

**COTTAGE GROVE CITY COUNCIL  
REGULAR MEETING  
September 14, 2009**

**CALL TO ORDER**

Mayor Gary Williams called the meeting to order at 7:30 p.m. in the Council Chambers at City Hall.

**ROLL CALL/PLEDGE OF ALLEGIANCE**

**COUNCIL PRESENT:** Mayor Gary Williams, City Councilors Jeff Gowing, Thomas Munroe, Heather Murphy, Wayne Clark and Diane Conrad

Councilor Mike Fleck Excused

**STAFF PRESENT:** City Manager Richard Meyers, Police Chief Mike Grover, Finance Director Bert McClintock, Public Works Director Jan Wellman, Community Services Director Pete Barrell and Amanda Ferguson, City Planner

**CITY ATTORNEY:** Sean Kelly

**OTHERS PRESENT:** Cameron Reiten - KNND Radio; Jon Stinnett, The Sentinel

**ITEMS TO BE ADDED TO THE AGENDA**

None

**PUBLIC HEARINGS**

None

**PUBLIC COMMENT ON AGENDA ITEMS**

David Seidel, 1142 Ash Avenue, Cottage Grove, spoke on Item 7(a) regarding the American Legion Month Proclamation. Mr. Seidel stated he had no problem with declaring September 2009 as American Legion Month, he was concerned that the City chose to vote in support of the statement included in the proclamation that describes the Legion's intention to work for a

constitutional amendment to prevent the desecration of the American flag. This was a political activity or statement and he didn't object to the Legion taking that position but he objected to the City sanctioning it in the proclamation.

**RESOLUTIONS AND ORDINANCES**

(a) Second Reading of Ordinance No. 2985 Public Nudity

City Manager Richard Meyers stated the Ordinance was before Council for a second reading and subsequent possible adoption.

**IT WAS MOVED BY COUNCILOR MUNROE, SECONDED BY COUNCILOR CLARK THAT ORDINANCE NO. 2985 BE READ ONCE IN TITLE ONLY AND PLACED ON ITS FINAL PASSAGE.**

Councilor Murphy stated she had mentioned to the City Manager last week that she had a constituent talk to her about the issue, that she wasn't present at the last meeting where it was discussed.

The vote on the motion was as follows:

VOTE	Councilor Fleck	Councilor Gowing	Councilor Munroe	Councilor Murphy	Councilor Clark	Councilor Conrad	Mayor Williams
AYES		X	X	X	X	X	X
NAYS							
ABSTAIN							

City Attorney Sean Kelly read Ordinance No. 2985 by title.

**IT WAS MOVED BY COUNCILOR MUNROE, SECONDED BY COUNCILOR CONRAD THAT ORDINANCE NO. 2985 BE ADOPTED.**

The vote on the motion was as follows:

VOTE	Councilor Fleck	Councilor Gowing	Councilor Munroe	Councilor Murphy	Councilor Clark	Councilor Conrad	Mayor Williams
AYES		X	X	X	X	X	X
NAYS							
ABSTAIN							

**BUSINESS FROM THE CITY COUNCIL**

(a) American Legion Month Proclamation September 2009

Mayor Williams welcomed members of the American Legion and recognized members of the Council that had served in the military and read the proclamation. He thanked the veterans for serving the country and presented the proclamation to Mr. Barber.

(b) Bohemia Mining Days Report

Sharon Jean was unable to attend the meeting so this item will be moved to the next meeting date.

(c) Designation of Voting Delegate and Alternate for League of Oregon Cities Annual Conference

City Manager Richard Meyers advised that each year a voting delegate and alternate are appointed to vote on behalf of the Council at the League of Oregon Cities Conference. He reported that the Mayor and Councilors Fleck and Conrad were attending portions of this year's conference.

**COUNCILOR CONRAD MOVED TO APPOINT MAYOR WILLIAMS AS THE VOTING DELEGATE FOR THE LEAGUE OF OREGON CITIES CONFERENCE, SECONDED BY COUNCILOR MUNROE.**

The vote on the motion was as follows:

VOTE	Councilor Fleck	Councilor Gowing	Councilor Munroe	Councilor Murphy	Councilor Clark	Councilor Conrad	Mayor Williams
AYES		X	X	X	X	X	X
NAYS							
ABSTAIN							

(d) Designation of Voting Delegate for National League of Cities Annual Business Meeting

City Manager Richard Meyers advised that each year a voting delegate is appointed to vote on behalf of the Council at the National League of Cities Annual Business Meeting. He advised that the Mayor was the only one attending this year's conference.

**COUNCILOR CONRAD MOVED TO APPOINT MAYOR WILLIAMS AS THE VOTING DELEGATE FOR THE NATIONAL LEAGUE OF CITIES ANNUAL BUSINESS MEETING, SECONDED BY COUNCILOR MUNROE.**

The vote on the motion was as follows:

VOTE	Councilor Fleck	Councilor Gowing	Councilor Munroe	Councilor Murphy	Councilor Clark	Councilor Conrad	Mayor Williams
AYES		X	X	X	X	X	X
NAYS							
ABSTAIN							

(e) Concerns from the City Council

Councilor Conrad said that everyone wanted to honor the veterans, in particular the American Legion. There was item in the proclamation that she voiced concern about, that being the reference to working to change the Constitution to protect the American flag. Many people see this as a first amendment and the freedom of speech issue. There are opinions and understandings on both sides and she hoped that as a nation we could learn to tolerate each others differences.

**BUSINESS FROM CITY MANAGER**

(a) Wastewater Treatment Plant Solar Energy Retrofit Project

Jan Wellman, Public Works Director, stated that this item had been discussed for about 2 years and that the partners have changed over that time. A Power Purchase Agreement was brought to the Council in the past between the City and Bank of America for consideration and then the Bank of America closed down their solar arm of the company and moved away from the project. Martin Shain from BacGen Solar was before the Council several months ago to see if Council wanted to proceed and look for a partner and he was before the Council tonight with a proposed Power Purchase Agreement with SunEdison who has expressed an interest in moving forward and partnering with the City on the solar project.

Martin Shain from BacGen Solar spoke to Council and advised that since he was last before the Council, there had been modifications in Federal Law in terms of how the Internal Revenue Service looked at how the solar investments are funded and how tax credits were treated. He reported that several key changes had taken place since Power Purchase Agreements (PPAs) first became a tool to finance renewable energy projects so an investor group could buy or underwrite the cost of developing a facility and sell the power back to the City on a fixed rate and for 5 or 6 years revenue tax benefits. Previously the PPA could be for 15 years and at the end of that period the city could opt to take over the facility at a scrap value cost. However the IRS has modified the rule that in the PPAs, there had to be a fair market value deemed at the end of a PPA. Additionally each year during the life of the PPA there needed to be a stated buy out value so the city had the option at any given time during the life of the agreement to buy out the agreement at a stated value or fair market as derived by a third party. He spoke regarding the value of the system and said that all the panels were warranted for 25 years on their output so it

would be appropriate for the City to expect that the system would still be producing a significant energy at the end of the PPA. He outlined options that could be available to the City at the end of the PPA regarding the system.

He provided information regarding solar rates and comparative rates between SunEdison and the City's current private power provider. He said the cost of solar power would be slightly higher at the beginning of the agreement but because of the low fixed escalation rate for solar power for the life of the agreement versus the increase for the private power provider, it would end up saving the City money. He also discussed the possibility of a Federal Carbon Tax and how that would impact the rates. He explained the information provided on each of the charts he provided to Council.

Councilor Munroe said regarding Pacific Power and Light, there is big push back East for an overall equalization as to power rates, they don't think Bonneville Power Administration (BPA) is being paid off quickly enough. He read in the newspaper that natural gas prices are going down but there is an increase in energy rates of 30%? He asked about the difference in savings regarding the solar energy plan.

Mr. Shain responded that currently the start rate would be somewhere around 6 1/2 cents. He explained about natural gas costs and fossil based fuel costs and commented on Mr. Munroe's comment about BPA and energy costs. He stated that Oregon had the lowest energy costs in the United States and that BPA's contracts with all of his public utility districts, municipalities, co-ops, etc. would expire across their entire system in 2011 and 2012. What will be seen is public utility districts and municipalities having to take responsibility to produce or acquire their own energy, which will throw the entire BPA system into quite a shock.. Many municipalities are not prepared to be in the energy development business or the energy acquisition business. This would cause a dramatic cost impact and BPA would no longer be tied to selling its resources in the Northwest region. They would have power available to sell outside the region.

Councilor Clark asked if abandonment was considered fair market.

Mr. Shain said if the system owner walked away from a facility because it would cost them more to remove it and they could only do that if the municipality or host agreed to accept the system because that system is only there because of an easement or lease and once that is expired it is up to the City what they want to do. He wasn't sure how the IRS would treat abandonment.

Councilor Clark asked if it was treated like a standard deduction with a depreciation schedule.

Mr. Shain said that because the core cost of renewable energy was expensive, the only way the system would be viable is with tax credits and that type of vehicle. He said that SunEdison was the largest PPA firm in the United States and they were one of two finalists for an energy project at the University of Oregon. Their main focus was with state, federal and municipalities.

Councilor Clark asked if part of the problem in getting a company to work with the City was that

Cottage Grove was a small fish in the big sea.

Mr. Shain said no, that it was a lack of understanding on the part of federal officials and congressional decisions on how to utilize tax credits and it had been very difficult to knit together deals that made sense to the investment community.

Councilor Conrad said it sounded like the 10 year contract was a better deal than the 20 year contract and asked why the City didn't chose that option.

Mr. Shain stated that the 10 year was no longer available on the market and the firm that offered that was Bank of America who did away with their solar division.

Councilor Conrad asked if there was another contract that would explain things like what was in service management.

Mr. Shain said in the specifications that would become exhibits to the agreement, it would be laid out what the service management would include.

Councilor Conrad asked if the information would be different than what was provided in the document before Council and if it would include things such as the panels would have quality certifications.

Mr. Shain stated yes, the document before Council was the master agreement and the specifics of the exact install would be an addendum or exhibits to the master agreement. He said the State of Oregon was the most vigorous of any state and the contract would have to be approved by the Energy Trust of Oregon and their engineering staff, the Oregon Department of Energy and their engineering staff, as well as State and City electrical standards.

Councilor Conrad asked about Page 4, Section 2.2, Early Termination where it referred to Schedule 4 and asked if that should be Schedule 3 instead. She also asked why there were no figures in the schedules.

Mr. Shain stated yes, Schedule 4 should be Schedule 3 and that there were 2 or 3 reference points that needed to be corrected. He said the schedules would be developed when the contract was negotiated by the City Manager in accordance with the parameters approved by Council.

Councilor Conrad asked about Page 10 where it referred to warranties and asked about the "AS-IS WHERE-IS" and what that meant. She also asked about Exhibit B, Rights Upon Event of Default, (c) (ii), where it stated "The Financing Party shall have the right, but not the obligation, to pay all sums....." and she wasn't sure what this mean.

Mr. Shain said the warranties for the system were one for the equipment which was by the manufacturer and the other warranty was from the owner of the system for the output of energy that plus or minus would be whatever the rated output of the system was and that would be

power that would be available to the City to purchase. Mr. Shain said he didn't recall the context to the Exhibit B information.

Sean Kelly, City Attorney, stated that it was saying that if there was a default of SunEdison and they had someone financing the project, then the financing party could step in and continue the operation.

Councilor Munroe said he wanted to hear from staff and legal on their thoughts regarding the agreement.

Mr. Kelly said that his office had gone through numerous agreements and the current agreement was the best one. He felt it was important the City understood the terms of the agreement and Martin had done a good job of explaining it to Council. Basically it was something that was going to be located on the city's property for a period of time that wouldn't belong to the city but that the city would be obligated to purchase the power that it generated. There were provisions in prior agreements that had been omitted from this agreement which was an improvement. Council Conrad picked up the fact that the prior agreement of a 10 year period was a better deal but it wasn't available anymore.

Richard said he and Jan had both looked at it and were fine with it the way it was.

Councilor Munroe asked when they could get started.

Mr. Shain said he would notify SunEdison tomorrow and they would have their engineering team from the East Coast come out and vet out the designs, which have been signed off by the Oregon Department of Energy and by the Energy Trust of Oregon, which would take approximately 1-2 weeks. The schedules would then be filled out and submitted in a final document. There would be a few changes one being venue changing it from New York to Oregon and change the state provisions and then a provision would be added stating should solar technology reach a point where it was economically feasible and appropriate to upgrade the system, they would do so at their expense. But it would benefit the City because if the term of the agreement was not modified so if there were only 5 years left in the agreement but it was economically appropriate to modify the system, they would be bound by the specifications to do so. It would be approximately 2-3 weeks away from having the final documents for the city attorney and management to look at. SunEdison's goal was to have something completed before the end of the year because the 50% bonus depreciation sunsets December 31, 2009 which was a big deal to them.

**IT WAS MOVED BY COUNCILOR CLARK AND SECONDED BY COUNCILOR MUNROE THAT COUNCIL AUTHORIZE THE CITY MANAGER TO SIGN THE POWER PURCHASE AGREEMENT WITH SUNEDISON TO FACILITATE A SOLAR ENERGY RETROFIT AT THE WASTEWATER TREATMENT PLANT.**

Councilor Conrad stated she had a concern that the provider and purchaser had options to leave

but the City did not and it was difficult to estimate in 20 years what technology would be and if there was anyway to put in the contract that if the City wanted to it could opt out?

Mr. Shain said no because SunEdison would have an investment of \$2M+ in the system.

Sean stated that it was not a problem that it was normal language.

Jan said there would be a buyout schedule that would be attached to the agreement if the City chose in 10 years to get away from it, there would be an amount of money that the City would pay and that would remove them from the agreement and the City would own the system.

Mr. Shain said the Oregon University System had made a commitment to taking the energy cost savings and investing them into a fund to acquire the system and their savings would fund their acquisition of their energy systems.

Councilor Clark thanked Mr. Shain and staff for working so hard on the project.

The vote on the motion was as follows:

VOTE	Councilor Fleck	Councilor Gowing	Councilor Munroe	Councilor Murphy	Councilor Clark	Councilor Conrad	Mayor Williams
AYES		X	X	X	X	X	X
NAYS							
ABSTAIN							

(b) Report from the City Manager

City Manager Richard Meyers reminded Council about the Community Foundation Dinner on October 28<sup>th</sup> and if councilors were interested in attending to let the city manager's office know. The deadline to sign up was October 2, 2009.

He stated that on PBS Digital Channel 3 on the Oregon Public Broadcasting there was an excellent documentary "Liquid Assets". The City recently purchased the DVD, which talks about the challenges associated with water, wastewater and stormwater across the country in funding, infrastructure and laid out the history of the those projects and compared them to large and small cities. The documentary should be shown again on Thursday, September 17<sup>th</sup> at 2:30am. He said it could be broadcast on cable so staff may contact Charter to see if it could be put on the community broadcast channel.

On October 17<sup>th</sup> from 10-12, the City will partner with Siuslaw Valley Bank in a shredding event at the Community Center. The City and Bank will be shredding documents and have invited the public to participate, households only no businesses. There will be no charge but a donation of non-perishable foods is requested for Community Sharing.

Flyers were passed out to Council for Family Day on Monday, September 28, 2009. Posters are available if anyone would like them.

The Save-A-Lot grand opening is scheduled for Saturday, November 7<sup>th</sup> at 9am starting with a community leaders breakfast and dollar bill ribbon cutting at 10am. The dollar bill ribbon cutting will have dignitaries with a shopping list and a kid in a shopping cart and they have to go through the store and get the items on the list in the time allotted and all the goods they put in the cart go to Community Sharing.

**BUSINESS FROM THE CITY ATTORNEY**

None

**PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA**

None

**CONSENT AGENDA**

- (a) Approval of the minutes of the August 10, 2009, Regular City Council Meeting
- (b) Approval of the minutes of the August 24, 2009 Regular City Council Meeting

**IT WAS MOVED BY COUNCILOR CLARK, SECONDED BY COUNCILOR MUNROE TO APPROVE THE CONSENT CALENDAR.**

The vote on the motion was as follows:

VOTE	Councilor Fleck	Councilor Miller	Councilor Munroe	Councilor Murphy	Councilor Clark	Councilor Conrad	Mayor Williams
AYES		X	X	X	X	X	X
NAYS							
ABSTAIN							

**ADJOURNMENT**

There being no further business, Councilor Miller adjourned the regular meeting of the City Council at 8:37p.m.

The next regular City Council Meeting will be held September 28, 2009 at 7:30 p.m. in the Council Chambers at City Hall.

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Trudy Borrevik, City Recorder

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Gary Williams, Mayor