

GLADSTONE CITY COUNCIL MEETING MINUTES of October 8, 2019

Meeting was called to order at 6:30 PM.

ROLL CALL:

Mayor Tammy Stempel, Councilor Ripley, Councilor Neace, Councilor Tracy, Councilor Reisner, Councilor Todd, Councilor Mersereau

ABSENT:

None

STAFF:

Jacque Betz, City Administrator; Tami Bannick, City Recorder; Jim Whynot, Public Works Director; Cathy Brucker, Interim Finance Director; Chad Jacobs, City Attorney

PRESENTATION - SWEARING-IN OF POLICE LIEUTENANT AND POLICE SERGEANT:

Judge Linda Beloof performed the swearing-in ceremonies for Lt. Timothy Gerkman and Sgt. James Leake.

PRESENTATION – RINEARSON CREEK PROJECT:

Evan Ocheltree and Gary Howard from Columbia Restoration gave a presentation regarding the Portland Harbor/NRDA restoration project. It is a public/private partnership between Columbia Restoration Group and the City of Gladstone as well as some additional private homeowners and property owners throughout the area. The project is located in Meldrum Bar Park on the Willamette River. The project removed the dam, rebuilt the channel, and rebuilt the pond above it to allow fish passage and a number of species that were listed in the project. The project took two seasons to complete. They shared photos of before and after the project. They planted 110,000 native plants. They will be working on the invasive plants for the next ten years. There is an interpretive walk in the area. They built some beaver “condos” and they have moved in on the upper end. There are also 15 mink “condos” but they prefer living in the wood piles. There are also deer, bald eagles, coyotes, and river otters in the area.

They were able to generate 345 credits – they have the initial releases, which generated approximately 170 credits of which they sold 100 of those to a potentially responsible party that is part of the trustee council that is overseeing the entire clean-up/restoration of the Portland Harbor Super Fund. They anticipate that they will sell out of their initial release in the first quarter of next year.

Ms. Betz said that they entered into an agreement with Rinearson Natural Area, LLC in 2014 and even though Falling Springs is no longer part of this the agreement is still in place; so once they have sold enough mitigation credits to cover their costs associated with the project and set up a stewardship amount the City is in a position to recover some of the costs they incurred as well (approximately \$44,000 for some studies and \$10,000 for legal costs).

AGENDA ADDITIONS OR CORRECTIONS:

Ms. Betz said she would like to add three items under “Business Carried Forward”. One is to clarify a City Committee position specifically to the Planning Commission and Library open positions. The second is the City Administrator Employment Agreement. The third is the Judge’s contract.

CONSENT AGENDA:

1. Approval of September 10, 2019 Regular Meeting Minutes
2. Approval of August Bank Balances
3. Budget Report for Period ending 8-31-19
4. Approval of August Check Register

5. Legal Costs on Projects
6. Department Head Monthly Reports for September 2019
7. Approval to Extend Library Director Services

Councilor Tracy made a motion to approve the Consent Agenda. Motion was seconded by Councilor Neace. Motion passed unanimously.

CORRESPONDENCE:

There was one item on the dais in regard to utility rates. It was emailed to the Councilors earlier but Ms. Betz wanted to make sure it got here tonight on the record.

Mayor Stempel went over the procedures for the meeting/audience participation. She said a few words about the role of the City Council. She feels it is important for everyone to understand their limitations: they represent the citizens of Gladstone and not their own personal agendas and beliefs. There have been many times when a decision being made doesn't align with what they would like personally, but after hearing the citizens' desires they have sometimes gone a different direction. That doesn't mean that their beliefs have changed; just that they listened and acted accordingly. There are laws and rules they have to use as the basis of their decisions. They do not have the luxury of randomly making decisions, but instead have to be consistent and take the path that is defensible. They appreciate everyone's time in participating in this process. Her goal is to keep the meeting respectful and engaging and she hopes everyone will help her do that.

REGULAR AGENDA

8. **RESOLUTION 1165 – SUPPORT OF A CO-SPONSORED APPLICATION WITH CLACKAMAS COUNTY REDESIGNATING THE NORTH URBAN CLACKAMAS COUNTY ENTERPRISE ZONE:**

Ms. Betz said this request is from Clackamas County for the City of Gladstone to participate in what's called an Enterprise Zone, which is a tax abatement program for businesses looking to locate or expand in a designated area. It is a tax abatement on local property taxes on new investments including building construction, improvements, machinery and equipment for a period of three to five years. They have to meet some full time permanent employment requirements, maintain minimum employment levels during an exemption period, and enter into a first-source agreement with local job training providers. She doesn't think that Gladstone will benefit a lot from this but she doesn't think it hurts Gladstone to participate with Clackamas County. The County would be taking applicants through the process but the City would be part of those conversations. She went over the maps that show the Enterprise Zones. Councilor Reisner said there have been discussions for several years regarding Gladstone expanding into some of the area north/northeast of the City. He asked how this would effect that. Ms. Betz said if we wanted to annex property in the industrial area outside the City then that would potentially mean in the future if we wanted to re-designate an Enterprise Zone we could capture more property in that, but what they are approving tonight are the properties shown on the maps. Councilor Tracy asked what the average wage is in the County – no one had that answer. He asked what this would do for some of the businesses along McLoughlin Boulevard. Ms. Betz said it has to be new capital, new construction, and can only be for manufacturers, processors, shippers, call centers, and traded sector businesses.

Councilor Reisner made a motion to approve Resolution 1165, a Resolution supporting a Co-Sponsored application with the Clackamas County and the City of Gladstone re-designating the North Urban Clackamas County Enterprise Zone. Motion was seconded by Councilor Neace and Mersereau. Motion passed unanimously.

9. **ORDINANCE 1497 – ADDING CHAPTER 5.55 TO THE GLADSTONE MUNICIPAL CODE (GMC), TITLED BUSINESS FOOD WASTE REQUIREMENTS:**

Ms. Betz said the City didn't like other government agencies mandating local jurisdictions. They also had concerns about what our garbage hauler's costs were going to be. They filed a letter of extension with Metro, asking for more time to work with local businesses to better understand what this really means for Gladstone. The extension was granted and gave the City until October to reconsider the ordinance. They hosted an open house and invited Metro staff, Clackamas County staff, and businesses in Gladstone. The biggest take away she got was that yes, there are approximately 22 business in Gladstone that this would effect, but most of them won't meet the minimum qualifications once Clackamas County goes out and does a site assessment. She said it was a very educational open house and they learned a lot about the process. If this is not approved the City will not receive any more funding (approximately \$17,000 in technical assistance) from Metro and they will still have to do this for the businesses, which means the City will have to figure out how to educate and promote this program. This would mean an increase of approximately 20 cents to a commercial business to do this and it won't effect the residential customers.

Mayor Stempel asked a representative from B&B Leasing (garbage hauler) for their take on this program. They said it has been decades since the legislature passed a law to try to reduce the amount of trash that is going to landfills. Over that time recycling yard debris diversion has occurred. Now food waste is another item that can be removed from what's going into their trash receptacles and can be used in places other than landfills. They said it's just another service that they provide. They have the equipment and they can do it – it is not an issue for them.

Councilor Tracy said he is going to recuse himself on this item. Mr. Jacobs said there is a financial conflict of interest under State law which would require recusal and there's a recusal for the purposes of making the decision as clean as possible – this would fall under the latter category because Metro is a government entity so it doesn't create a conflict of interest for him to participate in this.

Councilor Reisner asked if the City Attorney's office read through this ordinance – they had. He asked about page 9-7, under Business Food Waste Requirements, 5.55.040, subsection 7, violations – he asked for clarifications on the levels. Mr. Jacobs said he believes these would be civil violations (similar to a land use violation) – not criminal violations. Councilor Reisner asked if this would apply to all businesses, as stated on page 9-5, 5.55.030, #1 – Mr. Jacobs said under 5.55.020 it defines “business” (it is limited to those businesses that cook, assemble, process, serve, or sell food or do so as a service provider for other enterprises). Ms. Betz said they would also have an opportunity to have a waiver process for certain businesses that may qualify.

Councilor Neace made a motion to accept Ordinance 1497, adding Chapter 5.55 to the Gladstone Municipal Code titled “Business Food Waste Requirements”. Motion was seconded by Councilor Todd.

Discussion: Councilor Reisner said he doesn't like the idea of being told what to do by Metro. He asked how much we have gotten from Metro over the last five years – Ms. Betz said the City has benefitted greatly in the past from receiving funds for the feasibility on the trolley trail (\$150,000) and the Downtown Revitalization Plan (approximately \$100,000). She doesn't know if those funds would be withheld if they didn't approve this, but she does know that losing the technical assistance with this program is something that City staff doesn't have the ability to pick up and do. Councilor Reisner said he feels that if businesses want to do this on their own, go for

it. He doesn't like government mandating something like this. Councilor Neace agreed but for the first time they have people at the table and have started to establish some kind of relationship and having communication – she feels that is really important. She doesn't think this is going to harm us and we'll be okay in the long run.

Motion passed (5-1, Councilor Reisner with a nay vote and Councilor Tracy recused).

Ms. Betz said there will be a second reading of this at the next meeting because it was not a unanimous vote.

10. RESOLUTION 1166 – DECLARING FUNDS RECEIVED AS ASSIGNED FUND BALANCE – GLADSTONE PUBLIC LIBRARY WITHIN THE GENERAL FUND OF THE CITY:

Ms. Brucker went over the staff report. The Gladstone Library Advisory Board was authorized originally through Resolution 346, then revised with Ordinance 1072 to establish and maintain a fund separate from the City budget for the benefit of the Gladstone Public Library. This guidance originated in the late 1970's and continued on with minimal revisions over the next forty years. Ordinance 1484, which was passed in January of 2018, brought consistency and compliance to the Advisory Board structure within the City. The policy also eliminated all funds held separately from the City budget and required any monies be deposited and accounted for with City funds. The revisions were not communicated clearly to the Advisory Board so the funds remained isolated in the Library account. The Advisory Board wanted to ensure that these funds were spent on the new library and requested the Library Foundation take custodial care of the balance of this account. The funds were identified as to the source by the Foundation and deposited to a certificate of deposit with the local credit union. These funds were always intended for improvement of the library. Because these funds are legally City property the credit union has agreed to transfer ownership of that certificate of deposit over to the City so there will be no withdrawal penalties incurred. She said that our request is to establish an account within the City general fund entitled "Assigned Fund Balance - Gladstone Public Library". This Resolution will require funds be administered by the City Administrator for this purpose with the advice of the Gladstone Library Foundation Board and the Gladstone Library Planning Task Force. Funds may not be redirected for any other use except by the City Council through this same resolution process. The funds would be monitored annually during the audit process and restrictions placed by the Resolution would need to be met. Staff is requesting the approval of this Resolution, allowing the funds be restricted to future use at the Gladstone Public Library as stated and they request the annulment of the existing MOU entered into by the Gladstone Library Board and the Gladstone Library Foundation Board. Councilor Reisner asked how they did not know this money existed. Ms. Brucker said that shortly after being hired by the City she and Ms. Betz checked with the directors regarding any funds that were not accounted for within City funds and they were told there were none at that time. Ms. Brucker clarified that if this resolution isn't adopted the funds will still be turned over to the City but they won't be restricted for Library use. Councilor Reisner asked when these funds came to light. Ms. Brucker said that several months ago one of the members of the Advisory Board requested an employer ID number because they wanted to move the funds into an account that earned more interest. At that point the Advisory Board decided they would go into the MOU with the Foundation and deposit it through there. Councilor Neace said that Councilor Reisner missed the Library Board meeting where they discussed these funds. Ms. Betz said this is a housekeeping matter to ensure that we're putting the funds in the correct fund balance so that it can be spent appropriately in the future. Ms. Brucker said there are no bequest funds tied to this money – it came from various fund raising efforts.

Councilor Reisner made a motion to approve Resolution 1166, resolving that the City Council of the City of Gladstone, Oregon declare funds received as Assigned Fund Balance – Gladstone Public Library within the General Fund of the City. Motion was seconded by Councilor Neace. Motion passed unanimously.

Ms. Betz pointed out that for the record they want to recognize that the MOU has been annulled tonight in reflect of this Resolution.

11. ORDINANCE 1498 – AMENDING TITLE 17 OF THE GLADSTONE MUNICIPAL CODE (GMC) PERTAINING TO TIME LIMIT EXTENSIONS OF LAND USE APPROVALS:

Mr. Jacobs said this is an Ordinance that has come before the Council by way of recommendation of the Planning Commission. It is a proposed amendment to the Development Code. The basic issue is that they want to clarify when and how the City may extend certain land use approvals. Most of these decisions are being proposed to come to the City Administrator or their designee instead of the Planning Commission. Specifically the following types of approvals are: conditional uses, variances, adjustments, and design review. One of the major changes is that any request for an extended approval needs to be done before the existing approval expires. Since this is a land use decision, it's a legislative amendment to the Land Use Code, so a public hearing is required.

Mayor Stempel opened the public hearing.

PUBLIC COMMENT:

None.

Councilor Neace made a motion to close the public hearing. Motion was seconded by Councilor Tracy. Motion passed unanimously.

A member of the audience asked if they had asked for public comments.

Councilor Reisner made a motion to reopen the public hearing. Motion was seconded by Councilor Tracy. Motion passed unanimously.

PUBLIC COMMENT:

Clair Coy asked for clarification on approvals. Mr. Jacobs said the decisions used to have to go to the Planning Commission. The proposal is that the extensions would come to the City Administrator or staff. This allows the City to grant extensions through City staff instead of the Planning Commission. Ms. Coy asked if this would add substantial costs to the City. Mr. Jacobs said it would conceivably be less work/cost for the City. Ms. Betz said this would streamline the process.

Councilor Neace made a motion to close the public hearing. Motion was seconded by Councilor Tracy. Motion passed unanimously.

DISCUSSION:

Councilor Reisner said he likes the idea of making it clearer as to when a renewal is needed. He disagrees with taking it away from the Planning Commission. He said letting the County make decisions isn't necessarily in the best interest of the City. He feels this needs to stay with the Planning Commission.

Mayor Stempel pointed out that these are not new applications – the Planning Commission has already seen them and approved them. This is only for extensions and it makes a lot of sense to go through staff for this.

Councilor Mersereau said the Planning Commission wants it to go this way. Ms. Betz said that since the planning services are provided by a contractor they would not be able to make those decisions without input from the City Administrator.

Councilor Reisner asked if this was for just one more year – Mr. Jacobs said yes, the extensions are for one year periods – and can only be renewed for not more than one year.

Councilor Neace made a motion to approve Ordinance 1498, amending Title 17 – Zoning and Development of the Gladstone Municipal Code (GMC). Motion was seconded by Councilor Todd.

Discussion: Councilor Reisner asked what the process would be if they needed more than one year to complete the project. Mr. Jacobs said a new application would have to be filed.

Motion passed unanimously.

Mayor Stempel gave a second reading of the Ordinance.

Councilor Neace made a motion to approve Ordinance 1498, Exhibit A, Proposed Amendments to Gladstone Municipal Code (GMC), Title 17 – Zoning and Development. Motion was seconded by Councilor Todd. Motion passed unanimously.

12. DIRECTION ON UTILITY RATES FOR JANUARY 2020 IMPLEMENTATION:

Mr. Whynot said they are asking for direction from the Council regarding the utility rates in the City of Gladstone. He said for years little to no rate increases were done, let alone any investment. In 2014 the City started updating its Master Plans, followed by rate studies and SDC (System Development Charges) updates. In 2016 the City started informing and educating its citizens with open houses, work sessions, Council meetings, mailers, fact sheets, surveys, etc. In 2017 the City started phasing in rate increases and to date the City has raised its utility rates over the last 2.5 years by \$14.55 or \$.49/day. The rates have gone up more than that but those are pass-throughs that the City does not have control of (sewer treatment/drinking water treatment rates). The rate increases have put the City in a position to now properly operate and maintain its system, but it does not generate enough funds to do replacement or deal with the mutual agreement order we now have with DEQ to address the sewer system and to prevent raw sewage from overflowing into the Clackamas River whenever there is a heavy rain. Three options have been proposed to the citizens: a) a mandated minimum rate increase to deal with the mutual agreement order and get the sewer system in compliance with DEQ (\$7.68/month increase), b) raise the rates based on what the rate studies say (\$65.11/month rate increase, which would replace the City's infrastructure within 20-30 years), or c) a \$17.62/month rate increase which would allow the City to replace its infrastructure every 100 years.

Mr. Whynot said to replace two blocks of infrastructure in the City (water/sewer/storm/street) costs approximately \$900/lineal foot. The City currently operates and maintains approximately 40 miles of infrastructure (211,000 feet), which comes out to \$190 million to replace. He said only about \$.27 of each tax dollar goes to the City of Gladstone. He went over the results of the survey – basically 61% of the respondents recommended doing more than just the mandated minimum.

Councilor Mersereau asked when the Master Plans were completed. Mr. Whynot said the Storm Water and the Water Master Plans were finished in 2014. The Wastewater/Sewer Master Plan was finished in 2017. Councilor Mersereau said that only leaves us with 25 years left to complete them.

Councilor Tracy asked if we had pass-throughs because we had passed through or cross subsidized the wholesale water prices – Mr. Whynot said that is a little piece of it on the water portion. A big percentage of the \$14.55 rate increase was implementing a stormwater utility. Prior to 2017 the City did not have a stormwater utility. \$10 of that increase has gone into establishing a stormwater utility – it was phased in over a two-year period. He said you can't use water funds to pay for streets or sewer funds to pay for parks, etc. Councilor Tracy said that in order to be in compliance with the MOU we are projecting and forecasting on the costs so we could do the minimum mandated and still not be in compliance and we would have to come back and find a funding measure to be able to actually get into compliance even though we're at the minimum mandate. Mr. Whynot agreed and said the first two years of this five-year plan is doing some studies to figure out where the intrusions/failures in the pipes are (Infiltration & Inflow study). He said their first order of business is eliminating some of the catch basins (stormwater runoff) that flow directly into the sanitary sewer. He said the MOU allows the City to fix its system. He said the public outreach efforts started in 2014, before he was hired in 2015. He again went over the ways they reached out to the public. Mayor Stempel said they have copies of every single public comment that has been made. She said that prior to the Master Plans being completed they just guessed what needed to be fixed and were putting band aids on a failing system. Now they have a plan to move forward with what really needs to be fixed. Mr. Whynot suggested that citizens should check out the monthly Public Works reports to see what they are working on. He said the difference in utility bills for Gladstone citizens is because of different sewer treatment rates (pass throughs). He said once they get direction from Council on which rate structure we want to go with when they implement the increase in January they plan on changing the water rate structure to a conservation block rate with a base meter charge. Some bills will go up and some will go down. Ms. Betz said the City has a low income assistance program and they are going to promote that more.

PUBLIC COMMENTS:

Clair Coy said she is not a supporter of the additional fees that are added to the utility bills. She doesn't feel that the town elders would be supportive either. She doesn't feel we are doing a good job of communicating with the community. She doesn't agree with the minimum charge per household on the water bills. She is paying for water that she isn't using. She said it is ridiculous to put the whole burden of replacing this water infrastructure to be all on the homeowners.

Bill Osburn said that property taxes in Gladstone are pretty much the highest anywhere. He said that school enrollment is on the decline, teachers have been laid off, and the school board is talking about financial issues because they have less and less students. He said that livability is one of the big things. He said the City controls some of the pass-through fees. He understands that the infrastructure needs work but he also understands that nothing has been done for years even though people have been paying that, and part of what they pay is to upgrade/keep up with that. He doesn't know what happened with the money. He said there is a lot of distrust when people look to the governing body, which is the Council as a whole. He said for years the Council mismanaged the money – the repairs weren't done, the upkeep didn't happen, and now we're faced with this big repair that needs to be done and it's not fair. He hopes when they look at the rate they look at the overall livability. He said the outreach to people is also an issue. He doesn't feel that 60% of the people want to pay a higher utility bill. He feels that some solutions to this might be that allowing some people to volunteer to pay a higher rate because some people have more money

and might do that. He suggested talking to WES about taking over the sewers. He shared a note from another citizen with Ms. Betz.

Kevin Johnson said the problem is that nothing has been fixed because since the late 70's the Council never raised the rates – there was never money for any replacement or maintenance. The amount of increases they've had until two years ago wouldn't come close to just meeting inflation, let alone replacing or repairing anything. He said there should be a fourth option in the \$100 range which puts you in the same category as most of the other cities. He said it's not just homeowners who are paying the increases; it's anybody who has a water meter in the City of Gladstone. He feels that anyone who thinks that we can keep going down the road we're on right now and not get this stuff fixed is foolish.

Charity Powell said she understands the need for infrastructure repair. She wonders if anything will be taken into account for people who are already paying at a higher rate (Oak Lodge system) and already have their sewer go to a location that's already been updated and then being asked to fix the Gladstone problems.

Mr. Whynot said the more expensive Oak Lodge Water Services customers that are paying Gladstone directly are paying more, but it's a pass-through (which pays for water/sewer treatment). If they go with the middle option the increase would be \$14 – that's why they went away from percentages and went to the actual dollar amount.

Councilor Todd said she feels she can't be a part of continuing the problem. Gladstone livability is flushing your toilet, having fresh water, etc.

Councilor Mersereau said one of the other concerns, and they looked at it five years ago, is that it's over \$100 million to replace the infrastructure at this time and if they talk about it and let it go for another year it will cost more than \$1 million/year to allow that.

Mayor Stempel said they were handed a huge problem when they got in here – none of them realized it was as big a problem as it is. A system that has been completely ignored for forty years. She said we all have to share in the cost of fixing it. She said they are looking for solutions and if anyone has a better idea than raising utility rates then she'll meet them for coffee to discuss it.

Councilor Todd read some comments that came from the survey:

- Affordable yet still responsible to take care of our needs.
- I would like to fix the failing infrastructure as soon as possible.
- Let's get this done before the costs go up even more.
- Reasonable acceleration of costs.

He said that one of the things that strikes him is that as he's going through the documentation the word "safety" keeps popping out at him – it reminds him of another city in Michigan that was battling infrastructure costs/water costs. They made a decision that came back and bit them in a big way. He said he's had conversations with citizens and they are under income stress and he knows that. He said we don't have an answer about the income stress but we have to do something in the City – we have to have a safe infrastructure and a livable city. He said it's a failed system. We have a dedicated City staff and he didn't appreciate some of the comments he has seen on social media that were directed at City staff. He said we need to build up enough money so that we can do the infrastructure change that we need – otherwise we're going to lose the value of the City.

Mayor Stempel said that we have raised the SDC's in the last couple of years to transfer some of the burden for the infrastructure onto new development. They are looking for solutions. Federal funding is not available. Every city is in this position - the City of Sandy is raising their rates by 97%.

There was discussion regarding putting out a bond measure. Mayor Stempel does not feel that is a feasible option. Ms. Betz said that would be another 7-8 years out. She said we will continue to work on improving communications with citizens. Mayor Stempel wanted to clarify again the extent of community outreach they have done – they have been talking about this literally for years (Council packets, meetings, open houses, etc.) but they can't do any more if people refuse to engage in the process.

Mayor Stempel asked for a consensus for which option the Councilors would like: Councilor Ripley – B. Councilor Neace – B. Councilor Tracy – B. Councilor Reisner – B. Councilor Todd – B. Councilor Mersereau – B.

Ms. Betz said they will prepare the information for the Council to consider formally adopting in November and they will also discuss what their community outreach plans will be.

PUBLIC COMMENTS:

Natalie Smith said in looking at the numbers and what we need to do – she asked where the balance is. Is it better to raise the utility rates or go for a bond? Mayor Stempel clarified that we can't go for a bond at this time.

13. DISCUSSION OF RIGHT-OF-WAY (ROW) INFORMATION:

Ms. Betz said this item was asked to be placed on a future agenda. They provided the Council with a packet of information mid-September: “Managing the Public Rights-of-Way”, which is a publication by the League of Oregon Cities, a staff report from 2016, and the ordinance when the City Council implemented the right-of-way ordinance, the management of Gladstone's most valuable asset, frequently asked questions, and an ordinance that was approved to update back in December of 2018. The staff report also includes highlights of the information they felt people need to know.

Ms. Brucker went over the differences between a franchise fee and the right-of-way ordinance. Franchise fees are negotiated separately with each one of the utilities. All of them are a 5% fee that is assessed. They are able to take those fees into the general fund and it is used for parks, public safety, and administrative services of the City. They are not restricted in the use of those fees. The current right-of-way (ROW) code states that once franchise fee agreements expire they will come in under the ROW code. If that happens then it would be administered for only ROW usage. Her recommendation at that point in time when these expire would be that we correct the ROW code so that there is still the ability to use these franchise fees for general fund purposes. When the ROW code was instituted that was for assessment of the utilities within the City that operate within the City – that 5% comes into the street maintenance fund and is allocated between streets, water/sewer/storm, for improvements within the right-of-way. The money that is assessed within internally on City utility sales is not 5% above the rate – it's just a part of the current water/sewer/storm rates. They did not increase anything from that. Mr. Whynot said this has brought in approximately \$636,000 to the Public Works funds to help maintain the right-of-way. If they did not have those funds coming in they would have had to raise the utility rates an additional \$7.72/month on average. Ms. Brucker said they have also added telecoms to the ROW code. Ms. Betz wanted to clarify that franchise fees that come into the City are for our general services. If the ROW's are rescinded we are at risk of losing approximately \$636,000 for our

current infrastructure. Public rights-of-way are a City asset and we should be managing who is in our assets and they should be paying for that. It reduces the cost to the citizens because if they aren't paying it we have to raise our rates in addition to help recover those revenues. Mayor Stempel said we are just asking that they pay rent for utilizing City property. Mr. Whynot said it helps fund Public Works to track down the utilities and make sure that when they dig up the street that they are backfilling it correctly, compacting it, and paving it right. They have a permit process now so that they are held responsible. He estimated that they are spending approximately 20% of their time (Street Fund) dealing with this type of stuff.

There was discussion regarding the term "privilege tax". Mr. Jacobs said it's not a tax that the City imposes on the user – it's a fee for using the right-of-way that's charged to the company.

PUBLIC COMMENTS:

Bill Osburn wanted to point out that they wouldn't be losing money – it wasn't theirs to take. They would instead be building trust as this tax was one that was not needed and just more ways to reach deeper into our pockets. He reminded everyone how this tax was adopted. Most meetings of the Council are at 6:30 – this one was at 5:30 and on a fifth Tuesday; not a normal day. It was the only item on the agenda. It seemed strange that the Council would sneak a meeting in. Not surprisingly there wasn't any public comment at that meeting. He said the right-of-way doesn't belong to you; it belongs to the residents of Gladstone. You're not charging the big companies like Comcast and PGE – you're charging us. This is why it's called a pass-through tax – because it gets passed along to the consumers; us. Even the City charges itself for using our own property and doesn't have the integrity to put it on the bill. The privilege tax is hidden on the water and sewer bill. This doesn't help us to trust you. He asked them to repeal this tax as it was implemented simply because it could be. He said this is the right thing to do to correct a wrong brought about by some who are no longer on this Council. He hopes at the very least this will be put up to a vote of the people. He also asked them to adopt a new law to put any new taxes and fees to a vote of the people. He said it's our money, it's our City – we should have a say so. He feels that giving the power back to the people on things like that is the right thing to do.

Clair Coy said ditto to everything that Mr. Osburn said.

Councilor Tracy said the utilities are playing the citizens against the City. Through lobbying they've never had to absorb this cost as a cost of doing business – it's been a pass-through. He believes the ability to control the utilities and the potential damage they can do to our infrastructure is worth the cost. He feels we have to protect our assets and he doesn't have any inclination to change his position on that. The rest of the Council agreed.

BUSINESS CARRIED FORWARD:

Update on Library Intergovernmental Agreement (IGA) with Clackamas County:

Ms. Betz said they now have a facilities agreement, an agreement to transfer employees, and the overarching IGA. She and City Attorney Ashley Driscoll have been negotiating and they have another meeting tomorrow. They are hoping to get this to the Council by the end of this month. There have been a lot of vocal concerns regarding the timeline and funding because the Gladstone Planning Task Force is getting information that the Council is not getting yet. She said that Clackamas County Commissioners approved a \$1 million contract with OPSIS to start the programming phase for master planning Gladstone Library/Concord-Oak Lodge Library and also NCPRD properties. She shared copies of Exhibit A, which has a very detailed scope of work of all the deliverables and meetings of what is going to be happening for the next year. She would like to call a special meeting on Monday, October 14th to go over this – Clackamas County would give a presentation. The meeting will be held in the conference room.

City Committee Positions:

Library:

Ms. Betz said the way they advertised in the newsletter there was an intent to dissolve the existing Library Board so they were not going to fill the two vacant positions. As of yesterday they have negotiated new language that is allowing the Gladstone Library to continue a year after we transfer. She feels that changes how we recruit and we should go ahead and fill those positions, at least for one year. Councilor Reisner feels we should always have a board even if the County is running the library because it's here in the City and having a citizen's group continuing to represent us and advise us. Ms. Betz said that is part of the negotiations with the IGA – it is not a done deal.

Planning Commission:

Ms. Betz said they are currently recruiting for three positions on the Planning Commission that would be starting in January of 2020. One of those is a vacated position now. They didn't really advertise it to fill it now but they received an application that said this is to fill the vacant position. She is asking the Council if they want to do a special noticing to fill the vacant position or do they want to continue to collect applications and those will all be appointed in January. Mayor Stempel thought it would be ridiculous to do it for the month and a half remaining. The rest of the Council agreed.

City Administrator Employment Agreement & Municipal Judge's Employment Agreement:

Ms. Betz said these both expire on December 31st. There was discussion later regarding the process for the Judge's contract. This will be on the next meeting's agenda.

BUSINESS FROM THE AUDIENCE:

None.

BUSINESS FROM THE COUNCIL:

Councilor Mersereau:

He said he has been the liaison working with the new Fire Chief and Police Chief. He believes the direction is going in a positive way. He said there is a lot of communication going out to the City – more than there has been in the past. He appreciates being involved at this point.

Councilor Todd:

She suggests that if anybody would like to be involved and know what the Public Works Department is dealing with to go online and check out their monthly reports. She loves the pictures and it shows you what the workers are dealing with and what they are doing to fix things. She loves the Code Enforcement reports as well.

Councilor Reisner:

He asked if it would be possible to invite the Library Board members to the special meeting with the County – Ms. Betz said they could open it up to whomever they want.

Councilor Tracy:

He said last weekend he attended the League of Oregon Cities conference in Bend, along with the Mayor and City Administrator. A lot of cities are dealing with a lot of the issues we are dealing with. They tried to come up with creative solutions to deal with those issues.

Councilor Neace:

She said the Kiwanis are hosting an open house on October 29th at The Bomber at 6:00 – she invited everyone to come.

Mayor Stempel:

She said Halloween is coming up and everyone is invited to the Halloween Spectacular on Portland Avenue – it's going to be bigger and better than ever. If anyone wants to put up a booth they have space. If anyone wants to do trunk-or-treat they have space for that as well. There will be food, a band, beer garden, fresh pressed cider, etc.

They have the committee and liaison appointments coming up. She asked if they had attendance sheets.

There is harassment training coming up on the 15th for City employees. Councilors can attend on a volunteer basis.

ADJOURN:

Meeting was adjourned at 9:17 P.M.

Approved by the Mayor this 12TH day of NOVEMBER, 2019.

ATTEST:



Tamara Stempel, Mayor



Tami Bannick, City Recorder