

**February 17, 2021
Regular Session
City of Gaston
Zoom Videoconference**

Present: Mayor David **Meeker**, Bill **Martin**, Mario **DePiero**, Dave **Benson**, Margaret **Bell**, and Don **Richter**.

Absent:

Staff Present: City Recorder Wenonah **Blanchette**, Public Works Specialist Rick **Mapes**, and Washington County Sheriff's Office Deputy Jarod **McCreary**.

- I. Mayor David **Meeker** called the regular meeting to order at 7:05 PM.
- II. **ROLL CALL:** City Recorder **Blanchette** conducted the roll call for the record with:
Councilor Mario **DePiero**: Present
Councilor Bill **Martin**: Present
Councilor Dave **Benson**: Present
Mayor David **Meeker**: Present
Councilor Margaret **Bell**: Present
Councilor Seat #5: *Vacant*
Councilor Don **Richter**: Present
- III. **LETTER OF INTEREST:** City Council received a verbal interest request from Jerry **Spaulding** who previously served on City Council to fill the vacant position with Councilor **Richter** concurring to appoint Jerry **Spaulding**. Councilor **Martin** announced to Council a second verbal interest request from his neighbor Billy **Nice** to serve on Council. Discussion heard following a mutual consensus amongst the Council requesting that any persons wishing to serve on City Council must submit a letter of interest and attend the next Council meeting.
- IV. **ADDITIONS OR DELETIONS:** Mayor **Meeker** called for additions or deletions to the agenda at this time. Recorder **Blanchette** requested Council designate the City Attorney to discuss purchase negotiations for 3rd Street Connectivity Improvements project. Due to the Recorder residing as a tenant to one of the properties involved needing to purchase right-of-way, request to appoint the City Attorney for further negotiations was agreed on by a consensus of the Council. Recorder **Blanchette** provided details on current negotiations for three of the properties that have yet to settle on a purchase amount.
- V. **STAFF/COUNCIL/COMMITTEE/SUPERVISOR REPORTS:**
Recorders Report: Recorder **Blanchette** provided her report with the following:
 - Legal:
 - The City Attorney has provided comments to Council for reviewing information on the franchise agreement prepared by Waste Management.
 - Bargain and Sale deed for the Clean Water Services property was filed with the County listing them as the appropriate owners of the pump station property sold to them in the 1970s.
 - Financials: December financials report the General Fund is in the positive. Financial reports are available online and emailed to all Councilors.
 - Notices sent in water bills asking for participation to serve as members of the budget committee for the 2021-2022 fiscal year.
 - Land Use: The Ace Tavern has applied for a sign permit and is being reviewed by the City Planner.
 - Municipal Court: Letters will be sent to finalize the remaining tickets originally written before COVID-19 to resolve those cases.

- Minutes: Work is being completed at home by the Recorder to catch up on minutes from prior months expecting to complete the January 20th, 2021 and the February 8, 2021 minutes in the next few days.
- 101 3rd Street: Letter was sent to the property owner relating to the number of dogs allowed at the property at any one time within the City of Gaston.
- Request to Reserve 1st Street May 15 has been made with the City.
- 408 Front Street: Property owners are requesting input from Council to consider the types of businesses on Front Street the City would like to see in the future and what change of business the property owners should consider. No action taken.
- 500 Front Street has applied for a business license for an automotive shop named Right Choice Automotive.
- Grants:
 - Safe Routes to School Cottonwood Street: Extension submitted has been approved by Oregon Department of Transportation to continue the project for Cottonwood Street as required by the grant.
 - 3rd Street Widening: Based on decision made earlier in the meeting, the City Attorney will begin negotiations with property owners for right-of-way purchase.
- Items continuing to be worked on include Ziplly Fiber's telecommunications franchise and bulk waste collection franchise with Waste Management scheduled for discussion later on the agenda.

Police: Deputy **McCreary** provided a verbal report for January 2021 to the Council with the following:

- Recovered a stolen vehicle on Park and Trail Street that was taken from Tigard with no suspects at this time. Possibly connected to a nearby home that have had problems with criminal activity before.
- A resident passed away from natural causes at their home on 2nd Street.
- Mill Street property with new tenants have had several calls for police assistance and reports of child abuse. Contact with the property owner will be established to resolve these issues.
- Winter storm event resulted with minor power outages. Driving downhill on ice is the only major concern in Gaston. Deputy **McCreary** reported the City does not have resources to address icy streets but asked Council what the City should do in the future suggesting the Council establish contact with someone to plow streets or borrow equipment to use during emergency situations. No action taken or needed.

Public Works: Public Works Specialist Rick **Mapes** provided his report with the following:

- Completed training on the AMR system that will used to read and distribute water data for monthly water readings. Installation of the AMR meters will begin after work tomorrow repairing the hydrant at 3rd and Church Street.
- Construction on Cottonwood Street sidewalk began today with pouring curb and gutters with construction continuing for the next week or two.
- Hydrant repairs are scheduled with the 1st repair occurring on 3rd and Church Street.
- Spoke with Washington County about the extended closure of Gaston Road bridge repair expecting the road to open to traffic next Tuesday.
- Water damage to the City Hall roof has resulted with the continued closure of the Library. Proposals for repair and work needed are taking longer then expected but storage and moving costs are covered by insurance.
- 408 Front Street has an interest for future development wanting input from the Council for what would be a logistical use for the property. Meeting is scheduled to discuss utilities and construction development for potential improvements on property soon. No action taken.
- Maintenance will be performed on the two-water pump locations; Mill street and Costelloe Drive. Public Works Specialist **Mapes** further explained what upgrades will be needed as phase 2 and 3 of Gaston Heights continues to move forward.

VI. PRESENTATIONS: None at this time.

VII. CONSENT AGENDA: Mayor **Meeker** called for a motion to adopt the consent agenda with Councilor **DePiero** motioning to approve. Second heard by Councilor **Richter** with the motion passing. Voting aye: **Meeker, Martin, Benson, DePiero, Bell, and Richter**. Nay: 0.

Discussion heard on billings for Gaston Heights and questions with approved permits for excavation happening. An extension will need to be filed with the City before April 12, 2021 to record the plat with Washington County for Phase Two. Outstanding billings are owed to the City for development fees that include planning, legal, and engineering costs incurred on behalf of the City. Councilor **Bell** requested staff to provide her a list of invoices that have been paid by the developer and to submit a new invoice for the total amount owed to the City. Additional discussion had on AKS Engineering bills with Councilor **Bell** motioning the last payment included in this month's bills for AKS Engineering will be the last payment paid to AKS Engineering representing the City as it's engineer. Motion seconded by Councilor **Benson**. Motion carried. Aye votes: **DePiero, Benson, Meeker, Bell, Martin, and Richter**. Nay: 0
Councilor **Benson** requested the Public Works Specialist collect the City's hydrant meter back from J L J Earthmovers to appropriately bill water usage at the Gaston Heights construction area.

VIII. NEW BUSINESS:

Cottonwood Street Change Order #5: Public Works Specialist **Mapes** explained change order 5 is for fire hydrant replacements on 1st and 3rd Street with a new 6" valve and other work associated with those changes. The City will be installing new hydrants and valves, labor for the two valves, two tees, two sleeves, new pipe and relocating the north west hydrant to the backside of the sidewalk. Motion to approve change order number 5 was made by Councilor **Bell** and seconded by Councilor **Richter**. Further discussion heard from Councilor **Benson** requesting more information before approving the change order to compare to the original scope of work to the change order. Motion passed aye votes: **Meeker, Martin, DePiero, Benson, Bell, and Richter**. Nay: 0. Councilor **Benson** requested Public Works Specialist **Mapes** to provide him with information relating to the complete bid and change orders 1-5. Public Works replied he is in the office and will provide the information tomorrow.

OLD BUSINESS:

Waste Collection Franchise, Waste Management: Recorder **Blanchette** explained the City Attorney provided comments concerning the franchise agreement. Concerns the attorney noted are rates and language outlined in the renewal for services.

Mayor **Meeker** and Councilor **Bell** discussed comments with the attorney beginning on page 2 of 28, Councilor **Bell** questioned #O, "Direct write-off of charges of debts;" that these write offs were within the service area provided, not for everyone and only to those within the City? Dean **Kampfer** from Waste Management responded that yes, those revenues would only pertain to customers within the City of Gaston's based on the franchise.

Page 3, section 1.13; is the end date going to be June 1st, 2021 or should it be the day the City approves it? Dean **Kampfer** replied Waste Management is open to whichever date the City chooses but generally these franchises carry a June date.

Page 4 of 28, currently proposed is: "Gross service revenues do not include revenues generated from collection of franchise fees or revenues from the sale of recyclable materials." Councilor **Bell** compared franchise agreements with Forest Grove and requested to have revenues from recyclable materials included in Gaston's franchise, like Forest Grove. Dean **Kampfer** responded that Waste Management would be open to that idea as well.

Page 5, of 28, "Term and Termination;" one section says, 'seven years' but another section says, 'perpetual renewal.' Councilor **Bell** went on to say that she would like to see a timeframe that does not renew 'perpetually;' either the franchise renews every 7 years or 5 years.

Page 6, section 2.3 adding, "This franchise may be terminated by either party by giving written notice to the other party at least one year prior to the expiration of the then current term." It would be mutually agreeable by both parties if either wishes to terminate services.

Page 7, section 7.3, adding "Notwithstanding the foregoing franchise shall not be entitled to an increase in the authorized rates if the aforesaid federal or state or local taxes fees or surcharges are passed on to the customer." This is to address Metro charges as Gaston is not within the Metro boundaries and should not be charges Metro fees.

Under "CPI Adjustments." Councilor **Bell** stated the City is accepting of increases due to CPI, however if the CPI is reduced, the City should see a reduction in these charges. Noting the franchise currently states: "Notwithstanding the CPI percentage increase that occurs over any 12-month period, the percentage change will not increase from any given year by more than 1 and 1/2 percent. Fractions less than 1 percent will not be considered in calculating adjustments. Annual CPI adjustment shall not be negative if the CPI index does not decrease from year on year, but no adjustment will occur. Councilor **Bell** stated decreases to the CPI index does occur (not often) and should be reflected to Gaston customers as well.

Page 8, section 9.1, Councilor **Bell** requested to increase franchise rate from 3% to 5%, similar to Forest Grove. Section 9.3 includes disputes from gross service revenues and the City may want to add, "If the parties cannot mutually agree upon an accountant the city shall control the selection of the (CPA) certified public accountant." This is to be in place to resolve disputes between either party regarding gross service revenues. It states, "If an audit shows that gross service revenues are understated resulting in a franchise fee being underpaid," originally proposed is 5%, Councilor **Bell** would like to request that amount as being 2%.

Page 9, section 14, "Indemnification," adding, "City's indemnification holds harmless and defense obligation in this section to the limitations of liability for public bodies in the Oregon Tort claims act, ORS 030.260 and the Oregon Constitution." Section 15, "Insurance," should read, "Policies shall name the City as additional insured and shall not be cancelled. Section 16.3, "If the franchise fails to cure the default within the stated period or fails to commence and continue with due diligence to cure the default.

Page 11, section 23, request to add, "The term legal action and for purposes of this section includes participation in an arbitration in section 17 of this franchise."

Page 12, section 26, request to remove under "Advice from Counsel," reads, "It is the party's intent that no part of this franchise to be construed against either of the parties because of the identity of the drafter." Dean **Kampfer** responded that he would need to refer these changes to their attorney for review but does not see an issue with changes if counsel agrees. Also stating rate increases will occur to customers based on the increase of franchise revenue from 3% to 5%. Councilor **DePiero** suggested having the attorney review the City's suggested changes to then forward to Waste Management for their review. Recorder **Blanchette** clarified if Council does not agree with the revisions the City is able enter into an RFP (Request for Proposal) process.

COMPLAINTS:

New—

Old—

101 3rd Street Multiple Dogs Complaint: Recorder **Blanchette** provided an update earlier in the meeting but Public Works provided additional information that the property owner installed a gate and camera but cannot establish contact with the resident since installing these cameras. Reported several dogs barking but with no verifiable evidence to attest there's no way to know if they have more than three dogs.

Railroad Easement Briars: Public Works Specialist reported the last conversation had back in November, the City is waiting for the real estate department to respond back to his inquiry. Suggestion was heard to declare the property a violation of the nuisance ordinance in hopes it will expedite removal of blackberry briars but unsure of other ways to remedy the issue. Councilor **Richter** motioned to declare the railroad property and briars a nuisance in violation of

the nuisance ordinance. Councilor **Benson** seconded the motion. Motion passed with aye votes heard from **DePiero, Benson, Meeker, Bell, Martin, and Richter**. Nay: None.

ADJOURNMENT: Motion to adjourn was made by Councilor **Richter** with second heard by Councilor **Martin**. Motion carried unanimously closing the meeting at 8:48PM.



Mayor David Meeker

Attest: 

City Recorder Wenonah Blanchette