



Oregon
Theodore R. Kulbowski, Governor

Department of Land Conservation and Development
635 Capitol Street, Suite 150
Salem, OR 97301-2540
(503) 373-0050
Fax (503) 378-5518
www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

10/30/2009

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Sisters Plan Amendment
DLCD File Number 004-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Thursday, November 12, 2009

This amendment was submitted to DLCD for review prior to adoption. Pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

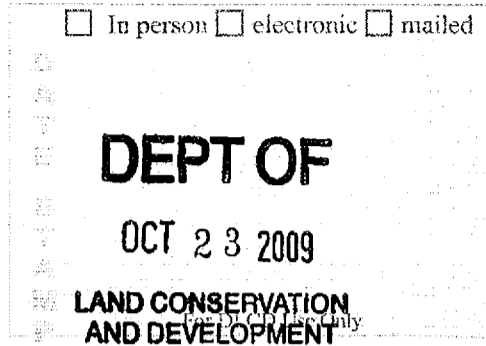
Cc: Eric J Porter, City of Sisters
Gloria Gardiner, DLCD Urban Planning Specialist
Mark Radabaugh, DLCD Regional Representative

<paa> YA

PROP **2**

DLCD Notice of Adoption

THIS FORM MUST BE MAILED TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18



Jurisdiction: **City of Sisters**

Local file number: **TA 09-01 (3)**

Date of Adoption: **9/24/09**

Date Mailed: **10/19/09**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Select one** Date: **Apx. 8/1/09**

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Amend Sisters Development Code section 4.3.160; "Final Plat Submission Requirements and Approval Criteria", subsection A, to allow up to two (2) years to submit a final plat following tentative plat approval to be consistent with section 4.3.130, 'Tentative Plat approval'. Amend section 4.5 (Master Plans), subsection 140, "Overlay Zone and Concept Plan Approval Criteria", allowing up to two 1-year extensions to the approved Concept Plan rather than a single 1-year extension to be consistent with other portions of the Development Code, which allow up to two 1-year extensions to occur due to the economy.

Does the Adoption differ from proposal? Please select one

No

Plan Map Changed from: **N/A**

to:

Zone Map Changed from: **N/A**

to:

Location: **City-wide**

Acres Involved:

Specify Density: Previous: **N/A**

New:

Applicable statewide planning goals:

1 **2** **3** **4** **5** **6** **7** **8** **9** **10** **11** **12** **13** **14** **15** **16** **17** **18** **19**

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD File# 004-09 (17635) [15779]

DLCD file No. _____

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

City of Sisters

Local Contact: **Eric Porter, CDD Director**

Phone: **(541) 323-5219** Extension:

Address: **520 E. Cascade Avenue**

Fax Number: **541-549-0561**

City: **Sisters**

Zip: **97759**

E-mail Address: **eporter@ci.sisters.or.us**

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and **TWO Complete Copies** (documents and maps) of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, or by emailing **larry.french@state.or.us**.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **twenty-one (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at **<http://www.lcd.state.or.us/>**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **larry.french@state.or.us** - **Attention: Plan Amendment Specialist**.

Updated March 17, 2009

ORDINANCE NO. 389

AN ORDINANCE OF THE CITY OF SISTERS ADOPTING AMENDMENTS TO THE CITY OF SISTERS DEVELOPMENT CODE TO AMEND THE TIME DURATION FOR PERMIT APPROVALS AND EXTENSIONS

WHEREAS, the City of Sisters adopted the Development Code for the City of Sisters on June 28, 2001, by Ordinance No. 324; and

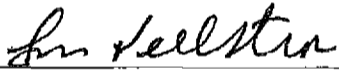
WHEREAS, the Sisters Planning Commission held a public hearing on August 20th 2009 which was continued to September 17th 2009 and adopted Planning Commission resolution no. (PC) 2009-14, which finds that certain revisions, clarifications and amendments to the City of Sisters Development Code are necessary in order to provide longer approval time frames and extension durations which in turn will facilitate orderly and beneficial development within the City of Sisters; and

WHEREAS, the City Council held a public hearing on September 24th 2009 on the proposed Development Code amendment and determined that the amendment meets all applicable approval criteria, including all notice requirements, and that the ordinance will benefit the City of Sisters.

NOW, THEREFORE, the City Council of the City of Sisters ordains as follows:

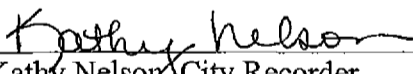
1. The Sisters Development Code is amended as provided in the attached Exhibit A, which is incorporated into this Ordinance by reference.

PASSED by the Common Council of the City of Sisters this 24th day of September 2009 and APPROVED by the Mayor of the City of Sisters.



Lon Kellstrom, Mayor

ATTEST:



Kathy Nelson, City Recorder



**ATTACHMENT B - A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF SISTERS
STATE OF OREGON
PLANNING COMMISSION RESOLUTION PC 2009-14**

THE CITY OF SISTERS PLANNING COMMISSION DOES HEREBY FIND AND RESOLVE THAT:

WHEREAS, the City's planning staff has indicated that there is a need to consider amending the City of Sisters Development Code; and,

WHEREAS, the changes proposed to the Development Code affect the time limits allowed in land use decisions; and,

WHEREAS, in accordance to the provisions found in the Sisters Development Code Table 4.1.200 and Section 4.1.160, the proposed Comprehensive Plan amendments are processed as a Type IV application; and,

WHEREAS, the Department of Land Conservation and Development (DLCD) was contacted by city staff, and indicated to staff that no 45-day notice would be needed prior to the first evidentiary hearing in this matter; and,

WHEREAS, after due notice, a public hearing on the proposed Code update was held before the Sisters Planning Commission on August 20th 2009, at which time findings were reviewed, witnesses were heard and evidence was received by the Planning Commission.

NOW THEREFORE, BE IT RESOLVED that the Planning Commission hereby recommends that the City Council of the City of Sisters adopt Text Amendment TA 2009-01 (3) regarding approval durations and time extensions subject to the following exhibits:

1. **Exhibit A – Code Changes Recommended by the Planning Commission**
2. **Exhibit B – Support Findings dated August 13th, 2009**

NOW, THEREFORE, BE IT FURTHER RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SISTERS THAT A RECOMMENDATION OF APPROVAL OF CHANGES TO THE DEVELOPMENT CODE IS HEREBY FORWARDED TO THE SISTERS CITY COUNCIL.

THE FOREGOING PLANNING COMMISSION RESOLUTION IS HEREBY ADOPTED THIS 17th DAY OF SEPTEMBER 2009.

Members of the Commission: Gentry, Holzman, Debari, Humphreys, Preedin, Protas and Tewart

AYES: Gentry, Holzman, Debari, Humphreys, Preedin, Protas and Tewart	(7)
NOES:	(0)
ABSENT:	(0)
ABSTAIN:	(0)

Signed:

David Gentry, Chairman

EXHIBIT A – PROPOSED CHANGES TO THE DEVELOPMENT CODE

I. Change no. 1. Amend section 4.3.160 to state the following;

4.3.160

Final Plat Submission Requirements and Approval Criteria

- A. Submission Requirements. Final plats shall be reviewed and approved by the City prior to recording with Deschutes County. The applicant shall submit the final plat within ~~1-year~~ ***two (2) years*** of the approval of the preliminary plat as provided by Section 4.3.120. Specific information about the format and size of the plat, number of copies and other detailed information can be obtained from the Community Development Director or designee.

II. Change no. 2. Amend section **4.5.300, Development Review Approval Criteria**, as follows.

4.5.140 Overlay Zone and Concept Plan Approval Criteria

The City shall make findings that all of the following criteria are satisfied when approving or approving with conditions, the overlay zone and concept plan. The City shall make findings that all of the criteria are not satisfied when denying an application:

- E. **Extension.** The City shall, upon written request by the applicant and payment of the required fee, grant ~~an~~ ***up to two (2) one-year*** extensions of the approval period. ***The first extension may be approved administratively. The second extension, if needed, shall be considered and may be granted by the original decision body at their discretion. Extensions may be considered if:*** not to exceed one year provided that:
1. No changes have been made on the original conceptual development plan as approved;
 2. The applicant can show intent of applying for detailed development plan review within the one year extension period;
 3. There have been no changes to the applicable Comprehensive Plan policies and ordinance provisions on which the approval was based; and,
 4. The extension request is made before expiration of the ~~original~~ ***current*** approval period.

EXHIBIT B – FINDINGS IN SUPPORT OF TEXT AMENDMENT TA 09-01 (3)

Date: August 13th 2009
Staff: Eric Porter, Community Development Director
Subject: Findings in Support of Code update no. TA 09-01 (3)

Findings of Fact and Conclusionary Findings

Applicable Criteria and Standards. Sisters Development Code, Chapter 4, 'Procedures', including section 4.1.160, section 4.7.200, and sections 4.7.400 – 600.

Summary of Compliance with Applicable Standards and Criteria.

A. Section 4.1.160, Type IV Procedure (*Legislative*), states that compliance with four specific standards and criteria must be met for a legislative change to occur. These four factors include:

1. Approval of the request is consistent with the **Statewide Planning Goals**;
2. Approval of the request is consistent with the **Comprehensive Plan**; and
3. The property and affected area is presently provided with **adequate public facilities, services and transportation networks** to support the use, or such facilities, services and transportation networks are planned to be provided concurrently with the development of the property, and,
4. Compliance with 4.7.600, **Transportation Planning Rule (TPR)** must occur.

Compliance with Statewide Planning Goals. Staff originally contacted Mark Radabaugh, the regional representative of the Department of Land Conservation (DLCDC) approximately on January 15th, 2009 to discuss whether allowing longer approval durations and time extensions would be in conflict with any statewide planning goal. Mr. Radabaugh indicated that no statewide planning goal conflicts were apparent, thus compliance with all Statewide Planning Goals was presumed. Staff then contacted Larry French, DLCDC's representative responsible for receiving the state forms 'Notice 1 and 2', and submitted a revised Form 1 to Mr. French, both electronically via email, and a hard copy with all supporting documentation via U.S. Mail. These forms were mailed within the allotted time frame prior to the August 20th (1st evidentiary) hearing. The August 20th 2009 Planning Commission hearing was opened and continued to September 17th 2009.

Compliance with the Comprehensive Plan. The longer time frames proposed to be allowed for new or recently approved construction and land division would not be in conflict with Goal 14, "Urbanization", and would be in support of Goal 9, "Economic Development". The longer approval durations and extension time frames do not affect any other Comprehensive Plan section.

Adequacy of Public Facilities Serving the Site. These text changes do not apply to any specific site and could potentially affect multiple sites throughout the City. Since this request would not in and of itself increase capacity needs for water, sewer or streets, there is no issue related to capacity that staff is aware of with this request.

Compliance with the Transportation Planning Rule (TPR). Compliance with the TPR is evaluated on the next page of this report.

Process for Amending the Code. The Planning Commission is required to provide a formal recommendation to the City Council. Recommendation options available to the Planning Commission include approval, approval with modifications, approval with conditions, denial of the proposed change, or adoption of an alternative.

In the event that any member of the Planning Commission who votes in opposition to the Planning Commission's majority recommendation, the dissenting member(s) may file a written statement of opposition with the Community Development Department before the Council public hearing on the proposal. The Community Development Director or designee is then required to send a copy to each Council member and place a copy in the record.

The Planning Commission's recommendation is scheduled to be heard by the City Council on September 24th 2009. The City Council has the same options available to them as did the Planning Commission.

Section 4.7.200, Legislative Amendments, states that legislative amendments are policy decisions made by City Council. They are reviewed using the Type IV procedure in Chapter 4.1, Section 500 and shall conform to Section 4.7.600, as applicable. Since there is no section 4.1 subsection 500, staff assumes that this reference is for a future addition to the code to further clarify review of legislative changes.

Section 4.7.400, Conditions of Approval, states that a legislative decision may be approved or denied.

Section 4.7.500, Record of Amendments, requires the Community Development Department to maintain a record of amendments to the text of this Code in a format convenient for public use.

Section 4.7.600, Transportation Planning Rule Compliance, lists a number of standards and criteria which must be met by any code amendment, as follows.

Will the proposal change the functional classification of an existing or planned transportation facility?

No aspect of this request would cause any street to be reclassified as is required by this standard. No aspect of this request would increase vehicle, pedestrian or bicycle trips on any street or other public pathway within the City, since no aspect of this request is linked to specific development. No amendments to the Transportation System Plan, or to the Comprehensive Plan would be necessary to accommodate this request, which pertains to very specific portions of the Development Code.



AGENDA

SISTERS CITY COUNCIL

520 E. Cascade Avenue
Sisters, OR 97759

September 24, 2009

6:00 p.m. CITY COUNCIL WORKSHOP

- A. McKenzie Meadow Village Annexation Agreement (Continued) – *E. Stein*
- B. City Manager Update – *E. Stein*

7:00 p.m. CITY COUNCIL REGULAR MEETING

I. CALL TO ORDER/PLEDGE OF ALLEGIANCE

- ##### **II. VISITOR COMMUNICATIONS-** *This is the time provided for individuals wishing to address the Council, at the Council's discretion, regarding issues that are not already on the agenda. Citizens who wish to speak should sign up prior to the beginning of the meeting on the sign-up sheet at the podium. Please use the microphone and state your name and address at the time the Council calls on you to speak.*

III. CONSENT AGENDA

- A. Minutes
 - 1. August 6, 2009 – Workshop (as amended)
 - 2. August 27, 2009 – Workshop
 - 3. September 3, 2009 – Workshop
 - 4. September 10, 2009 – Regular Meeting

- B. Bills to Approve

- 1. September Accounts Payable

IV. ACCOUNTS PAYABLE NOT ON THE CONSENT AGENDA

- A. September Accounts Payable

This agenda is also available via the Internet at www.ci.sisters.or.us

The meeting location is accessible to persons with disabilities. Requests for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting by calling Kathy Nelson, City Recorder, at the number below.

Light refreshments or meal may be served.

520 E. Cascade ☐ P. O. Box 39, Sisters, OR 97759 ☐ (541) 323-5213

V. STAFF REPORTS

- A. Brad Grimm – Public Works Director
- B. Pauline Hardie – Planning and Community Development Department

VI. COUNCIL BUSINESS

- A. **Discussion and Consideration Ordinance No. 389:** AN ORDINANCE ADOPTING AMENDMENTS TO THE CITY OF SISTERS DEVELOPMENT CODE TO AMEND THE TIME DURATION FOR PERMIT APPROVALS AND EXTENSIONS – *P. Hardie*
- B. **Discussion and Consideration of Resolution No. 2009-21:** A RESOLUTION DECLARING A DESIRE TO PARTICIPATE IN THE SMALL CITIES ALLOTMENT (SCA) PROGRAM TO REPAIR OR IMPROVE CERTAIN CITY STREETS OF INADEQUATE CAPACITY OR IN DETERIORATED CONDITION - *B. Grimm*

VII. OTHER BUSINESS

VIII. MAYOR/COUNCILOR BUSINESS

- A. Committee Reports

IX. ADJOURN



**City of Sisters
City Council
Agenda Item Summary**

Meeting Date: September 24th, 2009

Staff: Eric Porter, Pauline Hardie

Type: Regular Meeting

Dept: CDD

Subject: File No. TA 09-01 (3); Code Update – Approval Durations and Extensions

Action Requested: Adopt Ordinance No. 389: AN ORDINANCE OF THE CITY OF SISTERS ADOPTING AMENDMENTS TO THE CITY OF SISTERS DEVELOPMENT CODE TO AMEND THE TIME DURATION FOR PERMIT APPROVALS AND EXTENSIONS.

Background. On April 9, 2009, the City Council adopted changes to the Development Code that allowed for longer approval durations and extension time-frames, including for subdivision tentative plats. However, a later portion of the same chapter (Section 4.3, "Land Divisions") contains a one-year submittal requirement for final plats; these sections were not included in the earlier text amendment. Consequently, the submittal time frame for a final plat is in conflict with newly adopted code text, and needs to be changed as shown below under section 4.3.160.

4.3.160 Final Plat Submission Requirements and Approval Criteria

- A. Submission Requirements. Final plats shall be reviewed and approved by the City prior to recording with Deschutes County. The applicant shall submit the final plat within ~~1-year~~ two years of the approval of the preliminary plat as provided by Section 4.3.120. Specific information about the format and size of the plat, number of copies and other detailed information can be obtained from the Community Development Director or designee.

There remains a limit of a single 1-year extension for approved Master Plans, which is inconsistent with the intent of allowing longer time-frames for extensions as has been adopted by the City Council (up to two 1-year extensions for other types of land use decisions). Staff and the Planning Commission are recommending that the same time frame applies to approved Master Plans as described within proposed section 4.5.140 within this report.

4.5.140 Overlay Zone and Concept Plan Approval Criteria

The City shall make findings that all of the following criteria are satisfied when approving or approving with conditions, the overlay zone and concept plan. The City shall make findings that all of the criteria are not satisfied when denying an application:

- E. **Extension.** The City shall, upon written request by the applicant and payment of the required fee, grant ~~an~~ up to two (2) one-year extensions of the approval period. The first extension may be approved administratively. The second extension, if needed, shall be considered and may be granted by the original decision body at their discretion. Extensions may be considered if: not to exceed one year provided that:

1. No changes have been made on the original conceptual development plan as approved;
2. The applicant can show intent of applying for detailed development plan review within the one year extension period;
3. There have been no changes to the applicable Comprehensive Plan policies and ordinance provisions on which

the approval was based; and,

4. The extension request is made before expiration of the original approval period.

Financial Impact. There may be some lost Planning fee revenue associated with approving longer approval durations, as well as some potentially foregone property tax revenue associated based on delaying construction by allowing longer approval durations. The exact amount of lost General Fund and SDC fee revenues associated with sewer, water, streets and parks is impossible to predict.

Option 1 – Adopt the Ordinance as proposed.

Option 2 – Adopt the Ordinance as amended by the City Council.

Option 3 – Take no action.

Staff's Recommendation: **Option 1.**

Attachment(s):

A: Ordinance No. 389: AN ORDINANCE OF THE CITY OF SISTERS ADOPTING AMENDMENTS TO THE CITY OF SISTERS DEVELOPMENT CODE TO AMEND THE TIME DURATION FOR PERMIT APPROVALS AND EXTENSIONS

B: Planning Commission Resolution No. 2009-14

Concurrence: CM: _____ A&F: n/a PW: _____ CDD: _____

REGULAR MEETING MINUTES
SISTERS CITY COUNCIL
520 E. CASCADE AVENUE
SEPTEMBER 24, 2009

MEMBERS PRESENT:

Lon Kellstrom Mayor
Bill Merrill Council President
Sharlene Weed Councilor
Pat Thompson Councilor
Jerry Bogart Councilor

STAFF PRESENT:

Eileen Stein City Manager
Steve Bryant City Attorney
Brad Grimm PW Director
Lisa Young Finance Director
Pauline Hardie Senior Planner
Kathy Nelson City Recorder

GUESTS:

Bruce Bailey HCD Owner

ABSENT:

Eric Porter Comm. Devel. Director

I. CALL TO ORDER/PLEDGE OF ALLEGIANCE

The meeting was called to order by Mayor Kellstrom at 7:16 p.m.

II. VISITOR COMMUNICATION

There was no visitor communication.

III. CONSENT AGENDA

A. Minutes

1. August 6, 2009 – Workshop (as amended)
2. August 27, 2009 – Workshop
3. September 3, 2009 – Workshop
4. September 10, 2009 – Regular Meeting

B. Bills to Approve

1. September Accounts Payable

Councilor Merrill moved to approve the consent agenda. Councilor Weed seconded the motion.

Councilor Weed asked for clarification on the invoice from Flint Trading Inc., in the amount of \$4,926.95 for thermo plastic. **Public Works Director Grimm** explained the invoice was for the purchase of crosswalk striping paint. He stated the material lasts seven years as opposed to other paints that wear off very quickly.

Councilor Weed asked for clarification on the invoice from HGE Architects & Engineers in the amount of \$14,324 for water system improvements. **Director Grimm** explained the invoice was for the design work for the water project where old water lines are being moved

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from the old water line and reconnected to the front of properties where the new water lines are located.

The motion carried unanimously.

IV. ACCOUNTS PAYABLE NOT ON THE CONSENT AGENDA

*Councilor Merrill moved to approve the accounts payable not on the consent agenda.
Councilor Weed seconded the motion.*

Councilor Thompson stated he would refrain from voting due to a direct conflict of interest.

The motion carried unanimously with Councilor Thompson abstaining from the vote.

V. STAFF REPORTS

A. Brad Grimm, Public Works Director

Director Grimm asked for questions regarding his staff report.

Councilor Weed told Director Grimm that she has received a lot of positive feedback from community members on all the school sidewalk and bike path projects.

Councilor Weed asked if there has been a noticeable increase in stays at the Overnight Park since the improvements were made. **Director Grimm** stated it has been a very successful summer and the number of campers has doubled this season. He added that at the end of the season (generally October 15th) he will compare this year's revenue with last year's season and bring that information back to the Council.

Councilor Weed asked when the sidewalk infill on Main Street and Hood Avenue will take place. **Director Grimm** stated he had received the final design and specifications earlier in the day and expects the project to go out to bid next week. He stated that with the favorable bidding climate an even larger area will receive new sidewalks and parking spaces than initially thought. He stated that barring any extreme weather, the project will be complete before winter sets in.

Councilor Weed asked what streets will be affected by the south side water line improvements. **Director Grimm** stated the street involved are west of Elm Street and south of Jefferson Avenue. He stated the two part project will cost approximately \$250,000.

B. Eric Porter, Community Development Director

There were no questions on Community Development Director Porter's staff report.

VI. COUNCIL BUSINESS

A. Discussion and Consideration of Ordinance No. 389: AN ORDINANCE ADOPTING AMENDMENTS TO THE CITY OF SISTERS DEVELOPMENT CODE TO AMEND TIME DURATIONS FOR PERMIT APPROVALS AND EXTENSIONS

Councilor Merrill moved for the first and second reading of Ordinance No. 389, by title only. Councilor Weed seconded the motion. The motion carried unanimously.

City Attorney Bryant read Ordinance No. 389 by title only, twice.

Councilor Merrill moved to approve Ordinance No. 389 adopting amendments to the Development Code to amend time durations for permit approvals and extensions. Councilor Weed seconded the motion. The motion carried unanimously.

B. Discussion and Consideration of Resolution No. 2009-21: A RESOLUTION DECLARING A DESIRE TO PARTICIPATE IN THE SMALL CITIES ALLOTMENT (SCA) PROGRAM TO REPAIR OR IMPROVE CERTAIN CITY STREETS OF INADEQUATE CAPACITY OR IN DETERIORATED CONDITION

Councilor Merrill moved to approve Resolution No. 2009-21 declaring a desire to participate in the Small Cities Allotment (SCA) program to repair or improve certain city streets of inadequate capacity or in deteriorated condition. Councilor Weed seconded the motion.

Councilor Weed asked for an overview of the SCA program and the project the City is seeking funds for. **Director Grimm** explained that ODOT offers forty \$25,000 SCA grants a year for specific types of projects within small cities. He reminded the Council that a SCA grant was used for the recent sidewalk improvements on Cascade Avenue by the elementary school. He stated if this grant is received it will be used for pedestrian improvements on South Locust Street between East Jefferson Avenue and Tyee Drive and will include ADA compliant pedestrian continuity from Tyee Drive to the Creekside Park parking lot.

The motion carried unanimously.

VII. OTHER BUSINESS

A. Status Report on Garbage Franchise

Manager Stein distributed a garbage franchise status report and stated she needs direction from the Council on how to move forward with delinquent High Country Disposal (HCD) accounts. She stated that recent problems with a commercial and a residential account have brought the problem to the attention of staff. She stated in both cases the City has received complaints and in both cases the garbage cans have been pulled due to lack of payment. She stated that garbage is piling up in one instance and in the other, garbage is being dumped in a neighboring can without permission. She reminded the Council the City has a universal garbage service provision that requires all residential and commercial accounts to have garbage service.

Manager Stein reported that staff and HCD representative met on Tuesday to discuss how the franchise service is going. She stated the consensus was that all aspects of the service are going well with the exception of 36 delinquent accounts.

Manager Stein stated previously, when the City held its own garbage franchise, the City had the ability to turn off the water for non-payment, since any monies received were credited to garbage charges first, sewer charges second and water charges last. She stated shutting off the water at a location normally acts as enough of an incentive that bills are brought current right away. She added that many of the customers that have delinquent garbage accounts are also delinquent on their city utility accounts. **Manager Stein** discussed the following options available to the City to resolve delinquent garbage accounts:

1. *Delete the universal service requirement.*

Manager Stein stated that although the City has a nuisance ordinance if someone lets garbage pile up at a residence, this will not solve the problem and could potentially create a larger one. She stated this option would allow a customer to opt out of garbage service with the assumption that the person would haul their own garbage to the landfill.

2. *Take back the billing function from HCD.*

Manager Stein stated the current billing by HCD for its services is working well for a majority of customers.

3. *Create a low income rate for qualifying customers to relieve some of their financial burden.*

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SISTERS CITY COUNCIL
520 E. CASCADE AVENUE
SEPTEMBER 24, 2009

Manager Stein stated this could ease the burden for some and should be implemented along with a water and sewer low income rate. She stated this is an option the City has discussed for customers before but will require some additional staff time to analyze the water and sewer accounts and requirements to qualify for the program.

4. *Send code enforcement letters.*

Manager Stein reported this option is already being used for delinquent accounts where accumulating garbage has been reported.

5. *Amend the garage ordinance to allow the city to instigate payment to HCD on the customer's behalf.*

Manager Stein explained this option could be used for delinquent accounts but will cost the customer more as the City will need to collect an administrative fee in addition to the monthly refuse fee. She stated it will once again allow the City to shut off a customer's water in the case of non-payment but the City would not be collecting past due amounts owed to HCD. She stated this option would hopefully motivate a customer to reactivate their account with HCD and bring it current in order to stop paying the administrative fee charged by the City.

6. *Code enforcement/citation – fine waived in lieu of proof of reactivating their account with HCD. If not reactivated, the citation will become a fine and the fine will become a lien.*

Manager Stein stated this option is already an alternative that will be used as necessary.

Councilor Thompson asked how many cities have universal garbage provisions. **City Attorney Bryant** stated the City of Redmond does but Bend does not. **Councilor Thompson** stated he feels the City had the universal garbage ordinance in place when the City was hauling the garbage but now that it does not it may not be necessary. He stated there is a nuisance ordinance to take care of that type of problem. He stated amending the garbage collection ordinance to allow the City to instigate payment on the customer behalf is just more work for City staff and doesn't pay.

Councilor Weed asked what recommendation HCD and staff have. **Manager Stein** stated she recommends setting up a low income rate and amending the garbage ordinance to allow the City to instigate payments to HCD from customers. She stated staff is already making use of the code enforcement options.

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Councilor Merrill stated that what is needed is an incentive to pay. He stated that since many of the garbage accounts that are delinquent with their city utility bill also, would it be possible to require that their HCD account also be brought current prior to turning their water back on if it is turned off. **City Attorney Bryant** stated the City can condition that in order for a customer to have their water turned back on they must also pay to bring their HCD account current also. He stated that illegal dumping in forest lands is a very big problem and a good reason for supporting a universal garbage service provision.

Finance Director Young stated that option would work well if customers are not paying either bill but there are some people that pay their City utility bill but do not pay their garbage bill. She added that whenever staff talks with customers they stress the City's universal garbage provision. **Director Grimm** stated there is also a distinction between people that are delinquent versus those that have their water turned off for non-payment, which is only a few each month. He stated a lot of people delinquent on their garbage service would be missed with this alternative.

Manager Stein reminded the Council that it only takes one situation for someone to call the County Health Department on the City for not enforcing its own ordinance, not the customer. She stated obviously the City wants to alleviate any possibility of that occurring.

Councilor Merrill asked what an enforcement violation letter says, how long it gives an individual to comply and who follows up. **Manager Stein** stated those tasks fall to the Planning Department and that each situation needs to be handled on a case by case basis. She stated the City tries to be compassionate and work with people. **Councilor Merrill** stated he was only making the point that code enforcement takes a lot of time to be done effectively.

Councilor Thompson stated Deschutes County does not have a universal garbage requirement all around the county and he feels the City is doing its part by having one. He stated it is up to HCD to collect whatever is owned to them and up to the City to enforce its nuisance ordinance. **Bruce Bailey**, owner of HCD, stated that with cities that have a universal garbage provision, it usually works well. He stated the problem with the choice to not have garbage service is many people don't haul their garbage to the landfill on a consistent basis and it tends to pile up. He stated that providing a low income rate might provide an option for those where the cost of service really does present a hardship. The **Council** agreed the City should implement a low income rate for services.

Mayor Kellstrom asked the Council members for their opinion on options #3 and #5 as recommended by staff. **Councilor Weed**, **Councilor Merrill** and **Councilor Bogart** stated they were in favor of the staff recommendation. **Councilor Weed** stated she was in favor of just paying the overdue amounts for the delinquent accounts as it would be less expensive than

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the amount given away at the discussion regarding the McKenzie Meadow Village annexation agreement. **Councilor Thompson** stated he was in favor of option #3 but voiced concern that option #5 will create more staff work. **Manager Stein** explained the administrative fee will be set high enough to recoup the City's cost. **Mayor Kellstrom** directed staff to move forward with implementing a low income rate and instigating payment for customers to HCD by amending the garbage ordinance.

Councilor Thompson left the meeting at 8:00 p.m.

B. Status Report on Action 31 Area of Whychus Creek

Manager Stein stated staff met with Ryan Houston and Mathias Perle of the Upper Deschutes Watershed Council (UDWC) to discuss Action 31 of the Whychus Creek Restoration and Management Plan. She distributed a handout on Action 31 and discussed the engineering design cost for this action, including hydraulic modeling at an estimate cost of \$125,000. She stated construction cost for this action is estimated to be \$1 million. She stated that UDWC is suggesting the design work be paid for with 50% coming from grants, 25% coming from the City and 25% coming from landowners. She stated UDWC suggested that grant funders will be more likely to fund the construction costs if there has been a good demonstration of local funding for the design work. **Manager Stein** discussed the options for determining the landowner's financial participation and asked the Council if the City should move ahead with the project area and if so, should the City participate financially. She stated she is concerned that if the City does not willingly participate financially that the National Marine Fisheries Service (NMFS) will compel the City to participate due to perceived risks under the Endangered Species Act (ESA). She stated the same holds true for requiring landowners to participate, with the concern it could be construed as an ESA liability. **Manager Stein** stated there is some possibility that the City might ask for participation from the County but that will be unknown until the hydraulic modeling is completed.

Manager Stein stated UDWC would like to begin the preparation of the request for proposal (RFP) and hold another neighborhood meeting by late October. She stated UDWC is looking to the City to make a financial commitment in order to get landowners and grant funders on board with the project.

Mayor Kellstrom stated that if the Council is going to consider the matter a workshop will likely need to be scheduled but there is little open time on the agenda calendar in the coming month. He voiced concern that the information received so far is all based on estimates as opposed to hard data. **Manager Stein** stated UDWC is quite comfortable with the cost estimate of \$125,000 to \$150,000 for the engineering design phase of the project.

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Councilor Weed asked if the City budgeted for the project. **Manager Stein** stated the cost for the project was deferred because the City had no idea of what the cost would be during the budget cycle. It was decided the item would need to be included in a supplemental budget.

Councilor Weed stated that she was comfortable with moving forward and committing to the \$30,000 participation from the City for the design work since there have been so many conversations with regard to this portion of the creek. She added she is concerned about how to inspire affected landowners to financially participate. **Manager Stein** stated she does feel that residents will be more inclined to participate when they know the City is also participating.

Councilor Merrill stated he doesn't feel the City really has much of a choice when one considers the steelhead that have been reintroduced into the creek. He stated he is in favor of the City moving forward with the project and participating financially. He stated it is important to have a discussion with the homeowners in Timber Creek and Creekside about the project. He stated he does not see how NMFS could compel citizens to have to pay for a portion of the fix. **Manager Stein** stated she spoke with UDWC representatives about this matter and was told that cities typically move forward with the assumption that there could be ESA liability. She stated that NMFS would not likely go after an individual landowner, but could come after the City. She stated the Department of Environmental Quality (DEQ) or NMFS will both be concerned with water temperature in Whychus Creek with regard to endangered species and improvements to riparian areas.

Manager Stein stated at present all the UDWC is looking for is a commitment in funding and they cannot move forward until all the funding for the design work is received. The **Council** discussed the matter and all but Mayor Kellstrom were in favor of participating. **Mayor Kellstrom** stated he is skeptical of the projected costs for the design and construction work. He stated Sisters is one of the three cities on the creek but he doesn't think the City is getting good information. He stated there are too many unanswered questions that he wants answered prior to giving any financial assistance to the design costs for Action 31. **Manager Stein** stated that she feels the City will have an opportunity to get answers to some of his questions when the cost for the fix at 370 Timber Creek Drive is determined. She stated that information will allow the City to extrapolate those numbers and determine actual costs for that reach of the creek.

Councilor Weed asked if the City will be asked to participate in that fix and **Manager Stein** stated the City will and thanked Councilor Weed for pointing that out.

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C. Agenda Calendar

Manager Stein distributed the latest version of the agenda calendar to the Council and noted it is almost filled up for the remainder of the year. She asked if there were any topics not yet scheduled the Council would like to workshop before the end of the year. The **Council** discussed items and decided that transients merchant permits, the Development Code update, and community grant criteria are matters they would like to address prior to February 2010.

VIII. MAYOR/COUNCILOR BUSINESS

Councilor Weed reported she attended Project Connect at the Deschutes County Fairgrounds last weekend. She stated it was an amazing event considering the range of services offered and that it was very emotional to see the large number of people in need that reside in Central Oregon.

Councilor Bogart reported that Economic Development of Central Oregon (EDCO) has requested that Sisters assist with a list of items for the Strategic Action Plan. **Manager Stein** stated she will assist Councilor Bogart in compiling the list.

Mayor Kellstrom reported that he and Manager Stein attended the Central Oregon Cities Organization (COCO) meeting earlier in the week. He stated one item of concern discussed is that Deschutes River Conservancy (DRC) is required by federal mandate to have four elected officials on its board and for several years has had none. He stated COCO will address the issue with DRC.

Mayor Kellstrom reported that the meeting with representatives from NeighborImpact earlier in the week went very well. He stated discussion centered on how the City can tap into the resources available for home weatherization and rehab. **Councilor Merrill** asked City Attorney Bryant if it was a problem that four councilors had attended the meeting. **City Attorney Bryant** explained that there is no problem with four councilors being at a meeting together as long as no deliberation on City business occurs. He stated the Council cannot ask questions on an issue that will come before them at a later time either.

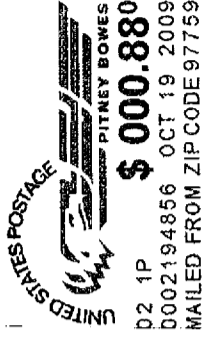
IX. ADJOURN – 8:30 p.m.

Respectfully submitted,

Kathy Nelson, City Recorder

Lon Kellstrom, Mayor

CITY OF SISTERS
ATTEN: CAD DEPT
520 E. CASCADE AV
SISTERS, OR 97759



DLCD
MR. LARRY FRENCH
635 CAPITOL STREET NE, #150
SALEM, OR 97301-2540