to monitor flows or cut off flows as needed. Also recommended was adding another manhole to get rid of a 90-degree bend on Oatfield Road, making two 45-degree bends so the head loss in that system would be less. So by adding the bypass line it would eliminate the surcharging in Hereford Street altogether and capacity in Hereford Street is still well above the future flows for the entire sub-basin development. She asked for questions from council.

Councilor Mersereau asked if there is an issue with the sewer line. Kathleen Freeman, PE, answered yes, in the existing line. Councilor Mersereau asked for confirmation that the Transue project wants to move the sewer line. Kathleen said that as the line sits today there are issues; there is surcharging, there is adverse slope downstream on Hereford Street, and she believes the pipes go down in diameter and then go back up so it is causing surcharging. So today there is an issue. If future development occurs in the upstream basin there will be a bigger issue if there aren't any improvements to the downstream system.

Councilor Mersereau asked if the Transue project does or doesn't want to move the sewer line. Kathleen Freeman, PE, said the pipes go down and then back up so it is causing surcharging, so today there is an issue. If future development occurs in the upstream system it will be a bigger issue if there aren't any improvements made to the downstream system.

Councilor Mersereau asked if they want to replace the line or not. Hans Tagus, HT Investment Properties, said there isn't a sewer line on the Transue property and this is because of capacity issues. There are insufficient capacity issues for sewer downstream. So the basin that this property is in flows down Webster Road and Oatfield Road and down Oatfield Road and Hereford Street and down Gloucester Street. There are some significant issues that by solving those issues we solve a lot of other issues down the road. And then today, talking to people in the neighborhood, they said these issues exist, so we can solve these capacity issues, greatly increase capacity and solve issues that will definitely be brought up on the master plan.

Hans Tagus said we've identified through this extensive study of these drainage basin issues that your city master plan for the sewer service will also bring up these glaring issues I would expect. These were also issues that Sisul Engineering proposed, so by solving these we can greatly increase the capacity there.

Scott Tabor, Public Works, has made marking on the map he put up on the board and said they have lines coming from Oatfield Road and Webster Road and they combine into a main line down Oatfield Road south making a right angle turn down to Hereford Street. There is a lot of area from this sanitary line coming down along with Hereford Street and when it hits this existing manhole, if there is enough water in there, it will come up through the manhole at certain times. What they have suggested was to come in here and put in a larger manhole, along with another manhole to angle this so it's not such a sharp 90-degree turn, to run two 45-degree turns along with extending another line out of one of these down to Gloucester Street with another manhole and have an orifice in there that will monitor the flow rate, so if there is enough flow rate it will go down this street and go down to Gloucester Street and not have surcharging.

Councilor McMahon thought the two 45-degree manholes were on Gloucester Street, but they're on Hereford Street. Scott Tabor said they are on Hereford Street and they would be using primary line for the Hereford Street line and the bigger flow would be coming down to the Gloucester Street line. So they would have to install a new sanitary line down Oatfield Road to Gloucester Street and back down.

Councilor McMahon said he had mentioned INI and he asked what that was. Scott Tabor, Public Works, said it is infiltration from groundwater sources; if we have a lot of rain, we have this problem throughout town. And with our overflow it goes into the river. We do get a lot of INI from existing sanitary laterals from houses or our own sanitary lines; that's why we need a sanitary master plan so we can review, just like we did on the east side of town to solve our overflow conditions on the Clackamas lowlands. We need that so we can go through the rest of this area and look at where that water is coming from and eliminate that source, which will take a lot of pressure off of our existing infrastructure, at least on this one. But throughout the town, this is why we need that sanitary master plan to look at that, because a lot of our capacity issues are from infiltration from groundwater, either into property owner's laterals or into our own sewer mains. If we do it on this side and clean it up, that doesn't mean they don't have issues, that's stuff we can discuss later on.

Scott Tabor said that Sisul Engineering reviewed the plan and determined it is a fairly good plan that they don't have to worry about surcharges coming down and affecting our homeowners that have been on it for years. That is his main concern, he doesn't want people having to suffer if people up here flush all at once. That is why he asked for the engineering study to prove that it wouldn't have an adverse impact downstream.

Councilor McMahon said just for clarification it does say Oatfield and Gloucester for the two 45's on the proposed upgrade here. Scott Tabor said for clarity it is Hereford and Gloucester. He asked for confirmation. Kathleen Freeman, PE, said she also has Oatfield and Gloucester for the two 45's. Scott Tabor said either way it benefits us.

Councilor Johnson asked on just the sewer component, what is the expected cost and what are you looking for from the city on that.

Hans Tagus, HT Investment Properties, said they would be working with the county on the sewer so they would be looking for some type of proposal, but they don't have any engineering plans on that yet. There's currently a 48-inch manhole on the upstream side that will be replaced with a 60-inch and they'll be correcting the flow pattern. Where the two manholes are they are going to flip and put those down at the bottom and put the big one at the top and change that to a 45-degree. The biggest issue is that they can't interrupt the flow during the development so they have to pump the sewer around and it will be a big cost to do so. Councilor Johnson asked if he was talking \$100,000 or \$999,000. Hans Tagus said they don't have the engineered plans yet, but it has been estimated, with all that's involved, at just under \$100,000. There are 260 feet of eight-inch pipe and the manholes aren't real deep so less than \$100,000 of work. Councilor Johnson reiterated that the sewer component of this would be at \$100,000. Hans Tagus said yes, that's correct.

Councilor Johnson said that in the Sisul Engineering report it says "The city wants to make sure that if an improvement is made to the sewer system that it will be capable of accommodating build out of Basins 8 and 12" and he doesn't understand Miss Freeman's answer in her letter. Hans Tagus stated that Sisul Engineering has looked at this extensively and said that with the conversations he has had with Sisul Engineering they feel that these are a onetime fix.

Kathleen Freeman, PE, said that all of the city zoning maps were looked at so the future flows were taken into account to determine basin flows. Hans Tagus stated that they took the study and wanted to see what those flows would be if everything was built out, and capacities were maxed-out, to make sure that what they were proposing would handle the maxed-out flow capacity. He said that Sisul Engineering saw and spent a significant amount of time reviewing it to make sure this is a onetime fix and it will handle it.

Councilor Johnson said that he is assuming that the other basins they are talking about are the Seventh Day Adventist (SDA) properties or something close by there, if they were to be developed in some future date are they going to come before council and say, "you

know what, you need to spend half again and do this to the sewer system because the Transue guys caused us problems down here.”

Kathleen Freeman, PE, said that they have looked at maximum capacity for current zoning maps and the proposed changes will take care of it. This was not designed as a throw-away system. There is no way to know what possible zoning changes could take place in 25 years and it is impossible to design for unknown zoning changes. Everything has been designed for future flow with increased densities.

Scott Tabor, Public Works, said where the SDA enters the system at the end of Clarendon Street up by Stocker Park they currently have a 12-inch line that runs into that. There’s one that comes across at Dartmouth Street at Oatfield Road and he believes the next one is at Fairfield Street. Councilor Johnson asked about if the SDA were to develop. Scott Tabor said the “if” should be if SDA develops that property, then maybe they should pay for any further changes that need to be made and they would likely be tying into the county’s system. And even when they have 14,000 people there the city doesn’t have issues with it and they are on the sanitary sewer now.

Councilor Johnson said so in the future, if there is high density residential development or if an office complex went in there, in all likelihood they would have to upgrade the system anyway. Scott Tabor said absolutely.

Councilor Sieckmann said he had a couple of questions. He started with saying thank you to Scott Tabor; he has learned more about sewer systems than he thought he would ever need to know. Scott Tabor said he was just getting started. Councilor Sieckmann said that was the problem, he still didn’t know enough. He said he had talked about increasing the size of the manhole and he’s having a hard time wrapping his head around it because you have this size of pipe coming in here and this size pipe going out there, what difference does it make on the size of the manhole? Scott Tabor said if you have the flow and it has to make a high speed 90-degree turn it tries to go places it shouldn’t, including the street, so by making it a 45-degree turn, it will go where it’s supposed to go. Councilor Sieckmann summarized and said it’s not really about the size of the cover, it’s about what’s underneath, the radius of the piping. That makes sense. He said so right now there is nothing going from Hereford Street to Gloucester Street. Scott Tabor said no, there isn’t. Councilor Sieckmann asked so they are planning on going all the way down to Gloucester Street? He is a little confused. Scott Tabor said yes and they will be doing the double manhole down there, and that will alleviate a lot of the problems on Hereford Street.

Councilor Sieckmann asked if all of those lines continue down to Portland Avenue. Scott Tabor answered yes, they do. Councilor Sieckmann asked how that affects Portland Avenue. Scott Tabor said it doesn’t affect Portland Avenue. He said it is possible it may affect Clackamas Blvd. at their little manhole down there; again, it’s INI they have to look at. Kathleen Freeman, PE, said they looked at that too and it was factored in.

Councilor Sieckmann said so even if this was all done and built out, the incident they had the last two weekends would have still occurred. Scott Tabor said that under normal conditions without groundwater infiltrating into their collection system he still believes it would be an issue; however, they still need to look at that issue in the long term and that's where the master plan comes into play again to tell them which way they can go with that. Under regular flows they don't see that, but under lots of rain it happens and sometimes it won't be flow from residential usage, it could be flow from INI. Councilor Sieckmann said but would this likely increase the problem? Scott Tabor said it may be something they want to look at to alleviate your concerns over that, yes. He said they still have INI and they still have to deal with that, but we are having less frequency with it. Councilor Sieckmann said that with this being built out it would likely just add to the problem. Scott Tabor said he can't say, that is where they need the engineer. Councilor Sieckmann asked if there is any reason it wouldn't. Scott Tabor said no.

Kathleen Freeman, PE, said she doesn't have enough information to be able to answer. Councilor Sieckmann said that to be fair to them, this is a Gladstone issue and that is why he directed his questions to Scott Tabor.

Andrew Toll said he helped scope the sewer study and at some point they are grasping for a master plan when they started into this; they had to find a starting and finishing point for their study and couldn't analyze the system all the way down to the bottom. So what they are doing is prove that there is capacity added to the system to take on any new contributions that they make to it, but that doesn't mean that they can solve every problem all the way down the line and that's probably what their SDCs go towards. Councilor McMahan said he is fairly new to SDCs. The sewer work would be something the city would pay for in its entirety, on Oatfield, is that correct that comes out of the SDCs, or is that something HT is going to cover? Hans Tagus said they offered to cover the construction of this. That does two things, it alleviates the issues you have right now with the existing problems you have on Hereford Street with the surcharges. They aren't asking the city to bear any of the cost of this. The sewer credits are with the county, they don't affect the city budget, city cost or anything. That would be something they would take up with the county, not the city of Gladstone. They are only asking for participation on the water line. The sewer is a separate issue and will not be a cost to the city. This is what a master plan does, they look at the zoning, stress the system and max development and ask what are the proposed flows and where are the problems. We've looked from Oatfield Road, just below this property and Webster right in front of this property and stressed it all the way to Portland Road, and they've surveyed every manhole, gotten the slopes and looked at the surcharging. Cities want gravity systems, so with their proposal by putting the utilities to the south out to Webster Road, the whole property will gravity feed out to Webster Road. So that is significant to have a gravity system. He hasn't looked at their code, but every other city he has worked with has wanted to eliminate pump stations and go with gravity feed.

Hans Tagus said they aren't looking for a decision tonight, what they are asking for is to have staff consider and work with them on this development agreement. There are a lot of infrastructure issues, as you are aware, and they are saying here's a chance for a

developer in the industry and working with cities, to come in and prove themselves as a developer; they've done other public works improvement projects, they put in 1,400 feet of sewer line before, and they can joint venture instead of continuing to kick the can down the road, they can solve these issues for a fraction of the money that will have to be solved later. Or with the water line they can route the pipes around and connect to that point and in the future increase the likelihood of a major event. As far as the water line, those are the options we are looking at. These are solutions that will come up in the master plan and this has no cost to the city and it solves a lot of problems for the city according to conversations he's had with people in the city. He said that in working with Sisul Engineering he was impressed with their knowledge and that is why the city has them on contract. He suggested that if they have any further questions they should contact Sisul Engineering to get their feedback.

Councilor Johnson asked City Attorney Doughman what their responsibility is in this situation, when a developer comes in and wants to develop a piece of property, what is the city's base responsibility. City Attorney Doughman said that in legal responsibility, he's not sure they have much. To be candid, in the normal course this would go through a public hearing process, there would be engineering worked up as to you're going to be putting X number of units on a piece of property, what affect is that going to have on existing infrastructure. Legally then they are able to require that property developer to mitigate those impacts and do what it needs to do to basically keep the status quo going. He thinks that whether it is this or any other development, the developer with take a look at that and say well, is that going to pencil out, is it going to make sense or not.

City Attorney Doughman said that from his understanding, as rudimentary as it might be, the waterline issue isn't something that would affect the development itself; they could, albeit with a little more effort, serve their property with the existing waterline. I believe the sewer presents another question and he thinks there are likely impacts to the existing infrastructure that this development would have, it would have to mitigate it somehow. Whether they would have to go to the lengths that they have seen and talked about tonight, he doesn't know. His thought is that there could be lesser improvement that mitigates what they would be contributing, the additional amount that they would be contributing they could mitigate this way. He thinks that if the city wants to go down this path, that from what he has been hearing the city could get more bang for its buck.

Councilor McMahan asked Attorney Doughman about the SDCs, who gets that money potentially, does it all go to the county for the sewer or would the city also reap some of those SDCs. David Doughman said he was under the impression that there was one sewer charge, but it was split; most goes to the county, but there is some residual that goes to the city. He defers to staff on that. Pete Boyce, City Administrator, said that the Assistant City Administrator calculates the SDCs for the city. So he believes the SDC goes to Tri-City. Assistant City Administrator Jolene Morishita said part of it does. She said there are sewer SDCs that go to Water Environment Services (WES) and there are sewer and water SDCs that stay in the city, then there are transportation SDCs that stay in the city as well.

Councilor McMahon asked if she had a guess as to how much of the sewer and water \$500,000 SDCs, that was the number they threw out, would stay in the city. Jolene Morishita said she would not want to give a wrong number.

Mike Robinson introduced himself and said he is a land use attorney. In land use in Oregon it often ends up in fights about who's responsible for doing what. He's had the privilege of practicing land use law for almost 20 years. He likes it and likes working with citizens. The real reason he enjoys it is because he enjoys finding solutions and that is why they went to city staff and suggested a development agreement. The benefit of a development agreement is it lets them develop a public process on how to share obligations. As City Attorney Doughman said, they don't have a legal obligation to do very much with that water line; it's apparently not constructed on the easement on the Transue property so they may want to work out an easement for it. What Hans Tagus, HT Investment Properties, is proposing is to upsize the water line, and he said Scott Tabor must have done a great job explaining it, because he understood it, and it sounds like there are some benefits to the community in upsizing it, which they wouldn't be obligated to do. So they thought a development agreement that specifies moving that water line on to city-owned property, upsizing it from eight-inch to 12-inch, and by moving it, it is also more accessible to city crews and he also agrees with Scott Tabor, just based on what he knows about property development. The city's property benefits by having that water line there with the ability for future development to tap into it, if you chose to sell it. So Councilor Johnson, you don't have a legal obligation to authorize staff to work with us on a development agreement and they know that. But they thought the benefits of a development agreement made sense because they are trying to move the waterline to an appropriate location; it's not all of their responsibility, so that's why they are proposing a shared cost, and that's why Hans Tagus said they would cap the city's cost at \$90,000. So if it turns out that Hans Tagus isn't very good at moving rock, they will bear that responsibility. What they were hoping for tonight is just asking staff to work on the development agreement. They would work with City Administrator Boyce, City Attorney Doughman, and Public Works Supervisor Scott Tabor and develop a development agreement and answer all of the good questions you asked tonight in the development agreement and bring it back to you in a public process for your approval.

Mike Robinson said all of it is ultimately contingent on the planning commission approving the land use application, and if it were appealed, then council doing it. A development agreement doesn't make any commitments on the part of the city as to the outcome of the land use application. It simply does what I said at the outset, it really helps them solve an engineering problem at the outset, and he has to tell you, and he's not always right about this, but most of the times he's been involved in a land use application, planning commission hearings are a lousy place to decide technical issues. People are all worked up about the land use and it's difficult to have a conversation about engineering and that is why they were trying to separate the two issues. I hope that's helpful to you; you don't have a legal obligation to approve this, or to direct staff to work with them on it, but they are hoping council would do so they can come back with a full blown development agreement and council could take a look it and if they like it they can approve it, and if they don't, they don't. It's their risk, not the councils.

Councilor Johnson said but there is a legal obligation not to break the existing system, is that correct. You can't build a system that is going to have raw sewage coming up through a manhole in other parts of the city. Mike Robinson said yes, that's correct. He said that City Attorney Doughman can truly give him the explanation of what the legal obligations are, but from Mike Robinson's perspective he would like best to be able to work with the city to find out what their obligations are, how they are going to meet them, and identify what the city's role in meeting their obligations might be. Frankly, that's the beauty of a development agreement. It lets you have a reasonable discussion about who does what, separate from the emotion of a land use application.

Councilor Johnson said his greatest concern is the nebulous nature of the cost. He's heard that several different ways just this evening, he's not sure where they are going to land and he's not sure what it will cost to have the staff involved. Mike Robinson said that Hans Tagus, HT Investment Properties, set a cap of \$90,000 for the city's involvement on the waterlines. On the sewer, Hans said he doesn't have an engineered study yet but he said it is right at \$100,000. That is the information they would develop more fully and put in the development agreement and bring back to them. He stated that their proposal is that HT Investment Properties would draft a development agreement and then give it to the city staff for them to review, so the labor of working up the agreement would be mostly their expense. His hope is that they would be helpful to staff so there wouldn't be much staff time involved. There would be some time. He said that his view may not be the prevailing view and they certainly don't have to agree with him on it, but he has been doing this long enough to know that issues like this that are better resolved working with the engineering staff. When you try to resolve it in the heat of the planning commission hearing, you can often resolve it, but when you look at it the next morning, sometimes you wonder how you got to the resolution you did. Frankly, even though he is a land use lawyer, he said he doesn't necessarily enjoy fighting about what the city's rights or obligations are, he'd rather find a solution and help everybody reach it so at the end of the day we're going to get a good project out of this and they feel like they have been fairly treated.

Councilor Johnson said he wants more details, especially along the lines of cost, and he would need to see that before he can get all excited about this. He understands the benefits as Scott Tabor laid them out, but he needs to see a lot more detail before he could get terribly excited about it. Mike Robinson said he feels that is what they would be doing in the course of a development agreement and bring it back to council for review. Councilor Johnson thanked him. Mike Robinson thanked council for their time.

Councilor McMahon confirmed that this is all contingent upon the planning review passing and they want to get this down and then they will go through the land use application process planning commission hearing. Mike Robinson said yes, it is absolutely contingent on approval by the planning commission for the design review. He said that neither council nor staff would make any approval for that, they have their burden of proof; hopefully they would make a good application that would address the approval criteria and be approved. He said these will be fairly expensive projects and

Hans Tagus wants to know what they can expect. It's difficult in a land use application to address a moving target, yet the beauty of a development agreement is that both the city and the developer know what's expected of them; then you're not fighting so much over money, and frankly if you think back over land use hearings, that's what a lot of the fights are about. From a developer's perspective you know upfront what the obligations and costs are and then it's up to the planning commission to decide if they have met the land use criteria.

Scott Tabor, Public Works, said that everything they have done in working with Hans Tagus, HT Investment Properties, and going over things with Sisul Engineering, he tries to give them common sense things that are best for the city at all times when he speaks to the council and this development has the potential for winning on both sides for improving the city's system. He just wanted the council to keep that in mind. He thinks it's a good common sense approach to take it off private property and run it to where they need it and to improve their capacities and he looks at that in a very point blank way.

Mayor Jacobellis asked how the council felt, are they ready to move forward and give staff the go ahead or do they want to mull it over and reconvene to go over it?

Councilor McMahon said they have already offered, for the most part, and he would like to move forward. He would like to have them do a final presentation on this memorandum and come back to city council after working with Scott Tabor and city staff and come back to council. And if they are willing to do most of the work for them and answer the questions that council has asked tonight, and especially keying in on what are maximum amounts the city would be responsible for - \$90,000 is the number he heard - if everything else is picked up by them, he thinks it's great.

Councilor Sieckmann feels they need more discussion amongst themselves first because he has a few things he would like to bring up. So he wants to talk about it before they give direction to the staff. He said a lot of the things that were said made good sense. Some of the things he thinks about make it look like it doesn't make good sense, just some rough numbers and trying to scale things off of maps. He said it looks like the waterline itself is moved off of their property onto city property it will be a \$200,000 property gain for them because it will then be buildable property, and probably a \$400,000 loss for the city. He said 20-foot wide doesn't sound like much but when you figure 20 feet, 1,150 feet long, all of the sudden that's the size of three or four of their residential lots, it may be real narrow but it's about the same square footage. Most of their residential lots are 5,000 or 7,200 square feet. This is 2,300 square feet. So when he looks at it and thinks well they are willing to do this and it's only going to cost the city \$90,000. That is the city's hard costs, but they are giving up about \$400,000 of real property. That makes it not look quite so good to him.

He continued with Scott Tabor's, well then it's on city property, there has been discussion about that not being city property. At that point there would be an advantage of having a waterline through there, but would they then take and withhold that, keep it as city property and not sell that property and leave it as a right-of-way or something like

that. City Attorney Doughman said they would reserve it. If you sold it you would have to reserve an easement in order to access it Councilor Sieckmann or you could divide it as its own tract in the city and the city could keep ownership of that, but that would be that much less property that they would have to sell. He said they would bear more than the \$90,000 of it.

Councilor Sieckmann said the second portion of it is, whatever they are spending on their side, they want to reduce from the SDC, but some of the SDC comes to the city. John Lewis, HT Investment Properties, said they didn't ask to have the SDCs to be reduced, the \$90,000 is the city's contribution. Councilor Sieckmann said he had misunderstood. There is no reduction in the SDCs from what they spend on the waterline. Mayor Jacobellis said that was on the sewer line. John Lewis said not on the sewer side either. Councilor Sieckmann said he thought there was something in there where they were asking. He said the only thing is that the \$90,000, instead of the city funding it, it would be a reduction in the SDCs, the credit. City Attorney Doughman said it is money you would normally be entitled to that you are forgoing. John Lewis said they aren't asking for additional funds above the original \$90,000, just removed from SDCs their portion of it. Councilor Sieckmann said he misunderstood that part. He said those are his big points; he said they appear to be reasonable and fair but he feels they will be losing a lot more money based on property alone.

Councilor McMahon asked if he could disagree. Councilor Sieckmann said yes he can. Councilor McMahon said he disagrees. He doesn't feel they could build anything on that property line anyway, so it would be an easement where they would put a parking lot either way. If it was on their property they would put a parking lot on it that they could easily dig up, if the city ever had to. He asked City Attorney Doughman if they could put a parking lot there anyway if they wanted -- they just can't build a structure on it, correct? City Attorney Doughman answered yes, that's the general rule. He doesn't feel the city would be losing out because along that property line you couldn't build a building there unless you went to a zoning variance, you couldn't put it on a property line. Councilor Sieckmann said they can on commercial. Councilor McMahon said you can also put a parking lot there so he doesn't see it as a loss.

Councilor Mersereau said the one thing he sees is a heck of a lot larger, the \$90,000, \$180,000 is a drop in the bucket. They've got 100-plus million dollars to consider to spend and where the priorities are, spend it first. So he's a little concerned about, they talked a few times about a master plan being completed in a while, in approximately ten months. At that time they will have a whole lot more information, they can match with the water and sewer master plan to determine what the best course of action is. It could be a great deal, but they don't know that until they see the overall picture, and he's not sure they will even know then, but hopefully there will be a whole lot more engineering at that time so they can make a better decision. He's struggling with the urgency of this question as far as looking at a proposal so they can look at it sometime, as long as City Administrator Boyce tells him there isn't going to be a heck of a lot of cost in staff helping, a minimal amount of staff time then he sees no reason not to keep talking about it. But he is concerned on 100 million dollars they have to make a decision on.

Councilor McMahon doesn't think that has anything to do with the proposal in front of them, though yes they do have that huge amount hanging over their head, but that has nothing to do with what they are bringing to us right now.

Mayor Jacobellis said his question originally was about the sewer master plan and the issue was that this is good, they're upgrading it, on paper have no issues with it. But what if the sewer master plan comes in and says you should put a 14- or 18-inch pipe with two 45's on each intersection. Then we have to go to voters, dig it up and redo it; we've spent time, energy and money, no matter how you slice it or dice it, that's what's going to happen. So that's his only concern. The master plans aren't back yet and who's to say it's not going to say it should have been completely different. Councilor Johnson said he agrees with him.

John Lewis, Project Manager for HT Investment Properties, asked to speak to that. He said that the study they did is exactly the same type of study that will be done in the master plan. They take the zoning and the area and they max it to absolutely what's allowed there and then use those calculations to stress the system at a max. So when they come in and do this sewer master plan study for your system, they will do the same exact thing and they will come up with the same calculations on the flow, because they are basing it all on existing, on the acreage and the zoning that's there. This isn't theoretical, it's based on absolutes. That won't change when they come in and do the exact same study, they are going to take the same zoning, they are going to take the same acreage, and they're going to come up with the same calculations when they stress the system and they're going to basically come up with this fix here. Further down the line, what takes place past where their study is, is what is really covered by their SDCs to the county for the sewer development fees; that's why they pay those, so they are taking care of the system covering the cost of their capacity input into the system. When they add that capacity they are paying development fees to develop that system further down the line to handle that. Now there are some issues here that they went above and they did the study and like he said, when you do your study they are going to come up with the same thing because they are going to base it on exactly what they based it on. They used the zoning master plan the city has, the acreage that's there, they come up with the maximum number of occupants that could possibly be at any point, and then they calculate that and that's what is going to come out of the master plan. He understands their concern wondering if the master plan will come out with something different, but it won't; they already did the work and calculations and there are no variables. They have come up with the absolute maximum that the system is going to need, based on what the city is zoned right now. The only way the zoning will change is if you make that change.

He said the other thing is they are proposing to pay for all of this. So there is no cost to the city to do this section. It relieves the surcharging problem that you have currently and gives it capacity for all future development in the basin and it's their cost. So even if you came back with a master plan that came back and said it should have been a 14-inch, that is something you would have to do, but you wouldn't have paid for any of this so it's not money you would have spent and now have to redo, there is no cost to you.

Councilor Johnson said that all of that may be 100% true, but whoever they hire to do the sewer master plan will work for the city and the development company doesn't. It may come out apples and apples what you say will be 100%, but he would much rather hear that from somebody that works for the city and they don't.

John Lewis said true, but it's not going to be fair for the city to ask us to wait ten months for a study to be done before they can even look at starting to build on their property. They have time constraints they would be up against, so that is why they went ahead and did this study so they could move forward on their project. And again, this is something they propose to pay all of the costs for and still pay their SDCs which should be covering those costs. The last thing he wanted to address was there was some discussion about the waterline. HT Investment Properties are gaining a \$200,000 benefit while the city is realizing a \$400,000 loss and that's really not true because they're not obligated to upsize that water line, the current size will fully handle their development. The only reason they are offering to move it to the property line is to get it out of the middle of their development because if something in the future happens we don't have the city in there tearing up their parking lot, replacing a line that they aren't very comfortable with because it's a 60 year old AC line running through the center of the development. But they can build around it and still utilize it; it's a huge benefit for the city for them to replace it because it is part of the water master plan to replace that AC pipe and it really needs to be upsized to give the capacity of that intermediate zone that is necessary. So there's a huge upsize to the city to move it. And as you said, there are setback requirements on the property lines that you put the easement there, there's already a setback there you can't build within so you really don't devalue the property by running an easement there. Councilor Sieckmann said the property you would be moving it to would have no setback. John Lewis said there would have to be some sort of setback there because they would be on the property line with their building and you wouldn't be able to be right up against their building. They just want the city to know that there is no cost to the city for this and in the master plan they were talking about a \$300,000 pipe that they are offering to install for \$90,000.

Mike Robinson asked if he could make a suggestion that the council might find helpful. He said he understands Councilor Sieckmann's concerns and said if he were in his seat he would ask the same questions. He also told Councilor Johnson that he is right and it's not the first time he has heard that and it's a fair way to proceed. He asked if they could ask staff to work with them to develop a draft development agreement and at the same time do a briefing paper that tries to answer some of the questions and then they can come back to you for another work session. If you like what you see and you think they are getting close to answering their questions, maybe you'll have more and we'd be able to answer them, then you could direct staff to work with them to finish the development agreement. If you don't like what you see, if you think there are things you simply get around, for example Councilor Sieckmann's concern, then you say that's enough, they'll go off and do the development and use the eight-inch line, and if and when the city sells the property, then that development will have to improve and build the new waterline. But maybe that's a way to proceed and they meet you halfway. Just give staff direction

with them, they'll come back with something in draft, try and answer the questions, have another work session and see if council is comfortable moving forward with it. So just a suggestion maybe about how you would want to proceed.

Councilor Reisner asked if the city property to the south was owned by ABC Inc., where would that new waterline go. Mike Robinson said that he is not an engineer but if he understood what was said tonight, you need to deal with that eight-inch waterline because of capacity, not because of pressure. So if they develop and leave that eight-inch water line in place, he thinks Scott Tabor's concern is the access; it'll be in the middle of a development and have it somewhere else where city crews will have access to it more easily. Putting that aside, if it's adequate for them, and if ABC, Inc. buys city-owned property in the future, there would have to be more capacity in the intermediate water district, so it might not be unexpected for ABC to have to install a line, either on their property or out on the road and listening to Scott Tabor's list of utilities that are already in the road, he's not sure you've got room for it. Mike Robinson said that he's not sure if the right answer is to have Hans Tagus install a 12-inch line, or in the future if the city decides to sell the property and it's developed by a developer, they will probably have to dedicate some of that area for a new waterline. Councilor Reisner said that bottom line is they don't have to do anything. They could just build around and then they take care of the sewer like they mentioned and life goes on. Mike Robinson said that is correct. Perhaps foolishly, they thought it made sense to try and solve the problems that Scott Tabor identified for them, get the waterline off of their property and get it into a better location.

Mike Robinson told Councilor Sieckmann that they could give him good evidence that shows in fact that the city's property value won't be harmed, and it sounds like that might be what he's looking for. He also said that the reason he is suggesting that the council might be comfortable with them coming back with a draft development agreement with more answers to your questions. It's hard to answer all of them with nothing other than speculation. He thinks they could come back with some good evidence that you might want to hear before you decide on it.

Councilor McMahon said so if you were to buy ABC properties that already had that nice waterline in, that would probably be a bonus to you. Mike Robinson said he's not a developer, but maybe he should have been as he might have made more money than being a lawyer. When he works with clients, they look for commercial sites that are served by utilities. They want to buy sites they can build on. Most people aren't interested in upgrading municipal systems. So if ABC looked at that site and they knew, even though there is an easement in the rear as City Attorney Doughman said, you could put landscaping or parking over it, but knowing that they've got an intermediate pressure zone with the appropriate line to serve their property, based on his long experience in Oregon, it would be an added value. Mike Robinson told Councilor Sieckmann he feels he owes him more than his option, that's what he thinks the correct answer would be. Mike Robinson thanked the council for their time.

Mayor Jacobellis asked each Councilor what they want to do.

Councilor Nelson – Don't even have staff look at it.

Councilor Mersereau – Said he is concerned with the staff cost because there is a bunch of other stuff to do too. He's also concerned that the overall master plan may match exactly what's here; if they are doing it for nothing, then if they have to do it again later, then they aren't out any money. He feels that if staff cost is minimal he sees no reason not to direct staff to work on the development agreement and see what they come up with. He would like to see the sewer master plan complete before they give final go-ahead.

Councilor Johnson asked City Administrator Boyce for an estimated amount that staff time would be needed to do the development agreement. City Administrator Boyce said that may be hard to guess, depending on what they come up with. They may need the attorney to review it and that would cost. They may need Sisul Engineering to review some items; his impression is that his time wouldn't be over the top, he would get updates from the attorney, Sisul and Scott Tabor. Scott Tabor may have a few hours in it, but the group said they would be doing the heavy lifting on that and developing the agreement, so staff would only be reviewing it and that would keep cost down and makes a big difference. Hans Tagus said that Sisul has been involved with this for a long time and they have gone back and forth a lot on this and he is so confident that their time will be minimal that Hans Tagus will pick up the city's cost for Sisul Engineering for their review. He said that they will be saving the city \$300,000 for the waterline and the value of the development and the property that the city owns adjacent to it will increase a lot having all the infrastructure in place.

Councilor Johnson asked City Administrator Boyce if there was a mechanism in place to accommodate that. City Administrator Boyce said yes, they can track that and invoice them for it. Councilor Johnson asked if they need a letter of intent on that to do it. City Attorney Doughman said no they don't, they have representation there tonight, and technically he would argue that they have a contract already. Yes, technically speaking he would want to have a contract if they move forward on that. In the abstract you always want something in writing but in this case no, he doesn't feel it's necessary. Councilor Johnson said as long as it's a zero cost to the city, he is fine moving forward.

Councilor Sieckmann said he really doesn't want to make a decision on it and they don't have to make a decision on it and they can move forward as they need to do. They said they have been working on this for ten months or so and they have done their homework. Council doesn't have that luxury right now. As Councilor Mersereau mentioned, it is going to take the city ten months to get the master plan and that's how long they have been working on it so he's really leaning towards doing nothing, but he doesn't want to shut them out and not continue having the discussion. If they aren't looking at cost to the city and if city staff feels that they have the time to put forward on this, because he knows that they are overwhelmed in all of the sectors that will be looking at it, he would be OK with moving forward on it and discussion and see if there is an agreement that could be made.

Councilor McMahon he would move that the city spends some money and get this done, not that that is going to happen. The master plan has already been held up for three months because when it went out the first time there weren't any bids on it, so in the best light they are looking at ten months and they may again not get any RFP's so this ten months could stretch out a lot longer than I think is fair for these folks to have to do. He thinks it's a phenomenal development, he thinks it's a win for the city, and if they cap the city's cost at the \$90,000 that they said they are willing to do, and the other improvements, he thinks they should move forward on it.

Councilor Reisner wanted clarification on what "moving forward" meant. He asked if it was the development agreement that they talked about putting together. Mayor Jacobellis said it was Hans Tagus putting the development agreement together, coming up with more concrete numbers and coming back to us with answers to the questions we have asked tonight. City Attorney Doughman said that by giving staff direction to review the development agreement doesn't give any kind of commitment or agreement other than just working with them on drafting the development agreement. They will still come back, present the agreement, answer council's questions and see if they can come to an agreement to work on. Councilor Reisner said he is on board with that.

Mayor Jacobellis said they have their marching orders and they can continue working on it. Just a couple of things for the developer on his end of it – maybe addressing in that proposal what it means for you to run that line on their side of the property line to the point where it has to cross back over to city's property, what it does for them and what it does for the city. Do what you can and we'll go from there.

5. City Council Training:

City Attorney Doughman said he is going to keep his portion of this rather broad and overview-ish. There is a lot here and he will do his best to answer any and all questions. They do this with all of their clients when there has been a significant turnover in council and go through it as it is laid out in the council packet. He's going to talk briefly about authority. Federal government has a constitution and state government has a constitution and in many ways the city has its constitution as well, and that's the city charter. Not every part of the country works the way Oregon does, or the way Gladstone or the other 242 cities in Oregon do. You hear a term thrown around sometimes and that is "home rule authority." It is similar to a concept they talked about in law school called Dillan's rule. The difference is that home rule authority, which you have, as do all Oregon cities, says as long as there is no state law saying you can't do something, then you can do it. Dillan's rule is the exact opposite in a way. Dillan's rule says that unless the state has a law that says they can do something, then they can't do it.

As you go west and farther west the home rule gets much stronger. And the way this often comes up, and you'll be looking at this next month in an ordinance dealing with medical marijuana facilities, you have these situations that come up and medical marijuana is a really good example, where you are trying to figure out does the city under its own rule and power have the authority to ban them or regulate them in a particular

way or is that something that state law says no, you don't, you can't touch that, we're calling the shots on that. In many other states they are saying does state law allow us to ban that? And here they can do it, unless state law says you can't. That authority is pretty important.

The charter then goes through and lays out its aspects of how that authority is exercised. It has language that talks about administrative authority, and by in large that is vested in the person to my right, the city administrator. Supervising departments, that's in the purview of the city administrator, that is something your charter says we are going to delegate that authority to him or her. The only thing in your charter that it doesn't give him authority over is a municipal judge and the city attorney. So they are basically directly reporting to the council.

Councilor Reisner asked if that also includes the city prosecuting attorney. City Attorney Doughman said yes, he thinks so. The charter doesn't specifically talk about that, but he believes it would be and they are performing a function that we, for a variety of reasons just don't perform in their office. But there would be nothing that ... In some cities they're contracted to do it all including prosecution, so he thinks that is part of that, so yes. Councilor Reisner asked wouldn't it include indigent defense. City Attorney Doughman said no, it doesn't. First of all they wouldn't be acting on their behalf, which only comes up if somebody is part of a process. If somebody here could do any jail time, they are entitled to it. Councilor Reisner said so your firm, whoever is doing the prosecutions and the judge, right? City Attorney Doughman said yes.

City Administrator Boyce said so to expand on that a bit, if a person is contracted to perform a function, is that something that should come before council for that contract. City Attorney Doughman said that usually the way he would look at that would probably be that it is something the council should at least have input on. If the process is something that basically is we're thinking about hiring this person to provide the prosecution services, what are your thoughts on that. Certainly whoever sits in this chair and what the firm provides, and if it's an in-house lawyer, that they'd need to be intimately involved in that.

Councilor Sieckmann asked who is in charge of the city's boards. It doesn't specify in the charter, they're not employees, they're not departments, and council appoints them. City Attorney Doughman said he thinks it's a matter of the code spelling that out. He thinks the code talks about appointments to the library board, parks board, planning commission. He said that with planning commission, in state law, you do have some duty by statute to be involved in that appointment, but theoretically you could delegate that process to the city administrator. Given the policy that is involved, every city he works in, the city council is involved in it. Most city charters are a little more in the administrative authority, hire and fire. Whoever sits in that role has the ability to make those determinations. Some of those positions and this being one of them, becomes a judgment call for that administrator. It would be wise to have input from the council, but as a technical legal matter with hiring of those positions, that's what you hire an

administrator to do. Removal of department heads, same sort of issue, flip side of that coin. There are some that require council input in your charter.

So that's the silo of administrative authority the city has or possesses in its charter, basically delegating it to the city administrator. Then the city administrator can sub-delegate some of that.

Councilor Johnson said the city administrator hires and fires directors, is there any input, any place where council gets any input in that. City Attorney Doughman said there is. City Administrator Boyce said city council has input on hiring and firing and removal of all department heads, including the assistant city administrator. The way it would work is the administrator could set up a selection committee for a department head. They are contemplating what process to use on the police chief right now. But after that decision is made by the selection committee, which would most likely include the city council but it's not required, he would have to go to city council to seek council approval of that decision. If they were removing a department head he needs to consult with city council prior to that action. Councilor Johnson asked if that is in the code, is it a courtesy, is it legal. City Administrator Boyce he believes it's in the city charter. City Attorney Doughman said the charter speaks to it, the code elaborates on it, and the code goes into a lot more detail and goes into the nuts and bolts of what the authority is. Councilor Johnson said that if the process goes complete, there is a committee for selecting a director, they say choose this person, administrator says choose this person, it gets to city council and they say no, what happens then. City Administrator Boyce he believes they have to go back to the pool. He doesn't think it specifies a committee has to be set up, but that is the usual course of action.

City Attorney Doughman says he is moving into enactments, how council actually exercises their authority in a variety of ways. He thinks they are all familiar with ordinances. The best way to think about it is they are legislating. You are essentially creating law, broadly applicable for the city of Gladstone. Most ordinances get codified but they don't have to, it's not required. In fact, next month when you consider the medical marijuana ordinance, that's an example of where they don't codify it immediately because they will still have a ban in place. Then state law requires there are some things they must do in an ordinance, even things he would think of as administrative like change a zone on a piece of property.

The way your charter works here is pretty common in that in order to enact an ordinance you would have a reading at two separate meetings, but you don't have to. If the council voted unanimously to have both readings at one meeting, your charter lets you do that. The other thing you can do is that since your charter assumes, and if you say nothing to the contrary, that the ordinance is not effective for 30 days, the council can choose to shorten that time period or eliminate it entirely and make something effective immediately. The charter refers to when special circumstances are present. Normally they ask if there is a really pressing reason to do so, and they call those emergencies, but they are less than something like a building-is-on-fire type of thing.

Administrative decisions is really what he thinks resolutions do. So if you are setting fees, adopting your budget, SDCs, how you calculate them, the methodology, there are a variety of things that you would do as a resolution as opposed to an ordinance. An ordinance or something that is going to end up codified is much like statutes that someone can look at and say OK, this is how my conduct is going to be governed. A fee or budget isn't really governing anyone's conduct so it is a resolution. The benefit of that is you read it by title, you adopt it in one meeting, and it's effective immediately. They don't have the formality that an ordinance does. When you're acting in a quasi-judicial capacity, your ruling, this is usually in a land use context, whatever you do with that application, whether you approve it or not, you do that through what he calls an order.

He moved on to public meetings law. Both in public meetings law, and as a good practice, you should be keeping a record of that meeting, what is said and what is discussed. Normally that is done in meeting minutes; you certainly have meeting minutes, and most cities do, and it's an easy way to see what was discussed. You don't have to, you can rely completely on audio and video. The down side of that is that if you want to figure out what they said or talked about four months ago you're going to have to sit down and watch a video. Technically you don't need to have minutes, but it is a good idea.

As Councilor Sieckmann said they have rules. There is nothing that says you have to follow Roberts Rules of Order, which gets thrown around a lot, unless your rules require it. They are just a well-worn and well-tested set of rules that make the discussion between five or seven people that much easier and more predictable. You have your own set of council rules and he doesn't plan to spend much time on them. When your rules don't specify how you get from point A to point B you defer to Roberts Rules of Order.

They are going to talk about roles of councilors in a meeting setting. A quorum consists of at least four of them to legally do anything. So if there are only three of you it can present some uncomfortable moments when you have a room full of people and you say, sorry we've all got to go home. He doesn't think that has ever happened here, but it has in other city's meetings. Their charter says they have to hold a meeting once a month at a certain time and place, and that was recently changed.

One thing that does come up from time to time is what happens if there are four of you that just run into each other at the grocery store and oh, you've got a quorum. Or even more likely, there is a public social event and you all plan on going, is that something where you have to put up a public notice and hold it in this room. No You can still socialize and the risk there is that it's hard for people who do what you do and that are intimately in the goings on of your community, to not have some discussion. It's like an elephant in the middle of this room in this otherwise social event. You can do it, but you have to stay away from topics that have to do with the city, and he will submit that it can be pretty difficult, so they recommend you avoid those as much as you can. But if four of you run into each other at the grocery store, you don't all have to run for different exits, but you want to be careful.

Councilor Johnson said there was a court case that he believes to be the Portland Public School Board, and what matters of the day were, and the state attorney general ruled that the quorum could be in a social setting and that matters of the day could be discussed in that social setting. They went on to say there is an appearance issue here, but that it was legal. He's wondering where this tends to bump into the first amendment right, freedom of speech, right to assemble and some of those things. Maybe this is something we could talk about for the next six hours, but I won't do that. He won't talk about the freedom of speech, it could take hours, but there is a case that they talk about, on the next page actually. It was in Lane County, the Dumdi case, and it didn't go past the circuit court, and they usually don't think about court opinions, something really setting a precedent, until it gets to at least the court of appeals. Once it gets to the court of appeals then they have something to be very cognizant of and that is binding law. So this didn't get that far and there have been a number of critiques of it, but basically what happened was you had Lane County commissioners, less than a quorum mind you, talking outside of a meeting, about a topic that related to the budget that they knew was going to be put in front of them, front and center at a duly noticed public meeting. There were emails and conversations through intermediaries and they believe they were trying to get one to vote a certain way, and he doesn't know the words "vote a certain way" were used, but in totality, with what the court reviewed they said, look, what you are essentially doing is deliberating towards a decision and you're doing that outside of a public meeting. What the judge hung his hat on was the fact that it was part of the budget; the budget was going to be coming before them and there is no way you can say that this is some abstract thing we had no idea might be an issue that we're going to have to consider and take a vote on. It was the budget, so there were some specific facts there, so the judge said you violated the public meetings law. And in the context of going through this, Lane County council advised them that what they are doing is likely a violation of the public meetings law and they continued to do it after that point. So the court said they violated the public meetings law and there is personal liability for the board members and the county got tagged as well, and it was \$20,000 each they had to pay the county.

Councilor Reisner said so two of them got together and talked about the budget and they got dinged for it. He said that he reads in the papers all the time about Charlie Hales getting together with his commissioners and they talk about the issues on their agenda for their meetings. City Attorney Doughman said that the Lane County judge said based on these facts, this looks like a public meeting. They don't have any court of appeals or Supreme Court judge that says yes, you shall do this in this way and under these facts this is a violation. And he thinks one of the criticisms is because of that question; well, less than a quorum can talk about a lot of sensitive issues all the time, and that doesn't turn each one of those discussions into a public meeting. In this case the judge was particularly troubled by the fact that the discussions included vote rank, I want you to vote this certain way. Again he isn't privy to what those particulars were, but there was something in that record that was pretty clear to the judge that it was more than a discussion about the pros and cons of a budget line item here and there and more about the two of us are going to vote this way, and therefore this part of the budget would fail or succeed and the judge said, and he tends to agree if the facts were that stark, that having that type of negotiation or spirited discussion about how one is going to vote,

relative to a particular set of facts, was something that very likely should have been done in a public meeting. He also finds that it was less than a quorum is somewhat troubling from a legal point of view because to him, it's more that the system wants it both ways. If it's less than a quorum, then how do you ever get to a public meeting? He said he wouldn't stress out about this case by any means, but he thinks it is illustrative of making sure. Certainly if you have four of you together, that you're should be conscious of what you are discussing, and issues of the day notwithstanding, the more specificity you put on those things, the more chance you have of getting in trouble with it. Councilor Johnson said the less than a quorum is troubling, that's the first time he's heard of that.

Just a little more on the public meetings law, he wants to stress this point, this is something that often people get wrong. It's a right to attend, it's a right to observe. That's what the public meetings law grants to citizens to residents. It's not a right to participate. There is nothing in the public meetings law that says anybody has a right to come before you and talk. He's not saying you wouldn't allow people to talk; it's a very good idea to let people to talk. You will hear that sometimes, this is a public meeting and I have the right to speak to you, and under the public meetings law they don't. They do have a right to speak with respect to certain topics. So other laws give them that right in certain situations. Land use is probably exhibit A. There is a requirement to have public hearings, have testimony, and leave the record open. So that process is loaded with that. When you adopt a budget, you have to have that time for the public to come and speak to the budget. Same when you adopt fees, new fees, new charges. It's not so much a hearing per say but you do have to allow for public comment. And all of those things have to happen in a public meeting, so there are times when the public has the right to actually testify, but that right doesn't descend from the public meetings law.

Executive sessions, just as a closed session with the council, are all dictated by state law. So this is another example of public meetings, public records. You couldn't be more secretive than state law allows, so that sort of sets the floor. You could provide a lot of transparency; for instance, you could have a local rule that says regardless of what the state law allows we are going to allow the public to speak, everybody has the right to speak to us on any topic whatsoever, and for a time that they chose. You wouldn't want to do that, but there's an example where you can provide more participation. Executive session has a limited set of topics that they can cover. Litigation, if you're in the middle of a lawsuit or there is one that is likely to be filed, certain personnel matters, real estate transactions, generally speaking advice from your lawyer that's in writing, documents exempt from public inspection. Those things you can cover in executive session. If it's just something where this is going to be a really difficult conversation and we would really rather not have it public is not one of the boxes I can go down and say yes to. They have people ask that. He will say, and the attorney general has said it is appropriate, when those kinds of issues come up, the first thing I want to know is there a legal issue involved. Because to the extent that there is a legal issue involved then he, his office, or your city attorney could provide advice on, and again that could serve as the basis for the executive session, but it would be limited to that legal aspect involved. Councilor Johnson said so there's no chance of having the medical marijuana discussion in executive session. Well no, but there is a possibility of talking about a certain aspect of

that. This whole thing about the pre-emption and what the risks are, that could potentially be. He said council does a pretty good job at that, there is an aspect of wanting the public to know what the city attorney is advising as well and how you are taking that advice. He doesn't normally suggest that they discuss things in executive session unless there is potential of liability or some legal exposure.

Public records. First thing to note there is every person, it doesn't matter if they live in Oregon or they could live in Buton, has a right to inspect public records. The motive is irrelevant, their need is irrelevant. Basically, the way that the law works for public records is it says that everything that the city may possess in writing, email, in a digital format, video, audio tape, you name it, the definition is extraordinarily broad, even includes voice mails, are to be presumed to be subject to exposure if someone asks. You can set up a process for it, have forms, and have fees to defray the cost of answering the public records request. The assumption is that anything that the city possesses is subject to public inspection. However, law has sixty-some exemptions to that general proposition. So there are times when the motive of someone making the request could be considered. So if what they are looking for would fall into an employee record, most, if not all of them, will be exempt from inspection. You would go through the exemption and say there's a sort of weighing of interests. The interest in the public of having knowledge of whatever it is they are seeking, against the privacy of the individual, and none of you would be asked to do this, but it is good for you to know how this process works, his office, staff would all talk and say well is there a compelling purpose that would be served by disclosing this information to this individual. Or do we have some knowledge of how this person may attempt to use this information. He never wants to say flat out that you never consider who this person is and why they are asking for it, but by-in-large they have had clients that had a process and the form itself said please state the legitimate reasons you are asking for this record, and that is problematic because up front, that's not something you are really allowed to ask.

Again the definition of public record is very broad. There's social media, which can be problematic, people are getting more understanding about how Facebook works and how these things are archived. For instance, in his estimation, he feels social media pages, and let's look at Facebook as the example, from a public records point of view everything that is said on that page should be preserved somehow. He doesn't have a Facebook account, but as he understands it, you have a timeline where you post all this stuff, it's always accessible and you can go back to your first post, look at your wall and all that stuff. But cities have an obligation for the retention of that as well. It's in a cloud somewhere on the Facebook server. So the best practice is somewhere it's periodically printed, downloaded to a disk, and have it locally stored, but in his mind those are all public records.

Councilor Sieckmann said speaking directly to that, there's a sight called Next Door, it's a site that is a social media page and it's Next Door Gladstone for this particular one. He said he has been posting meeting notices on there just as a person, but as he is still a city councilor, he has been asked by the administrator of that page to remove old posts. He goes in there and says there will be a city council meeting on such and such a date at such and such a time and says here is a link to the city's webpage for the packet of that night.

He asked if he was running afoul by doing that. City Attorney Doughman said he's not running afoul of anything by posting a notice of a public meeting. Councilor Sieckmann asked but what about removing posts of that. City Attorney Doughman said that eliminating them is problematic, yes. He said it should be preserved, whether it's from city staff or on a social network. City Administrator Boyce said is that so even if it's not a social network that the city is maintaining. City Attorney Doughman said that by virtue of the fact that you have a city councilor, however benign or boring the topic might be about city business, it still relates to city business. Councilor Sieckmann said "I'm going to jail aren't I?" City Attorney Doughman said his sense is that going forward staff could just do screen prints and put them in a file someplace, in some way and say this will be kept with this retention. It doesn't have to be elaborate, just something that says yes, this was a record. He said that that is a public record based on how he is describing it and he's posting it. And a copy of that is just fine. And no, he shouldn't be worried about it. But going forward he thinks that is the best practice.

One question about public records is how fast do we have to respond to them, and the answer is, it depends. There is no specific deadline. A few years ago the attorney general's office was making a big push for local governments to have some sort of 10-day deadline, and if it wasn't met there could be lawsuits flying, etc. It didn't end up being successful and that could be as much about John Kroger as anything else, but it's as soon as is practicable without delay. So it really depends on the nature of the request and that makes perfect sense. If someone is asking for thousands of documents over a wide range of topics, you're not going to get that done in a few days. If you're asking for two documents and it's extraordinarily focused, you're probably going to get that done just by sending an email back. So it depends. If you're following the whole Cylvia Hayes and John Kitzhaber case, they have been waiting for months. So they have the right to go into court and say here's the delay and this is why, but most people don't take that tack.

One other thing he wants to talk about and it's an odd thing in the statutes. You can tell the requestor that yes, they can do that and this is what it is going to cost us in staff time and supplies to do that, and you could require some sort of down payment, or alternatively pay the final bill before you pick them up. But you have the right to do that. You have the right to charge for his time for going through the documents to see if there is any exempt material. A couple of their clients, if they get a request from the Oregonian or certain folks, they don't charge them at all. He's never really understood that, but that does happen sometimes. But as far as what you are able to or have the right to do, is you are able to recoup their costs by in large of responding to public records requests. Councilor Mersereau asked for clarification and said you can charge some people and not charge other people. City Attorney Doughman said no, that was his point that they can charge everybody, but some of their clients chose not to charge certain people. Assistant City Administrator Jolene Morishita said Gladstone doesn't do that, they charge everybody.

City Attorney Doughman said they talked a little bit about a councilor's right to look at public records and how that works. Their advice has always been to certainly work through the city administrator, but when it comes to larger requests have the council be a

part of that. He said it's not necessarily a legal issue as much as it is a best practice, it can be difficult for a staff member when confronted by a councilor that's wants x, y and z documents, it can be very difficult to say either well you know I could charge you for that, or I think you should go and speak to the rest of the council. They feel a sense of duty and maybe a sense of, well in a way you're my boss so I better respond to that. He thinks it can put staff in a somewhat uncomfortable position. So their advice is always, look if you're talking about something that is large in nature, certainly if it is something that would otherwise be exempt from public disclosure. And in that case you have a legal obligation to go and have consensus among the council before that would be turned over. But in the everyday bland public record, if it's just a record or two, he doesn't have a problem with talking to staff about getting a copy of that. You have the right to know the business of the jurisdiction you're meeting. But the larger the request gets, he thinks it's a matter of good practice and that it's probably best to run that by the rest of your city councilors to make sure everybody is comfortable with that, and then it becomes almost a matter of course.

A little bit very briefly about preservation and destruction. There is a retention schedule that is set out, the secretary of state has a ridiculously large manual on various things in terms of the timeline and it's not letters are this long and emails this long, it is instead the subject matter that dictates it and that makes it that much more difficult. It is not an easy job, but there is a duty to maintain those records for a variety of different lengths of time, and it all depends on what that thing is. Some things are maintained indefinitely and it's important to have a working knowledge of what those things are.

Councilor McMahon said so emails, they are talking about them now. I've been deleting them and putting them in my deleted file. It's like the League of Oregon cities, and he got who knows what. And instead of clogging up his inbox he puts them in his deleted file. He asked if he could just delete that, or is that on a server somewhere. City Attorney Doughman said a couple of points on that. That's a very good question. Number one, he asked if they are all using the city domain email, using a city email address for city business. They all said yes. He said that is the first thing he would suggest if they aren't. It's the Hilary Clinton thing. He hadn't noticed from email from the council if they were using city or personal accounts. It's OK and it's not unlawful, but you've still got a duty to preserve anything that would be a public record. And it technically can, if there's ever a debate about that, expose your personal computer, wherever that is kept, to some sort of inspection, not you and not me, you don't want to put your personal stuff out there. So use a city email address for all city business. And then he's going to have to defer to these guys on how your server gets redundant backups, whether they are maintained even if you delete them. He will say that if it is a League of Oregon City's email, you only need one copy of whatever it is, it's not like seven of you got an email from a League of Oregon City, if you were, they would have to be seven copies made. So it's about how the city backs things up and what the communication is. If you're having communication on some amount of substance, he thinks that's a heightened sense of, OK, I don't want to delete this, or at least make sure the city servers have a copy of it.

Assistant City Administrator Jolene Morishita works with Robert Hale, a key person on this. It's his understanding that all of those emails that get to your inbox are going through the email exchange, he asked Jolene Morishita if they have those recorded. They back everything up, if it's deleted, they keep it. They can never disappear.

Councilor Johnson said he knows that the email provider Rack Space, because it's the same one he uses, does offer as a service a permanent archive. He asked if the city purchased that. Assistant City Administrator Jolene Morishita said yes, they do. Councilor Reisner said to the tune of \$8,004 per year. City Attorney Doughman it's a good way to do it and it's a lot less expensive that it is if you get an audit and wow, they aren't backed up. Imagine if you had a Gmail account and you had to siphon and segregate all the city council business from personal stuff.

Councilor Johnson said he works IT, so from a technical standpoint you may have a server someplace where you have email, you may delete it, and empty your trash bin and it's gone. Microsoft Exchange has a 30-day retention built into it, but others don't and it's gone. The rack space that they purchase email from has a permanent archive system built on top of that, in addition to that. It may not exist at Yahoo, it may not exist at Google, may not exist in a personal email system someplace, but it has been purchased specifically from Rack Space to provide that service. City Attorney Doughman said as long as you are using ci.gladstone.or.us as your domain for city business you're fine. It's just those times, and he's seen it a number of times, where someone uses their Hotmail. You just have to be cognizant. Councilor Johnson said that in most cases, delete and empty the delete folder may really mean it's gone. But in the City of Gladstone if you delete and empty the deleted folder, it's not really gone.

Ethics, last topic. You probably got your little form in the mail that you have to fill out and return it by April 15, so you probably have some idea of how this process works. He will point out some highlights in ethics law. Conflict of interest is probably what for you as councilors comes up more than any other aspect for ethics law. Conflict of interest is your opinion on something, it's whether someone can look at your dealings with the public and look and say, you know Joe Smith really well so of course you're not going to. It has to do with whether you have a financial benefit or detriment that is related to a decision you make. Two types, an actual conflict that will have a financial impact on you, either positive or negative, and if that is the case you absolutely cannot participate in that decision; you have to literally stand down. Much more common is a potential conflict of interest where it may have some financial impact, either positive or negative. And if that is the case, you have the legal duty to say what that is, to announce it, to put it on the record and say I think I can't predict the future. This comes up when, again picking on land use, they have a relationship with a firm that is presenting or some sort of weak but actual connection to a developer or applicant. Then what I would say to people is look, it would take a number of steps and a number of unknowns before you would or will realize any financial impact from this decision, but you might. So that's what your duty is to say I might and put that on the record, check the legal box you've got to check. And someone can challenge you and say I think you're wrong or I do think you have a conflict of

interest. It's pretty clear when you do and you don't or you might, which is a gray area and as long as you put that on record, you've satisfied your legal obligation.

Gifts, there's a whole laundry list of things that look and walk and talk like gifts that really aren't gifts. But by in large, the biggest thing is probably for you at city council level to be thinking about is anybody, himself included, that might have some financial, or legislative or administrative interest of what the city does. Anybody that fits that category is limited to giving you no more than \$50 in any calendar year in any form. So if he took a councilor out and bought them lunch, the two of you would need to make sure you were monitoring that. There would be a prohibition on anything above \$50 and frankly that's why they don't. We like to honor clients and what you do as professionals, but what we do especially around the holidays, instead of sending a fruit basket, we make a donation in their honor, usually to the heat project for folks that can't afford to pay their heat bills. So that's just something to keep in mind; anyone with a potential interest in a potential decision you make cannot give you more than \$50 in stock in the course of the calendar year. Councilor Sieckmann said so you can take me to dinner as long as I stay at \$49.

You've got the reporting requirement and you're going to do that soon, it's coming up. One of the things he will say about ethics law is about the prohibition on nepotism. So really, the only time he thinks council would be confronting this is if you're talking about having someone who may be related to you appointed to a position, certainly in a position for an employment opportunity. Normally the answer is if that is the case, your relative or whatever, you just can't participate in that decision. It doesn't mean the council can't make the decision, but you as the related individual need to stay far away from that decision. Councilor McMahon asked if that meant monetarily. City Attorney Doughman answered as volunteers too. It includes anyone who would have any authority within the city, like a board. Councilor McMahon said, not to pick on Councilor Nelson, but his daughter does a fair amount for them and they appreciate it. Councilor Nelson should recuse himself when it comes to decisions about putting Tammy on this board. She does a great job. There is nothing untoward about it, it's just when it comes to Councilor Nelson, he shouldn't be voting on it. Councilor Nelson asked what does my daughter do? Councilor McMahon stated that he had asked what Councilor Nelson's legal obligation was when his daughter decides to run for planning commission and the answer was that he can't be a part of that decision.

Very briefly now about budget law. Not every state requires their governance to go through such a tightly controlled process from the top down; it's a lot like land use in that way. Generally speaking, the budget has some specific standards. Some is relative to private industry and having to go through a fund-to-fund process, with respect to people who aren't trained in fund accounting. That is something most communities are aware of and try to find someone who has that. He asked City Administrator Boyce if there was anything problematic about that. City Administrator Boyce said in the process no, it's just the general understanding that, for instance, water rates pay for water infrastructure, it's in a separate fund called an enterprise fund. It's meant to be self-sustaining. There are limits to how you can transfer money between the funds. You need to have a good

justification for doing that. Sometimes they do that with administrative fees; for instance, they charged the water fund an administrative fee and it's based on work that's done by the general fund for that fund. Things such as payroll and liability insurance are paid for out of the general fund and things like that. So you just need to be careful how you limit those funds. If you remember a while back they had an interfund loan between the water department and the sewer and state revenue sharing. So there are things that could be done, but you really should stay away from transferring those funds as much as possible in-between.

The only other thing that he would say about the budget law is that you have to have a committee who is made up of residents in your city and the council. That part is mandatory and he thinks that's a pretty good thing. It's one of those things that most communities would do even if it weren't obligated by law to do it.

City Administrator Boyce said that one thing that came up was from a training that Councilor Reisner attended is that right now they have an alternate on the budget committee and he believes that one of the things they specifically said was you can't have alternates for the budget committee. Councilor Reisner said he was going to ask if he had followed up on that. They mentioned that you have to have, in our case, seven community members, but still you have to have a quorum. So if a couple of our people aren't there, that's still OK because you would still have a quorum. Like twelve out of fourteen because they have alternates also. He said it doesn't allow for alternates. City Administrator Boyce said he has called around to other jurisdiction and some of them have alternates, but most of them don't. Some of them were aware of that law and some of them weren't. City Attorney Doughman said there's a statute that doesn't allow alternates. Councilor Reisner said law doesn't allow it and City Attorney Doughman said that is different than prohibiting it. He thinks that was the wording he used. So he talked to City Administrator Boyce about it a couple of week ago to make sure they haven't gone afoul when they go through the process. City Attorney Doughman asked if they wanted him to take a look at it, they said yes. So he will take a look and figure it out. That would be a bummer if the entire budget got undone because of using an alternate. He will definitely take a look at it. He said that was it unless people had questions.

Councilor Reisner said he was confused when they talked about training 101, is that what this is. Assistant City Administrator, Jolene Morishita said she will call and find out if they have a specific 101 course. She can find out if this will be sufficient or not.

BUSINESS FROM THE COUNCIL

Councilor Nelson said he went on the Meals on Wheels with a fellow name Earl and he had been doing it for six years and he does the Friday run. He met 20 to 30 really neat people, most of them are locked into their homes or trailer because they were handicapped and couldn't leave and he got to go in and meet them and spent a few minutes with them. What a great program. They were so happy to see him come on Fridays and that's a part of Gladstone that you don't usually get to see. So if you get a chance to do a ride-along, do take the opportunity. It's 1 ½ to 2 hours at most.

Councilor Johnson asked what the status of their sewer master plan. City Administrator Boyce said he just finished revising the language so they should have it advertised by the end of this week.

Councilor Johnson asked what the status of the police station library advisory committee is. City Administrator Boyce they had one meeting last night. They are going to be meeting every two weeks at 6:30 pm, so two weeks from yesterday they will be having another one. They are also going to start putting the meeting agendas and meeting packets and any information they generate on the website. Speaking with Todd Anslow, who was elected as chair of the committee today, they also talked about including notice in the newsletters of the meetings and certain outreach to different groups. Councilor Johnson requested he be included on those meeting notices. City Administrator Boyce said he would send the whole council the packet and notifications of the meetings.

Councilor McMahon said he did a ride-along on the Meals on Wheels today with the Mayor and he is doing it every Tuesday, so if anyone else would like to go along he would welcome them. He doesn't get to go to the mobile home park, he has a different route. Get hold of him.

Councilor Reisner said three things. Traffic safety met three weeks ago. They have a member who is interested in a speed radar van, so he is going to put some information together to take back to them. He works with the program over in Beaverton. He attended the Department of Revenue local budget training earlier this month and also one with LOC. Commissioner de AElfweald also attended. He also met yesterday with Brent Barton, their State Representative, who wants to come before the council next month. It was mostly on educational stuff; he was trying to get more money for their kids.

ADJOURN

Meeting was adjourned at 9:41 pm.

Approved by the Mayor this 9 day of June, 2015.

ATTEST:



Mayor



Assistant City Administrator