

Minutes of the
CANNON BEACH CITY COUNCIL
Tuesday, March 1, 2022
Council Chambers

Present: Mayor Sam Steidel, Council President Mike Benefield, Nancy McCarthy, Robin Risley and Brandon Ogilvie

Excused:

Staff: City Manager Bruce St. Denis, IT Director Rusty Barrett, City Recorder Jennifer Barrett, Public Works Director Karen LaBonte, Community Development Director Jeff Adams

Other: City Attorney Ashley Driscoll via Zoom Bill Kabeiseman via Zoom

To help minimize the spread of COVID-19, the City of Cannon Beach has issued an Administrative Order. Effective August 27, 2021, all public access and participation for City Council, Commissions, Boards and Committees meetings will be virtual until further notice.

CALL TO ORDER AND APPROVAL OF AGENDA

Mayor Steidel called the meeting to order at 6:01 p.m.

Steidel asked for a motion to approve the agenda.

Motion: Ogilvie moved to approve the agenda as presented; Risley seconded.

Vote: Benefield, McCarthy, Ogilvie, Risley and Steidel voted AYE: the vote was 5:0 and the motion passed unanimously.

CONSENT AGENDA

- (1) Consideration of the Minutes of the
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| February 1 | Regular Meeting |
| February 8 | Work Session & Special Meeting |
| February 22 | Work Session |

Steidel asked for a motion regarding the minutes.

Risley requested

Motion: Ogilvie moved to approve the minutes for February 1st, 8th and 22nd; Risley seconded.

Vote: Councilors Benefield, Ogilvie, McCarthy, Risley and Mayor Steidel voted AYE; the vote was 5:0 in favor and the motion passed unanimously.

PUBLIC COMMENT

- Jason Menke via Zoom, PO Box 548 Cannon Beach spoke of his point of sales concerns with the

prepared food tax clause of 6 or more bakery items.

PUBLIC HEARING

(2) Roberts' Driveway Access Easement

Steidel stated This is a public hearing for the purpose of considering an easement for the Robert's Driveway Access. At this time, pursuant to ORS 221.725 and Chapter 12.36, Public Rights-of-Way, Cannon Beach Municipal Code, I will open the public hearing in order to give any interested party a chance to comment on the proposal. I want to note that this is not a land use hearing, so it doesn't have the same formalities of those types of hearings. Our job as a Council is to listen to the testimony of the public and decide whether it is in the public interest to transfer the easement, as an interest in real property, to the owner of the adjacent property.

Steidel stated Staff, please present your report.

Kabeiseman gave an overview of the format and discussed the nature of the hearing adding in order to transfer interest in land there are certain procedures to go through. To address the timing and the question why doing this now, there is a memo in the packet which explains there is a code provision that requires any lot to have access and when someone comes in for development Adams asks how are you going to access which is usually not an issue. In this case, all they have is a public right-of-way. Kabeiseman noted conditions to determine if they have the right to use it, adding the key issue of safety that keeps coming up. The City has right to not allow if it is unsafe. Public Works has looked and said it can be safe per the engineer and Geotech engineer, noting the two aspects of safety, adding Roberts has submitted a traffic report that says it can be done safely. If there is evidence that it is not safe you can say no, but at this time the evidence shows it is safe. The nature of the driveway, section 2 of the easement requires the design to be as close to existing grade as possible which resolved the grade issue in the design. Section 4 additional access, Roberts acknowledges it is public and will allow access, this would not prevent public from going up and down if the city opens it. signage section 3 no gate or signage other than address. Yesterday afternoon we received notification of northern property owner filed lawsuit against the city and property owner that would benefit from this easement. We have not had a chance to review, it is in your packet. City could hold off on doing anything on this until resolved but needs to be careful that we don't violate the smaller house being considered within the 180 days limit, but can talk about ways to do this. Do you want to make a decision or pause and hold off. Section 1 of easement limits the use of the access to only service as access to the city's ocean setback. If the property owner prevailed at supreme court this access would only be for the smaller house.

St. Denis added Kabeiseman made statement that we determined that driveway location safe. We haven't got that far. The traffic engineer reviewed and said it is possible to install something that would be safe, but we don't have a design, it is possible, they need to provide with a design that we will review with our engineering company. Kabeiseman replied yes, there is the stability vs connection, the engineer told us it is stable, but how it connects is still in the air.

Steidel asked Is there any interested party wishing to comment on the request?

David Chown via Zoom

We are owners of property a few blocks to the south, and are familiar with property and the problems. We are very concerned about safety as mentioned in the previous comments. Kabeiseman said it can be safe, I think we have to know it is safe first. It needs to be proven absolute safe especially with history.

They say it is stable, but with all the slides we had hard to guarantee. If it started to slide at all I would worry it could cause others to slide. I am not sure what he was saying about ocean setback regulation, it needs to be guarantee that whatever was there wouldn't violate existing setback laws. If the setback is set aside, it throws all the history of ocean front in Cannon Beach.

John Neupert via Zoom, member of Haystack Rock LLC 4300 SW Crestview Dr Portland

The Haystack attorneys that provided a detailed legal argument that the proposed development is illegal and unlawful. Mr. Roberts publicly declared he doesn't want to build a small house on the lot. He wants to build a larger one and filed a petition to review in Oregon Supreme court. We should know if a few months if the supreme accepts the review. Roberts said he won't build the smaller house, so this issue becomes moot. Kabeiseman said in his memo said you don't have to consider the easement issue first, rather the city can process the development application or detailed plans for the right-of-way, but historically doing access first is how the city proceeded. With Roberts first application it was considered and approved contingent on providing safe access. Haystack acquired a safety engineer who said it is unsafe, so please don't put the cart before the horse.

Kevin Neupert via Zoom 43332 SW Semler Way Portland 97221

I am a member of family who owns the Oswald West Cabin. The section that would be used for the driveway runs along the southern property line. The driveway would use the entire width of Nenana and most of the length would be elevated ramp with retaining walls on both sides and would block access to Nenana from our lots or others who want to access north or south. The city can't grant the easement as the city doesn't have the power to grant it. A public right-of-way can't be occupied by a private driveway that blocks access to others. There are safety issues and lack of materials. If the city could grant it, they still shouldn't as the driveway would be unsafe, accelerate landslide, destabilize, dangerous intersection at Hemlock, and since there is no design, it could be worse. Council should pause their consideration until all applicants commit to a specific design and provide basic supporting materials. We hired a traffic consultant to study the reconfigured the intersection and do a traffic study. Council should also way a reasonable amount of time as proposed by applicants so they can receive the critical safety information. There are also two legal actions pending that will provide information.

Will Rasmussen via Zoom, Miller Nash LLP on behalf of Haystack Rock LLC

Haystack Rock LLC owns the Oswald West Cabin and two lots that abut Nenana. Kabeiseman and I agree regarding how much authority the city has to deny the easement. I think the city has broad discretion, Kabeiseman is more cautious. The city would get sued for a takings claim. There are three point we agree on, 1. No stature of law that sets time limit on easement. 2. Question in granting easement is if it is in the publics best interest. 3 City can deny easement for safety reasons. The traffic safety assessment is missing from the record – the initial one was for the flying overpass and the current design is much steeper and has a narrow gap between guardrails and adjusts the angle of intersection. This makes it less safe and regarding site distance no longer valid. As a result Haystack Rock hired Lancaster Mobley and would like to introduce to the record

Update on legal proceeding, Roberts have threaten a taking lawsuit if the easement not approved. If it wasn't for that threat I don't think we would be having this discussion. To preempt and remove that threat Haystack Rock has filed to ask the court to declare whether Roberts has a property right. This will declare the party's rights, it will get out in front of a takings claim if the city says no. If the court say Roberts do not have a private property right that takes the legs out of their takings claim. The city can elect to participate in the action or not, the legal expense and arguments will not be on the city's dime, if the city want to show up and support we would love that, but do not have to defend if you don't want. In the Supreme court case Roberts asked for review and expect a decision in the next few month.

A suggestion for the most prudent course for the city, I would like council to deny the terrible idea as it is not in the public's best interest. The prudent course of action would be to accept the information today and continue hearing until staff and council will receive additional information from the traffic study, supreme court, etc. Waiting for additional information would allow the city to make a more informed decision. You have heard from over 40 community members to not grant this easement. If you give me and the courts more time you will find it's not such a hard vote and may not need a vote.

Jack Clark via Zoom

I oppose the driveway project, primarily for safety. We live at bottom of Hemlock curves, Hemlock and Yukon since 2011 and in last year had two cars and one motorcycle go into our backyard. We see the curves from both directions and in my opinion if you go uphill north bound at top there are certain times of the year you can't see anything due to sun glare. There are no shoulders, pedestrian and bicycles are present and an intersection would be more dangerous especially in the summertime. If southbound, the road is narrow with pedestrians, and you have a spectacular view and there you are trying to look at the view when you shouldn't be there is more opportunity for an accident. This is a bad idea for a intersection at the top of hill and more opportunity for traffic to back up on Hemlock. Thank you for listening and I agree with Rasmussen regarding the concerns, and I am confident to see you will make the best decision.

Les Sinclair via Zoom, PO Box 1394 Cannon Beach

Thank you for all the hard work you do. Everything I had to say has already been said eloquently. I am opposed to this easement request and my grounds are traffic safety. I submitted a letter and I asked that some kinds of technical study be done to truly assess the risk this road would cause. I would like to see this decision tabled until we can get access to that type of data and truly understand the risk we might be creating.

Susan Lindsey via Zoom, 625 SE 17th Ave Portland

I am the owner of house on West Tanana and since 1966 it has been in the family. I am someone who spends a lot of time in Cannon Beach. I like to walk and have to walk through the S curves if not walking on the ocean side and I can't fathom how the highest best use for the public would be a driveway there. It is so dangerous, it is absolute nuts. I feel bad for people who own unbuildable property but that happens sometimes. Making this private and destabilizing the hill when the S curves are already dangerous and to make it worse with a driveway right there seems wacky to me. I urge you to not approve this easement.

Jan Siebert-Wahrmund PO Box 778, Cannon Beach

We ask you tonight to please wait if at all possible until the Oregon Supreme Court makes a decision about Roberts first building proposal before you make a final decision on Roberts request for an easement in our right-of-way. Safety, environmental and legal concern voiced from our Cannon Beach community need to be adequately addressed.

John Neupert – got cut off earlier.

In litigation most cases settle there is an opportunity for mediator settlement and there may be other opportunities for settlement. Urge council to not take action until the Oregon Supreme Court decides whether to take it up. The city may process the development and requested details for evaluation. There is no need or legal requirement to move forward on easement now.

Chris Koback attorney for Roberts: 1331 NW Lovejoy Portland

Where I agree with Kabeiseman – my client is entitled to reasonable access to a public street. I disagree with Haystack Rock’s counsel. They seem to say in their letter a street is only a street if improved. They reference a case where street was improved. Neither Kabeiseman or Rasmussen stop short in analysis is they site, but not discuss the Propst case. Koback gave an overview. Koback added we didn’t ask for an easement. Roberts asked for access, the easement came through the city attorney back in September and we looked at it, had a debate whether an easement was the right vehicle or if it should be a permit under title 12 of code. Kabeiseman convinced me when a dedication it transfers title and city has the legal authority to grant an easement. That’s how this got started, we didn’t ask for it. It is important for a lot of reasons and verify and confirms Roberts wants to own improvements without the inconstant with the publics right. The city has no intent to use the ROW or improve it as a street. Roberts has agreed if city wants to improve it, Roberts agreed has to remove everything at his own cost. The easement has insurance, indemnity, noting all clauses. Regarding safety, your own engineer said it was stable. The traffic engineer said the site distance are satisfied. In the packet where private drive meets Hemlock and where the original elevated road met is basically the same, there may be a slight difference on how connected, so sight distance standpoint it is safe. The city has authority to approve subject to the condition of approval for the design. You have the jurisdiction, and the code gives you the right to manage. You can make a decision and impose that condition. As long as I’ve been dealing with Kabeiseman, I’ve never mentioned a lawsuit against the city. I don’t know where that is coming from. Kabeiseman and I talked about easement in a cordial way and we discussed options that he considered. We look at lawsuit not as a friendly one to the city but one to intimidate my client. It is not a reasonable to put this on hold due to a late filing of a lawsuit when this has been going on. To come up and say we have a new study, which they could have done a long time ago.

Mary Beth Cottle

I want to say my concerns are about safety issues that have been raised with a driveway at the top of the curves there. I am concerned once it’s done and how in the world are we going to have traffic going through there with trucks going in and out while it is being construction. How is it going to be safe during construction? Getting it done will be a nightmare and very dangerous.

Will Rasmussen

In response to Koback – he referenced drawings and plans that it will be safe. Lets get a real traffic study, and like Kabeiseman said he acknowledged council has a right to manage the ROW as they deem appropriate.

Steidel stated If there is no further discussion, I will close the public hearing at this time and move to consideration. Is there anything further from Staff?

Kabeiseman noted there is a lot of testimony and a lot was written. It comes down to a limited number of issues, safety is key for council and residents, also the timing is an issue that seems important. Anything you want to talk about I am happy to talk about. Two things I’d focus on do you want to take action now or wait for something from the court, and the condition making it not effective until design approved if that makes sense to you. Where do you want to go on this?

Adams added at previous work sessions you wanted a twostep process. Tonight’s meeting would be about approval of easement with conditions and bringing back safety issues either to meeting or to staff. Kabeiseman has mentioned 120 day, and we did get granted a 60 day extension which gives us a little more time. That’s why we wanted to keep this on a twostep process and it sounded like an amiable approach.

Sam the two-step process gives the property owner some indication that we are willing to work with them to solve a problem but we want to see the finality of the engineering and safety. It gives them some guidance that we are inclined to work with them, but I would not approve the full easement until I see additional information. Benefield asked the time issue relates to the building permit on the smaller house, Adams replied yes. Benefield added I believe its condition on receiving satisfactory access, Adams replied yes. Benefield replied get it done, approve it and its' still subject to them getting access. Getting access doesn't have a time limit imposed on it. Grant a permit to build a house subject to getting access. Until we find a way to get access or resolve that issue I don't see that timing on the house permit should drive whether we should push a head to come up with an easement agreement. First question I asked many meetings ago is why now? What's the urgency? To respond to Steidel's comment I am concerned about granting an easement condition upon a study only to find after the study comes in we would like to apply additional items, but we only put these conditions on these easement. I would like to see the study's come in, the results of the circuit court, supreme court as that could change the condition. I see no reason to push this ahead. The arguments being made coincide with mine, logically it makes no sense to developed Nenana to a legal road. It's been implied and stated by a number of people we would be sued whether granted or not. Concerns of citizens to see that what we are doing is in the best interest of the public. People want to talk about delay, safety design, might change my mind, but at this point it's hard to imagine that. I am an engineer and I looked at it carefully and it seems like a difficult situation to try to address. You start messing with the drainage pipes, will it continue to be stable. Risley added I too am concerned about granting an easement ahead of time. I want to see if the supreme court takes it, what the circuit court says, and I want to see parking studies. I watched Dr. Paul See worry and work over the surveys he was trying to do when the ground was moving and no one knew where their property lines were. It's a very unstable area, we should wait and do this right. Ogilvie added if we were to postpone the decision do you have a path forward on the building permit? Kabeiseman replied if council is thinking lets delay and see what happens I would suggest approaching applicant and asking to push out 120 day later. If not, we look at reviewing the application and assuming it meets all other criteria adding the condition you need easement or access to the property. If the past application is any indication, it will probably be appealed, maybe to you and maybe up to LUBA. McCarthy added I am in favor or waiting. No reason to make a decision now, with so much up in the air when there is a question if we even have a right to grant an easement. Steidel added we are not granting an easement we are saying it is a good idea if it works and they need to prove it. Yes we are thinking this is a possible solution. Design your house and give us proof that the easement will work. If we say no, we are not going to do anything now, Kabeiseman and Adams will sort this out. Benefield added we wrestled with this easement for some time. If that's the way we are required to go I am satisfied with the easement as drafted but not willing to offer with conditions, think we need to wait. Has Roberts responded to the proposed easement? Kabeiseman replied yes, as Koback indicated we have discussed back and forth the different aspects of the easement. He didn't see the final version until late last week, if any concerns he could raise them tonight. Steidel added the fact that we are asking in the permit process is on us, it's our code, Kabeiseman replied yes. Steidel added so what we are trying to follow with this easement it our own code, we can tweak our code, here we are being blamed for messing with the codes and this calls for us to mess with the codes. A conditional use on the easement gives us the ability to put forward the permit on the small house. Risley added I am not ready to go there. Council consensus was to pause.

Kabeiseman noted council is not saying no to the easement, now is not the time, you want to see the process and application for development and indications that the driveway can be constructed that is safe and we also have supreme court review and circuit court. In response to McCarthy's question when will circuit court hear the case, Kabeiseman replied it doesn't strike me of one that has a lot of factual

development. It could go in front of court quickly, but circuit is unknown for timing especially after covid, I would anticipate 4-6 months. Adams added I wanted to ask from a staff perspective, my thought when councilor Benefield talked about the other route, what we jeopardize is it is going to get appealed anyhow. That doesn't start the clock again. If we were to do a plan review and conditionally approve and it gets appealed, we still need to get a decision by the June deadline unless extended. That's my worry about going the alternative route. Benefield replied I don't see that as a worry. Kabeiseman added it might be good if Adams and I can work that out and make sure we meet the 120 days. The state says we have to meet that, and the city certainly tries to meet it. Benefield added grant the building permit without condition, now what? Adams replied I can't without access. St. Denis noted what Kabeiseman and Adams were talking about they asked for a little time to talk this through. Do you want this back on the meeting on the 8th? Kabeiseman replied my initial reaction is to have it provisionally on there and we may say here's our approach, and if in fact there are questions council needs to weigh in on we can get that information to you. Ogilvie noted Adams could let the public know about the 120 day timeline, and in essence if we don't meet that, they would in essence get what they want. Kabeiseman replied with 120 days rule goes over, the applicant has the right to take it to circuit court. Applicant makes the case then the burden shifts and we would have to give a reason to deny and there is provisions in attorneys fees, there are consequences and we do not want to violate. Steidel added going with Kabeiseman's summary and will hear what you have to say on the 8th.

Took break at 7:25 pm. Reconvened at 7:31 pm

ORDINANCE

(3) Consideration of Ordinance 22-01 for the Purpose of Amending the Municipal Code by Amending Chapter 5.04.060(C) Fees Imposed

Bruce summarize the staff report.

Motion: Ogilvie moved to approve the first reading of Ordinance No. 22-01; Benefield seconded.

Steidel read by title only.

Ordinance 22-01 For The Purpose Of Amending The Municipal Code By Amending Chapter 5.04.060(C) Fees Imposed

Vote: Councilors Benefield, Ogilvie, McCarthy, Risley and Mayor Steidel voted AYE; the vote was 5:0 in favor and the motion passed unanimously.

Motion: Ogilvie moved to approve the second reading and adopt Ordinance No. 22-01; Benefield seconded.

Steidel read by title only.

Ordinance 22-01 For The Purpose Of Amending The Municipal Code By Amending Chapter 5.04.060(C) Fees Imposed

Vote: Councilors Benefield, Ogilvie, McCarthy, Risley and Mayor Steidel voted AYE; the vote was 5:0 in favor and the motion passed unanimously.

Steidel announces Ordinance No. 22-01 has been adopted and will become effective 30 days from adoption

(4) Consideration Of Ordinance 22-02; An Ordinance Amending The Municipal Code Chapter 3.30 Prepared Food Sales Tax

St. Denis reported there is a technical limitation in some of the point of sale (POS) systems that makes it difficult to apply the code as written. St. Denis introduced Holland Herbert from Astoria Tech Help, she is the consultant assistant with the POS for the all businesses affected by prepared food sales tax (PFT) and will use her data to develop the grant process.

Driscoll reported we received election challenge in December/January regarding the PFT measure 4-210. That lawsuit has been dismissed. There are no remaining obstacles moving forward. We will have more on that at the next meeting. The ordinance in front of you comes from our meeting last time addressing routine housekeeping items. Driscoll gave overview of the revisions adding if you want to amend, you can amend exhibit A and continue, or we can bring back.

Holland Herbert gave an overview of the issues the bakeries face with implementing the 6 or more bakery items, a copy of her findings is included in the packet. In response to Steidel's question on the workaround solution, if 6 items was just named six items would that fit, Herbert replied if they had a box in the store with 6 cookies and can be purchased that would work, however they have large cases with many items, and they want to track what items are being purchased. Holland added what's the reason for exempting 6 or more, Steidel replied I believe it matches what would be at the grocery store as prepackaged. St. Denis added I think that works now, the difference is if I start with one and keep adding on, and already run up 5 then add the 6th we have to start over again. Benefield added we already heard from two bakery's saying it's an issue and by just eliminating 6 or more items would solve the technical and administrative problem. Benefield added all would be resolved if we remove 6 or more item, Herbert agreed, so did Ogilvie.

Motion: Benefield moved to approve the first reading of Ordinance No. 22-02; Ogilvie seconded.

Steidel read by title only **Ordinance 22-02; An Ordinance Amending The Municipal Code Chapter 3.30 Prepared Food Sales Tax**

Council discussed the amendments to the Ordinance

Motion: Benefield moved to amended exhibit A 3.30.020 1 c to remove the clause in any order consisting of 6 or more bakery products, McCarthy seconded.

Vote: Councilors Benefield, Ogilvie, McCarthy, Risley and Mayor Steidel voted AYE; the vote was 5:0 in favor and the motion passed unanimously.

Council voted on the first reading of the Ordinance

Vote: Councilors Benefield, Ogilvie, McCarthy, Risley and Mayor Steidel voted AYE; the vote was 5:0 in favor and the motion passed unanimously.

Motion: Benfield moved to approve the second reading as amended and adopt Ordinance No. 22-02; Ogilvie seconded.

Steidel Read Ordinance 22-02 as amended; **An Ordinance Amending The Municipal Code Chapter 3.30 Prepared Food Sales Tax**

Vote: Councilors Benefield, Ogilvie, McCarthy, Risley and Mayor Steidel voted AYE; the vote was 5:0 in favor and the motion passed unanimously.

Steidel announces Ordinance No. 22-02 has been adopted and will become effective 30 days from adoption

St. Denis thanked Herbert for coming on short notice, thank you.

(5) Consideration of Ordinance 22-03; for the Purpose of Amending the Municipal Code Chapter 3.16 System Development Charges

La Bonte read the staff report.

Motion: Benefield moved to approve the first reading of Ordinance No. 22-03; McCarthy seconded.

Steidel read by title only.

Ordinance 22-03; for the Purpose of Amending the Municipal Code Chapter 3.16 System Development Charges

Vote: Councilors Benefield, Ogilvie, McCarthy, Risley and Mayor Steidel voted AYE; the vote was 5:0 in favor and the motion passed unanimously.

Motion: Benefield moved to approve the second reading and adopt Ordinance No. 22-03; McCarthy seconded.

Steidel read by title only.

Ordinance 22-03; for the Purpose of Amending the Municipal Code Chapter 3.16 System Development Charges

Vote: Councilors Benefield, Ogilvie, McCarthy, Risley and Mayor Steidel voted AYE; the vote was 5:0 in favor and the motion passed unanimously.

Steidel announces Ordinance No. 22-03 has been adopted and will become effective august 1, 2022.

St. Denis requested can we move the Red Cross Proclamation up to now for Jenee as she is here in person to answer questions.

PROCLAMATION

(9) Consideration of Proclamation 22-01, Red Cross Month

Jenee Pearce-Mushen behalf of the American Red Cross we thank you for your support and doing everything you do for the Red Cross and everyone that they support. This proclamation is for the month of march.

Motion: Benefield moved to adopt Proclamation 22-01, declaring March 2022 Red Cross Month in Cannon Beach; Ogilvie seconded.

Vote: Councilors Benefield, Ogilvie, McCarthy, Risley and Mayor Steidel voted AYE; the vote was 5:0 in favor and the motion passed unanimously.

Mayor Steidel read the proclamation. Pearce-Mushen added we are the leading city for the March proclamation. Our blood drives have been full. Next one is March 17th

RESOLUTION

(6) Consideration of Resolution 22-08; for the Purpose of Adopting A New System Development Charge Methodology and Establishing New Rates for Water, Wastewater, Stormwater and Parks

La Bonte read the staff report. Ogilvie noted I am glad to go along with council, but my hope would be that we wouldn't wait as long as we did in the past to reevaluate this. St. Denis replied we will come up with a tickler system that alerts us to put it back on. What time frame are you looking at, 4.5-5 years, Ogilvie replied 5 years would be good for evaluation. In response to St. Denis's question start to consider or adopt at 5 years, Ogilvie replied would be happy to see it.

Motion: Benefield moved to adopt the Resolution 22-08 for the purpose of adopting a new system development charge methodology and establishing new rates for water, wastewater, stormwater and parks; Ogilvie seconded.

Vote: Councilors Benefield, Ogilvie, McCarthy, Risley and Mayor Steidel voted AYE; the vote was 5:0 in favor and the motion passed unanimously.

(7) Consideration of Resolution 22-09; for the Purpose of Approving Increases and Decreases to the FY 2021-2022 Budget By Making an Intrafund Transfer Of Appropriations in Wastewater

La Bonte read the staff report. Ogilvie replied thank you very much. Benefield added I always worry someone just tuning in thinks we just fly by these – not realizing we have discussed this as work sessions prior.

Motion: Ogilvie moved to adopt the Resolution 22-09 for the Purpose of Approving Increases and Decreases to the FY 2021-2022 Budget by Making an Intrafund Transfer of Appropriations; Benefield seconded.

Vote: Councilors Benefield, Ogilvie, McCarthy, Risley and Mayor Steidel voted AYE; the vote was 5:0 in favor and the motion passed unanimously.

- (8) **Consideration of Resolution 22-10; A Resolution of City Of Cannon Beach, Clatsop County, Oregon Authorizing the Issuance and Sale of General Obligation Refunding Bonds, Series 2022 to Currently Refund all or a Portion of the City's Outstanding General Obligation Bonds, Series 2010 and General Obligation Refunding Bonds, Series 2012; Designating an Authorized Representative, Bond Counsel, Independent Registered Municipal Advisor; Authorizing Appointment of a Paying Agent, Registrar, Escrow Agent And Verification Agent; And Authorizing Execution And Delivery Of A Purchase Agreement And Escrow Deposit Agreement.**

St. Denis introduced Matt Donahue our financial advisor. Donahue gave a summary of the Resolution, noting this authorizes staff to execute a refinancing of the outstanding GO bonds to take advantage of the savings by adding to the Cannon Beach Elementary financing. The bulk of the resolution is delegation for the staff to do what is needed to be done to execute the refinancing. As we discussed given the option to refinance, however, should the market rates go high and there is no economic benefit we do not need to proceed. In response to Risley's request for an update from OWEB, St. Denis replied Donahue talked with OWEB and their concern was that we are not using the property to refinance, and since we are not, they said we are good. Donahue added in the resolution in the packet section 1, has a sentence about threshold percentage of savings, not sure if council wanted that threshold or not, sometimes you want to do funding that is more costly and is a certain percentage in this case, it's not the situation we will achieve the savings that our beneficial for the city. If the city does want to put a threshold, a standard threshold is 3%, just wanted to point out if you wanted to remove the bracketed language. Benefield replied we should remove the bracket language

Motion: Benefield moved to Adopt The Resolution 22-10 with brackets removed A Resolution Of City Of Cannon Beach, Clatsop County, Oregon Authorizing The Issuance And Sale Of General Obligation Refunding Bonds, Series 2022 To Currently Refund All Or A Portion Of The City's Outstanding General Obligation Bonds, Series 2010 And General Obligation Refunding Bonds, Series 2012; Designating An Authorized Representative, Bond Counsel, Independent Registered Municipal Advisor; Authorizing Appointment Of A Paying Agent, Registrar, Escrow Agent And Verification Agent; And Authorizing Execution And Delivery Of A Purchase Agreement And Escrow Deposit Agreement; Ogilvie seconded.

Vote: Councilors Benefield, Ogilvie, McCarthy, Risley and Mayor Steidel voted AYE; the vote was 5:0 in favor and the motion passed unanimously.

ACTION ITEMS AND DISCUSSIONS

- (10) Appointment of City Committee/Board/Commission

SHORT TERM RENTAL TASK FORCE: Two alternate positions available

Applicants: Virginia Wright, Jean Williams, Alaina Gigueire and Dorian Farrow

Ginny Wright: I am a full time one homeowner in Cannon Beach. I moved 5.5 years from anchorage, taught 1st grade. I first got interested with short term rentals (STR) due to problem neighbor rentals. After investigating what to do, I could see STR are a big plus, but also a big minus. STR seems to come up a lot. Everything is interrelated and I am interested in getting involved. Thank you very much

In response to Risley's question, Adams was nice enough to write down different peoples jobs are you still being paid by STR company you used to own, Jean Williams replied no. Risley added I just wanted to be clear on that. Do you think you can be impartial? Williams replied yes I have about 36 years' experience and I've seen both sides, having John a city manager and a property management company we checked each other out and always came up with a solution. I am hoping I can bring information and provide history to find solutions.

Council voted by roll call for the first alternate position. Councilors Risley, McCarthy, Benfield and Steidel voted for Ginny Wright. Councilor Ogilvie voted for Jean Williams

Council voted by roll call for the second alternaet position. Councilors Ogilvie, McCarthy, Risley and Steidel voted for Jean Williams. Councilor Benfield voted for Dorian Farrow

Motion: McCarthy moved to appoint Ginny Wright and Jean Williams as alternates to the Short-Term Rental Task Force; Risley seconded.

Vote: Councilors Benefield, Ogilvie, McCarthy, Risley and Mayor Steidel voted AYE; the vote was 5:0 in favor and the motion passed unanimously.

TOURISM AND ARTS COMMISSION: ONE (1) vacancy to fill four-year term immediately

Applicant: Elizabeth "Libby" Gast

Libby Gast: Thank you for time. I have a strong background in arts and interested in getting more involved in community and this really plays to my suits and strengths. I am hoping this is a manner in which I can help the community, tourism and great arts community.

Risley added when they started TAC they really wanted to put a focus on the arts and I appreciate that you have that background.

Motion: Benefield moved to appoint Elizabeth Gast to the Tourism and Arts Commission; Ogilvie seconded.

Vote: Councilors Benefield, Ogilvie, McCarthy, Risley and Mayor Steidel voted AYE; the vote was 5:0 in favor and the motion passed unanimously.

(11) Matanuska Lift Station Enclosure Project Award

La Bonte read the staff report.

Motion: Benefield moved to approve the contract award to O'Brien & Company for the Matanuska Lift Station Enclosure Project; Ogilvie seconded.

Vote: Councilors Benefield, Ogilvie, McCarthy, Risley and Mayor Steidel voted AYE; the vote was 5:0 in favor and the motion passed unanimously.

La Bonte thanked Council for supporting all the projects brought forward. Council thanked La Bonte.

(12) Food Pantry Repairs

St. Denis summarized the staff report. St. Denis added the food pantry is not eligible for same funding

source as the rest of the project so this would be a general fund project. Ogilvie noted I am ok with spending the money, that building in particular is a standalone structure and in horrible shape, any thought to replace the building. St. Denis replied it may be difficult due to artifacts, and to replace the building, the interior is relatively good, so the money is well spent. Ogilvie noted his concerns on the building which would possibly cost more money. Steidel replied I agree, I am concerned we are putting paint on a pig. My counter to food pantry is that there will be a better place for the food pantry and would be more inclined to build something somewhere else. Ogilvie replied I am for having the food pantry there and if it means putting in a \$100,000 and looking at other things down the road I would be ok with it. St. Denis noted lets try to find out what the dollar value is for modules, see if it's within the \$300,000 to give a longer term and would be movable to another site if another site is found. If more than \$300,000 then \$100,000 would make sense. Let's see what we can find out and bring back to the workshop next week.

INFORMATIONAL/OTHER DISCUSSION ITEMS

(13) Monthly Status Report

Risley noted I am frustrated that there are not seeing trees replanted, I know that there will be on earth day but it doesn't seem right. My other question is the community dev director and city planner met with OR Park and local contractors regarding shoreline stabilization project, where was that? Steidel replied 1st to Washington has had some removal more than in the past years due to wave action. St. Denis added I think that is the area and there are areas that have vegetation and this are vegetation was cut down so it didn't have the a stability, noting examples. Risley asked when people met with Steve Wright was there anything that says you met with Seaside about Clatsop County and work force housing, Ogilvie replied it may sound more involved than what was done. It was a preliminary discussion and may lead to more in the future. We will work with different cities to try to come up with a regional solution.

Robin: there are a lot of people using their cell phones. Jason yes, there are. Robin hope people start paying attention that people are watching. Jason yes and we have a good system with our court that offers diversion training adding it can become a crime as they continue to do it. Jason noted a lot of it is in the downtown area.

(14) Mayor Communications

(15) Councilor Communications

(16) Good of the Order

St. Denis reported the selection committee unanimously selected a firm for the Cannon Beach Elementary School project. We would like to do a kickoff, around March 21st. The mask mandate will be lifted and on March 15th we will have a recommendation to council to award the firm. I would like to have Barb Knop speak as she was very excited about this firm. La Bonte did a lot of research to give an idea of the response received and I've asked the firm to be here that night. If you have people you know that would be excited for this project we can have a meet and greet. The Architects want to meet everyone. If that is acceptable to council that would be a good thing for the community and project. In response to McCarthy's question would this be in person, St. Denis replied yes. In response to McCarthy's questions with masks, St. Denis without, the mandate will be over. In response to Steidel's question will there be cake, St. Denis replied there will be refreshments. I have been corresponding with

Dick Basch and Doug Deur and asked Dick to put together 8-10 people to talk about the site and meet throughout the project, and if tribe knows of any grants we can research for this as well.

St. Denis added at 5pm next week Rick Hudson will thank and feed volunteers for recognition at the beginning of the work shop.

La Bonte added in response to Risley's question, Trevor Mount worked with Greenwood and got 80 seedlings to plant. There is a certain time of the year that is best for planting and Kirk Anderson is in charge of that.

La Bonte reported ODOT doing pave project along 101, in March at 7pm-7am and Sunset Blvd overpass will be closed.

St. Denis reported there was a discussion when the power company was cutting trees and the power company said they are willing to meet. Is that a council event, how broad do you want to make this. If they are coming to the city and we want it to be an official discussion you have sanction. If based on the conversation from the field, it can happen anywhere. Steidel noted we used to have a rep from power company to come and give an update each year. I would like them to come and do formal presentation to get in touch again. St. Denis replied we will invite them to a workshop. Risley added one concern is we want the community to be feeling welcome, when it's a work session it's so regimented it doesn't give an opportunity to speak more broadly. St. Denis replied my guess is it would happen after the masks are gone, unless you think it would need a bigger venue. St. Denis asked La Bonte to coordinate with Pacific Power adding please find out when they are coming back so we can meet before. In response to St. Denis's question, separate meeting or workshop, Benefield and McCarthy both said work session. Steidel added we have public comment so they can make their comments.

ADJORNMENT

The meeting was adjourned at 8:52 p.m.

ATTEST:

Jennifer Barrett, City Recorder

Sam Steidel, Mayor