



Medford City Council Meeting

Agenda

October 5, 2017

6:00 P.M.

Medford City Hall, Council Chambers
411 West 8th Street, Medford, Oregon

10. **Roll Call**

20. **Recognitions, Community Group Reports**

30. **Oral Requests and Communications from the Audience**

Comments will be limited to 4 minutes per individual, group or organization. PLEASE SIGN IN.

40. **Public Hearings**

Comments are limited to a total of 30 minutes for applicants and/or their representatives. You may request a 5-minute rebuttal time. Appellants and/or their representatives are limited to a total of 30 minutes and if the applicant is not the appellant they will also be allowed a total of 30 minutes. All others will be limited to 4 minutes. PLEASE SIGN IN

40.1 COUNCIL BILL 2017-109 An ordinance adding section 5.555 of the Medford Municipal Code to impose regulations for the keeping of chickens, effective January 1, 2018.

50. **Approval or Correction of the Minutes of the September 21, 2017 Regular Meeting**

60. **Consent Calendar**

70. **Items Removed from Consent Calendar**

80. **Ordinances and Resolutions**

80.1 COUNCIL BILL 2017-118 An ordinance authorizing exemption from competitive bidding and awarding a contract in the amount of \$239,230.00 to Cues Incorporated for the purchase of a closed circuit television pipeline inspection truck.

80.2 COUNCIL BILL 2017-119 An ordinance authorizing the taking of real property by eminent domain action to acquire needed property in conjunction with Foothill Road: McAndrews to Hillcrest Project.

90. **Council Business**

90.1 Proclamations issued:
Fire Prevention Week – October 8-14, 2017
National Community Planning Month – October 2017

100. **City Manager and Staff Reports**

100.1 Bear Creek Playground Replacement Update

100.2 FEMA Pre-Disaster Mitigation Grant

100.3 Further reports from City Manager

110. **Adjournment**



CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 40.1

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DEPARTMENT: Planning
PHONE: (541) 774-2380
STAFF CONTACT: Matt Brinkley, AICP CFM, Planning Director

AGENDA SECTION: Public Hearings
MEETING DATE: October 5, 2017

COUNCIL BILL 2017-109

An ordinance adding section 5.555 of the Medford Municipal Code to impose regulations for the keeping of chickens, effective January 1, 2018.

SUMMARY AND BACKGROUND

The proposal is a Municipal Code amendment to regulate the keeping of chickens within the City. At the City Council's August 3, 2017 meeting, staff presented a report on the regulations that have been adopted by neighboring communities for the non-commercial keeping of chickens on residential property. The keeping of chickens on residential property has been allowed in Medford since 2007 when a Municipal Court judge ruled that the City's prohibition on the keeping of livestock within residential zoning districts did not extend to limited numbers of chickens for non-commercial use; however, the City has never adopted formal regulations that define and/or limit the activity. At the conclusion of the discussion on the topic, the City Council directed staff to prepare a draft ordinance regulating the keeping of chickens, and to solicit feedback and recommendations from the Planning Commission.

PREVIOUS COUNCIL ACTIONS

On August 3, 2017, the City Council directed staff to prepare a draft ordinance for the keeping of chickens, and to seek recommendations from the Planning Commission.

ANALYSIS

The proposal would establish an ordinance that will explicitly regulate the keeping of chickens. Since the time of the 2007 Municipal Court ruling which deemed the keeping of chickens to be a legal activity, the number of people actively keeping or desiring to keep chickens has increased. Fortunately the number of related code enforcement complaints has been limited over the years, although at least one recent case has highlighted the need for the adoption of specific regulations governing where and how many chickens may be kept on a residential parcel. To aid in the drafting of the proposed ordinance, staff surveyed the regulations of all the larger, urbanized cities in Oregon, as well as those communities immediately surrounding Medford.

As directed by the Council, recommendations were also solicited from the Planning Commission during a study session on September 11, 2017. While the Planning Commissioners shared a variety of thoughts and recommendations, overall they found consensus on the following three points: (1) that the residential keeping of chickens should be allowed within the city; (2) that it should be explicitly regulated; and, (3) that there should be a maximum number of chickens allowed regardless of lot size. A summary of the Planning Commission's complete discussion is provided in the attached Study Session minutes.

Drawing from the codes of the other communities, as well as the comments and suggestions from the Planning Commission, the proposed ordinance limits the number of chickens to five (5) per parcel, prohibits the keeping of roosters, and specifies where and how chickens must be kept and maintained on the parcel.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

None.

TIMING ISSUES

None.



CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 40.1

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COUNCIL OPTIONS

- Approve the ordinance as presented
- Modify the ordinance as presented
- Decline to approve the ordinance as presented, and direct staff regarding further action

STAFF RECOMMENDATION

Staff recommends approval of the ordinance.

SUGGESTED MOTION

I move to approve the ordinance permitting the keeping of chickens on legally developed residential properties, subject to the regulations and limitations listed within.

EXHIBITS

Ordinance

Planning Commission Memorandum

Planning Commission Study Session Minutes for September 11, 2017

ORDINANCE NO. 2017-109

AN ORDINANCE adding section 5.555 of the Medford Municipal Code to impose regulations for the keeping of chickens, effective January 1, 2018.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

SECTION 1. Section 5.555 of the Medford Municipal Code is added to read as follows:

5.555 Keeping of Chickens.

No person shall keep chickens on residential property, or on property legally developed as residential property, except in compliance with all of the following regulations and limitations and all other applicable provisions of the Medford Municipal Code:

- a. **No more than five (5) chickens shall be kept or maintained on any single parcel.**
- b. **Roosters are prohibited.**
- c. **All chickens must be confined to the property, and any compound, pen, run, shed, or fenced area of confinement shall not be located closer than 20 feet to a dwelling on any abutting parcel.**
- d. **No compound, pen, run, shed, or fenced area of confinement shall be located within the required front yard setback, or be visible from a public street.**
- e. **The owner of the chickens shall maintain the property in a safe condition (including but not limited to keeping heat lamps the minimum manufacturer-specified distance from flammable materials, and using electrical systems appropriate for an outdoor use); and in a sanitary condition (in accordance with Section 5.500). The construction and/or use of any compound, pen, run, shed, or fenced area of confinement shall comply with any applicable building and/or fire codes.**
- f. **Any violation of this section, or any odors, noise, or other unsanitary conditions which disrupt neighboring properties shall be declared a public nuisance, and may be abated in the manner provided for in Sections 5.520 through 5.535.**
- g. **Violation of this section constitutes a violation. Every day in which the violation exists constitutes a separate violation.**

PASSED by the Council and signed by me in authentication of its passage this ____ day of _____, 2017.

ATTEST: _____
City Recorder

Mayor

APPROVED _____, 2017.

Mayor

NOTE: Matter in bold is new. Matter ~~struck-out~~ is existing law to be omitted. Three asterisks (***) indicate existing law which remains unchanged by this ordinance but was omitted for the sake of brevity.



MEMORANDUM

Subject Non-Commercial Keeping of Chickens
File no. DCA-17-102
To Planning Commission *for September 11, 2017 study session*
From Seth Adams, Planner III
Date September 6, 2017

BACKGROUND

Livestock, as defined in the Medford Land Development Code, are only permitted on properties that are within the Exclusive Agricultural (E-A) Overlay District; however, the definition of Livestock does not include chickens. In January of 2007, a Medford Municipal Court judge ruled that the keeping of chickens on residentially-zoned properties for non-commercial use is permitted, and while the City has not formally adopted any specific regulations pertaining to the keeping of chickens within city limits, it does have the general authority under Sections 5.225 and 5.500 of the Municipal Code to cite property owners if their chickens create a noise disturbance or create excessive waste and/or odors. While the number and frequency of resident complaints related to chickens has been fairly limited, the lack of formal and explicit regulations has made enforcement challenging at times.

At their August 3, 2017 study session, the City Council received a report from staff on the regulations that have been adopted by neighboring communities for the non-commercial keeping of chickens on residential property. After receiving the staff report and discussing the topic amongst themselves, the Council directed staff to prepare a draft ordinance for the non-commercial keeping of chickens, and requested that the matter be referred to the Planning Commission for consideration and recommendations.

OTHER COMMUNITIES

Within Jackson County the cities of Ashland, Phoenix, Jacksonville, and Central Point permit the keeping of chickens on residential property. While Central Point and Jacksonville do not place a limitation on the number of chickens that may be kept, Ashland and Phoenix limit the number based on the size of the individual lot/yard area. All four cities do, however, have some form of adopted regulation stating that issues

such as odors, noise, and unsanitary conditions related to chickens are prohibited as nuisances; and the cities of Ashland, Phoenix, and Jacksonville specify minimum distances that chickens must be kept from neighboring residences and property lines. Amongst all of the larger, urbanized cities in Oregon (e.g. Bend, Beaverton, Gresham, Hillsboro, etc.), the maximum number of chickens is explicitly limited, with some cities specifying a minimum lot size requirement. In addition, the majority of the surveyed communities have placed their chicken-keeping regulations within the public nuisance or animal control sections of their municipal code as opposed to the land development code.

PROPOSAL

After reviewing the codes from a number of communities throughout Oregon, staff has prepared draft language that specifies a maximum number of chickens that may be kept on a single-family property, and the locational requirements for any related areas of confinement or structures. Staff is proposing to place the regulations in Chapter 5 (Offenses) of the Municipal Code, which is where other animal-related regulations are located. The Code Enforcement Division has reviewed the draft language and confirmed that they are in agreement with it as written. A copy of the draft code is below for your consideration and recommendations.

Section 5.XXX Non-Commercial Keeping of Chickens

No person shall keep chickens on legally developed residential property except in compliance with all of the following regulations and limitations and all other applicable provisions of the Medford Municipal Code:

- a. Chickens shall not be kept for a commercial purpose.
- b. No more than five (5) chickens shall be kept or maintained on any single parcel.
- c. Roosters are prohibited.
- d. All chickens must be confined to the property, and any compound, pen, run, shed, or fenced area of confinement shall not be located closer than 10 feet to any property line, and no closer than 20 feet to a dwelling on any abutting parcel.
- e. No compound, pen, run, shed, or fenced area of confinement shall be located within the required front yard setback, or be visible from a public street.
- f. The owner of the chickens shall maintain the property in a safe condition (including but not limited to keeping heat lamps the minimum manufacturer-specified distance from flammable materials, and using electrical systems appropriate for an outdoor use); and in a sanitary condition (in accordance with Section 5.500). The construction and/or use of any compound, pen, run, shed, or fenced area of confinement shall comply with any applicable building and/or fire codes.

- g. Any violation of this section, or any odors, noise, or other unsanitary conditions which disrupt neighboring properties shall be declared a public nuisance, and may be abated in the manner provided for in Sections 5.520 through 5.535.



Excerpt From Study Session on **September 11, 2017**

The study session of the Medford Planning Commission was called to order at 12:00 p.m. in the Lausmann Annex Room 151-157 on the above date with the following members and staff in attendance:

Commissioners Present

Patrick Miranda, Chair
David McFadden, Vice Chair
David Culbertson
Joe Foley
Bill Mansfield
Mark McKechnie
E. J. McManus
Jared Pulver
Alex Poythress

Staff Present

Matt Brinkley, Planning Director
Carla Paladino, Principal Planner
Eric Mitton, Senior Assistant City Attorney
Seth Adams, Planner III
Kyle Kearns, Planner II

Subjects:

20.1 DCA-17-102 – Non-Commercial Keeping of Chickens

Matt Brinkley, Planner Director, stated that there have been complaints about an individual within the City limits that has approximately 50 chickens on a large residential parcel. It has become a nuisance. The Municipal Code does not provide a lot of guidance on how to handle chickens. Other communities have really prescriptive regulations on chickens within the city limits. Medford has handled it through the nuisance part of the code. That can be difficult to administer. Staff was directed to develop regulations for the non-commercial keeping of chickens presumably on residential properties of various descriptions. These regulations will go into the Municipal Code not the Land Development Code. The City Council wanted to make sure that the Planning Commission provided their own recommendations because they value the Planning Commission's judgment.

Seth Adams is one of the Planning Department's new planners. Seth comes from Redwood City in northern California.

Mr. Adams reported that one can keep livestock in the City of Medford but only in the exclusive Agricultural Overlay District. It is a handful of parcels on the west side of North Foothill Road between Hillcrest and East McAndrews. The definition of livestock does not include chickens or fowl of any kind. The lack of formal regulations are a problem.

In 2007 a Municipal Court ruling stated that the prohibition of livestock outside of the Exclusive Agricultural Overlay District did not extend to chickens. Since that time chickens have been legal.

In surveying other communities in Jackson County and throughout the state, staff found that the commonalities related to chicken regulations are: (1) noise, odors, and sanitation issues are specified as nuisances; and, (2) the regulations are typically located within Public Nuisance or Animal Control Ordinances.

Staff is proposing that the regulations go into Chapter 5 (Offenses) of the Municipal Code.

As proposed by staff, the regulations would be as follows:

No person shall keep chickens on legally developed residential property except in compliance with all of the following regulations and limitations and all other applicable provisions of the Medford Municipal Code:

- a. Chickens shall not be kept for a commercial purpose.
- b. No more than five (5) chickens shall be kept or maintained on any single parcel.
- c. Roosters are prohibited.
- d. All chickens must be confined to the property, and any compound, pen, run, shed, or fenced area of confinement shall not be located closer than 10 feet to any property line, and no closer than 20 feet to a dwelling on any abutting parcel.
- e. No compound, pen, run, she, or fenced area of confinement shall be located within the required front yard setback, or be visible from a public street.
- f. The owner of the chickens shall maintain the property in a safe condition (including but not limited to keeping heat lamps the minimum manufacturer-specified distance from flammable materials, and using electrical systems appropriate for an outdoor use): and in a sanitary condition (in accordance with Section 5.500). The construction and/or use of any compound, pen, run, shed, or fenced area of confinement shall comply with any applicable building and/or fire codes.
- g. Any violation of this section, or any odors, noise, or other unsanitary conditions which disrupt neighboring properties shall be declared a public nuisance, and may be abated in the manner provided for in Sections 5.520 through 5.535.

Staff is requesting the Planning Commission's recommendations, and they will present the proposed ordinance to the City Council on October 5, 2017. If adopted, the new code will take effect immediately.

Vice Chair McFadden asked, does staff feel this should be specifically limited to chickens at this point or should it be opened up to include other fowl? Could there be more than five depending on the lot size? He does not see any problem with staff's proposal.

Commissioner Culbertson reported that a lot of his clients want chickens at their house. Most of them would only have two or three. They want fresh farm eggs. Every house he has gone into that has had a chicken coop in the back are typically one or two feet off the fence line in the back corner. They are not obtrusive and against a house. There is something to be said about proximity to a fence, but maybe it would be more appropriate to attach the separation distance to a dwelling and not a fence line. People are not going to have a regular residential subdivision home and put it in the middle of their back yard to comply with setbacks from fences. It is going to go towards one side and the back.

Code enforcement is having a terrible time with wild turkeys in east Medford. How does this play in?

Chair Miranda stated that it gets back to whether staff wants to set this up to where it is restricted to chickens only, or expand it to other fowl? He believes that if kept specifically to chickens then there will be an escalation of exceptions.

Commissioner Foley thinks extending the ordinance to include other fowl is good. The proximity to the property line is also a valid point.

Commissioner McKechnie would prefer to not have any chickens within the City unless it is in an agricultural zone. He would rather rewrite the definition of livestock to specifically include chickens or anything else, and limit them to the agricultural overlays. He does not want his next door neighbor having chickens.

Commissioner Mansfield stated some of the reasons he lives in the City is that he does not have to worry about marijuana grows near him, chickens, septic systems going afoul and water systems going up. It is a choice he made. There are rural properties where one can have farm fresh eggs.

Commissioner Culbertson reported that the vast majority of newer CC&Rs within subdivisions will usually write-in a prohibition on poultry because the ordinances do not allow them. In the 1960s and 1970s they only limited livestock. The newer ones also prohibit daycare. They are prohibiting a lot. How are you going to deal with people that already have poultry in their back yard if the ordinance is approved? Do they have to get rid of them?

Mr. Brinkley stated this is not going to be in the Land Development Code so it is not like you would end up with a legally non-conforming land use.

Eric Mitton, Senior Assistant City Attorney, stated that generally grandfathering does not apply to Chapter 5 Municipal offenses. He will have to do a little more research. It is different than drinking in public or disorderly conduct. He needs to research whether they could enforce it if they have the same number of chickens and coops when the ordinance takes effect. It would prevent further expansion. He has some concerns applying Chapter 5 to tear down already constructed chicken coupes.

Commissioner Pulver reported that people are not registering their chicken coops, so no one has any idea how pervasive this is or is not. His concern is they do not know the order of magnitude.

Mr. Brinkley stated that he does not think the City Council would be willing to ban chickens outright, but they definitely want to control it.

Staff stated that the maximum number of five chickens came from the simple mathematical average between all the urbanized cities.

Commissioner Mansfield has a difficult time seeing why it is relevant as to what other cities do. He thinks the City needs to decide for themselves what they want to do.

Commissioner Mansfield stated there are all kinds of enforcement procedures. These enforcement procedures cost the taxpayers money.

Mr. Brinkley reported that code enforcement gets complaints. They investigate them. It is going to be complaint driven.

Commissioner Mansfield thinks there will be a greater expense enforcing this if it's allowed to proceed instead of shutting it down all together.

Vice Chair McFadden commented that there could be a sign at The Grange where they keep the baby chicks that says chickens are not allowed in Medford.

Chair Miranda stated that most retailers are not going to stop selling the chicks. They would have to put a disclaimer.

Chair Miranda asked, how does this tie into the bee ordinance? They are not livestock and they were able to put something together for beekeeping. Carla Paladino, Principal Planner, stated that beekeeping went into Chapter 10 under special use regulations. There is a minimum of 3 hives going bigger per lot size. It is tied into the nuisance code and there is a registration program. That information is put into a map. The non-commercial keeping of chickens is going through a different process. City Council wanted staff to address it and create a regulation. It aids code enforcement in performing their job when they have something they can go to.

Commissioner McKechnie reported the difference is this is enforcement driven. There is someone causing a problem and there is not a regulation to enforce it.

Commissioner McManus stated that if this proceeds through, would a free registration program with the City be helpful for enforcement and the depth of existing coops?

Commissioner Culbertson thinks it's good to limit the number of chickens, as well as having some sort of regulation addressing other types of fowl, birds and things like that. Otherwise this may open Pandora's Box. The City's over-arching plan and goal for livability in Medford is very important, but not to stifle the livability within communities or developments. The builders and developers are going to be creating the size of the house, the size of lot, how they look and how they go through the process. Livability with chickens whether one likes it or not, is a factor that really plays into where some buyers are going to live. We have an eco-friendly system now. Some people want farm to table. If that is prohibited they will go somewhere else.

Commissioner Foley thinks if the City is limiting the number of chickens, then it should include other types of fowl, and he likes the idea of them being a certain distance from the adjoining residences.

Commissioner Pulver does not know if the number five is universal for all things. He is not comfortable on five with any kind of fowl.

Chair Miranda thinks the lot size should be taken into consideration.

Mr. Brinkley asked, is the way it is written now just authorizing chickens?

Mr. Mitton reported that as currently it prohibits chickens in residential areas except for within its limitations, and it does not ban any other animals that fall outside of the definition of "livestock." If ostriches falls outside of the definition of "livestock," this provision as currently drafted would not ban them, and code enforcement would be looking at them from the perspective of accumulation of feces and noise violations. What can be done is a revision to the proposed language, prohibiting of all fowl or outside birds, and then using the same exception language and limitations to apply to chickens, ducks, et cetera in limited amounts, with all other fowl or outside birds prohibited.

Should chickens be permitted in the City? The Planning Commission was on the fence with this question.

If chickens are permitted, should the use be controlled and regulated? All the Planning Commissioners were in favor.

Should there be a maximum number of chickens based on lot size? Chair Miranda believes there should be a limitation on the number of chickens. Commissioner Foley agreed.

Commissioner Pulver thinks it is realistic to have a sliding scale.

Commissioner Foley believes there should be a top end limit no matter the lot size.

Vice Chair McFadden asked, what is classified as commercial? Is it your own use or giving them away?

Mr. Brinkley stated this is designed that no matter how many are allowed it is by definition just a matter of law that it's not commercial.

Chair McFadden asked, Is commercial defined somewhere else? Mr. Mitton reported that the issue is what code enforcement would have access to. The City wants objective standards for code enforcement. Mr. Mitton suggested deleting the commercial aspect.

Commissioner McKechnie believes if there is a clause that is hard to enforce then it should not be in there. His way of thinking is if it is limited to a number of chickens regardless the size of lot and it is small enough, then one cannot make a commercial operation out of it, and therefore that it solves itself. He suggests skipping the commercial phrasing. If they cannot enforce it or it is too expensive to enforce then the regulation should not be in place. Skip the definition of commercial and limit it to five chickens regardless of the size of lot.

Commissioner Culbertson thinks the limitation against a property line is not the way to go; it should be against the neighboring dwellings. Several other Commissioners agreed.

The majority of the Commissioners want a maximum number of chickens per lot regardless of size.



CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 80.1

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DEPARTMENT: Public Works
PHONE: (541) 774-2100
STAFF CONTACT: Cory Crebbin, Public Works Director

AGENDA SECTION: Ordinances and Resolutions
MEETING DATE: October 5, 2017

COUNCIL BILL 2017-118

An ordinance authorizing exemption from competitive bidding and awarding a contract in the amount of \$239,230.00 to Cues Incorporated for the purchase of a closed circuit television pipeline inspection truck.

SUMMARY AND BACKGROUND

The Public Works Department Operations Division is requesting approval of an exemption from competitive bidding to award the purchase of a new closed circuit television (CCTV) pipeline inspection truck to Cues Incorporated in the amount of \$239,230.00.

Pipeline inspection trucks are used to run a television camera through pipes in order to assess their condition and prioritize repair and maintenance. Public Works has been inspecting sewer pipes in this manner for over 35 years. The Public Works Department is seeking a *brand name or mark exemption* from competitive bidding for procurement of a CCTV pipeline inspection truck from the same manufacturer as the existing CCTV pipeline inspection truck. The addition of a new truck from the same manufacturer will allow for the efficient utilization of existing software, cameras, and other equipment. Public Works plans to repurpose the existing CCTV pipeline inspection truck to begin a storm drain inspection program.

PREVIOUS COUNCIL ACTIONS

On June 15, 2017, Resolution 2017-57 was approved adopting the budget for the biennium beginning July 1, 2017, and making appropriations thereunder. Funds for this purchase are budgeted in fiscal year 2018 in Fund 502.

ANALYSIS

Medford Municipal Code (MMC) 2.609 and 2.613 allow for exemption from competitive bidding if the efficient utilization of existing equipment or supplies requires a compatible product of a particular manufacturer or seller. The Operations Division has an existing CCTV pipeline inspection truck and a significant investment in associated equipment and specialized software. The existing truck has been in service for many years and the Operations Division staff is very familiar with operation and maintenance of the existing system. Procuring a CCTV pipeline inspection truck manufactured by the same company will result in the most efficient utilization of the existing equipment for the following reasons:

- Operations staff has successfully operated the existing CCTV system for many years. They are familiar with its operation and maintenance, as well as use of the specialized software and its maintenance.
- Interchangeability of parts will streamline maintenance and operation of the equipment.
- Operational similarity will ensure the most efficient use of the new equipment.
- The CCTV system includes highly sophisticated inspection software. The software for the new system must be compatible with the existing system in order for the video to be viewed properly and to ensure vendor support of the system.

Purchasing a specific CCTV pipeline inspection truck by brand name meets the following findings required by MMC 2.613(2):



CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 80.1

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- (a) *The specification of a product by particular manufacturer would result in substantial cost savings to the City. A second Cues system will ensure compatibility with the existing TV cameras and software thereby eliminating the need for purchase of additional cameras and software at significant expense. Technical support expenses will also be reduced as they will be provided by one vendor.*
- (b) *Efficient utilization of existing equipment or supplies requires acquisition of compatible equipment or supplies. Having two CCTV pipeline inspection trucks from the same manufacturer reduces parts inventory, increases staff familiarity, and reduces the number of vendors which must be coordinated with; all of which lower life-cycle cost.*

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

\$250,000 is budgeted in 5023123-6404004 as noted on budget page 8-6.

TIMING ISSUES

Purchase of a CCTV pipeline inspection truck is budgeted in fiscal year 2018.

MMC 2.605(1)(b) requires advertisement in at least one newspaper of general circulation in the area where the contract is to be performed in a timely manner to allow competing vendors a reasonable opportunity to make proposals. Notice was advertised on the City website beginning Wednesday, September 27, 2017, and also in the Mail Tribune on Sunday, October 1, 2017.

COUNCIL OPTIONS

Approve the resolution as presented.

Modify and approve the resolution.

Do not approve the resolution and provide staff with direction for modifications, if any.

STAFF RECOMMENDATION

Approve the resolution.

SUGGESTED MOTION

I move to approve the resolution authorizing a brand name or mark exemption from competitive bidding for the procurement of a CCTV pipeline inspection truck from Cues Incorporated in the amount of \$239,230.00.

EXHIBITS

Resolution

Public Notice

ORDINANCE NO. 2017-118

AN ORDINANCE authorizing exemption from competitive bidding and awarding a contract in the amount of \$239,230.00 to Cues Incorporated for the purchase of a closed circuit television pipeline inspection truck.

WHEREAS, this exemption is not likely to encourage favoritism in awarding public contracts or substantially diminish competition for public contracts and is likely to result in substantial costs savings; now, therefore,

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

Section 1. An exemption from competitive bidding is granted and a contract in the amount of \$239,230.00 to Cues Incorporated for the purchase of a closed circuit television pipeline inspection truck is hereby authorized.

Section 2. This exemption is granted under the provisions of Medford Municipal Code Section 2.613 as discussed in the agenda item commentary for the City Council meeting of October 5, 2017.

PASSED by the Council and signed by me in authentication of its passage this ____ day of _____, 2017.

ATTEST: _____
City Recorder

Mayor

APPROVED _____, 2017.

Mayor

PUBLIC NOTICE
Exemption from Competitive Bidding

The City of Medford will receive comments on the City's draft findings for an exemption from the competitive bidding requirements for a brand name or mark exemption for procurement of a CCTV pipeline inspection truck from Cues, Inc. Comments will be received in the City Council Chambers during the **City Council Meeting, Thursday, October 5, 2017 at 6:00 PM**. All interested persons are invited to attend and be heard. You can obtain a copy of the draft findings from the City of Medford website on the Purchasing page at www.ci.medford.or.us or by email purchasing@cityofmedford.org.



CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 80.2

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DEPARTMENT: Public Works

PHONE: (541) 774-2100

STAFF CONTACT: Cory Crebbin, Public Works Director

AGENDA SECTION: Ordinances and Resolutions

MEETING DATE: October 5, 2017

COUNCIL BILL 2017-119

An ordinance authorizing the taking of real property by eminent domain action to acquire needed property in conjunction with Foothill Road: McAndrews to Hillcrest Project.

SUMMARY AND BACKGROUND

An ordinance declaring the need to acquire real property and authorizing the taking of real property by eminent domain action. Real property is needed to construct the Foothill Road: McAndrews to Hillcrest Project.

The preliminary design for this project was approved by Council on August 17, 2017, after a Transportation Facility Public Hearing (Resolution No. 2017-68). The property to be acquired is needed to construct Foothill Road: McAndrews to Hillcrest in conformance with the project parameters established by Resolution No. 2017-68.

This ordinance is submitted in accordance with "Condemnation of Property Adjoining Proposed Roadways," Oregon Revised Statutes (ORS) Section 35.610, which states ". . . the governing body shall by appropriate ordinance or resolution describe the land to be purchased, acquired, entered upon or appropriated, and shall further determine that the appropriation of such land is reasonably necessary to protect the full use and enjoyment by the public of the road, street or highway."

PREVIOUS COUNCIL ACTIONS

On August 17, 2017, Council Bill 2017-68 was approved for the preliminary design of this project after a Transportation Facility Public Hearing.

On May 5, 2016, Council Bill 2016-55 approved Intergovernmental Agreement (IGA) No. 31209 which defines right-of-way acquisition roles and responsibilities as needed to acquire real property for the project and is referenced as a condition within IGA No. 30421.

On September 17, 2015, Council Bill 2015-95 approved IGA No. 30421 which authorized the Oregon Department of Transportation (ODOT) and the City of Medford to fund, design, and construct street improvements of Foothill Road between Hillcrest Road and McAndrews Road.

On May 21, 2015, Council Bill 2015-49 was approved authorizing a \$10 million Loan Agreement with the Oregon Transportation Infrastructure Bank (OTIB) for improvements to Foothill Road.

ANALYSIS

Approval of this ordinance is a state and federal requirement to allow acquisition of real property for the project using state and federal funds. Both state funds (via a loan) and federal funds (via a grant) will be used for the right-of-way acquisition, design, and construction.

The Public Works Department will have all properties appraised and negotiate with property owners in good faith. Eminent domain will only be invoked if an equitable agreement cannot be reached.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

The Foothill Road: McAndrews to Hillcrest Right-of-Way Programming Estimate is approximately \$1M and this amount is included in the \$11.2M budgeted for this project on page 8-45 in the current biennial budget.



CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 80.2

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TIMING ISSUES

Acquisition of real property cannot begin until this ordinance is approved.

COUNCIL OPTIONS

1. Approve the ordinance so acquisition of real property for the project can begin.
2. Deny the ordinance and delay the project while an alternative property acquisition delivery process is determined and implemented.

STAFF RECOMMENDATION

Adopt an ordinance declaring the need to acquire real property and authorize the taking of real property by eminent domain action.

SUGGESTED MOTION

I move to adopt an ordinance declaring the need to acquire real property and authorize the taking of real property by eminent domain action for the Foothill Road: McAndrews to Hillcrest Project.

EXHIBITS

Ordinance

Right-of-Way Acquisition Area by Address/Tax Lot

Map

ORDINANCE NO. 2017-119

AN ORDINANCE authorizing the taking of real property by eminent domain action to acquire needed property in conjunction with Foothill Road: McAndrews to Hillcrest Project.

WHEREAS, the City of Medford is duly authorized and empowered to construct improvements to streets and roads within the city limits and to acquire, by purchase, gift, devise, condemnation proceedings or otherwise, such real property as in the judgment of the City Council of the City of Medford is necessary or proper to exercise its powers; and

WHEREAS, for the benefit and welfare of the general public, the City of Medford plans to improve Foothill Road from McAndrews Road to Hillcrest Road; now, therefore,

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

Section 1. The City Council of the City of Medford hereby finds and declares that the real property shown listed on Exhibit "A", attached and incorporated herein, is needed for the full use and enjoyment of the public by the improvement of Foothill Road from McAndrews Road to Hillcrest Road.

Section 2. The real property described is required and is being taken as necessary in the public interest and the project has been planned and located in a manner that will be most compatible with the greatest public good and the least private injury.

Section 3. The City Manager is authorized to attempt to agree with the owners and other persons in interest in the real property described herein as to the compensation to be paid for the appropriation of the property and, in the event that no satisfactory agreement can be reached, the City Attorney is directed and authorized to commence and prosecute to final determination such proceedings as may be necessary to acquire the real property and that, upon the filing of such proceeding, possession of the real property may be taken immediately.

Section 4. The City Attorney is hereby authorized to represent the City in this matter. Upon the trial of any suit or action instituted to acquire the real property, said attorney is authorized to make such stipulation, agreement or admission as in her judgment may be for the best interest of the City of Medford.

PASSED by the Council and signed by me in authentication of its passage this _____ day of _____, 2017.

ATTEST: _____
City Recorder

Mayor

APPROVED _____, 2017.

Mayor

RIGHT OF WAY ACQUISITION AREA BY ADDRESS/TAX LOT						
File No.	Name	Tax Maplot	Property Address	Fee Area SF	PE Area SF	TE Area SF
1	Arthur Dubs Foundation	371W21AB900	1828 N. Foothill Rd.	250	0	1,700
2	Kevin Curtin	371W21AB1000	0 N. Foothill Rd.	150	0	450
3	Kevin Curtin	371W21AB1200	0 N. Foothill Rd.	150	0	525
4	Mark Miller	371W21AB1500	1640 N. Foothill Rd.	150	0	600
5	William W. & Gwen R. Reen	371W21A400	1570 N. Foothill Rd.	350	2,800	1,300
6	Bella Vista Heights LLC	371W21A300	0 N. Foothill Rd.	50	300	100
7	Cogswell LMTD	371W21A1400 & 21D300/301	0 N. Foothill Rd./0 Hillcrest Rd.	31,000	28,000	7,850
8	Rocky Knoll LLC	371W21D101	0 N. Foothill Rd.	11,500	1,850	4,800
9	Rocky Knoll LLC	371W21D102/1500	2893 Hillcrest Rd./0 N. Foothill Rd.	70,000	28,000	9,250
TOTALS =				113,600	60,950	26,575

PE = Permanent Easement
TE = Temporary Easement

