

5.2 DISCUSSIONS

5.2.1 Follow-up on Out-of-City Water Service

Chandler recalled that the Council had imposed a moratorium on new out-of-City water connections in August of 2020. A number of customers had been allowed to go ahead with obtaining service, since they were already so far along in the process, and others were allowed to go forward since they had already paid their System Development Charges (SDCs). A few people were turned down.

Chandler said the matter had been revisited in August 2021. After discussing the maximum out-of-City connections that would be allowed, based on a potential policy limiting connections to properties that fronted on a water main, Council had tabled the discussion and Chandler had asked to recalculate the potential number of dwellings affected. In August, he had estimated there would be 60 to 80 dwellings, but he determined the total would actually be closer to 40 to 50, representing less than two percent of the total new dwellings the City would add during its planning period, or about the number being permitted in six months.

Chandler recommended lifting the moratorium subject to conditions he set forth in a memo to the Council:

1. Minimum lot size would have to be 7,500 square feet. Chandler noted that many lots outside the City were 10,000 square feet, which would probably lower the actual number of new connections. He said 7,500 square feet was about the minimum to allow a septic system.
2. The property must abut a main line.
3. All lots served must be consolidated into a single parcel.
4. No water would be provided for any commercial or agricultural use.
5. The property owner would have to pay current SDCs.
6. The proposed rules would not apply to anyone who had already paid SDCs.
7. Any property connected to a meter must have an active account. The City would not connect and disconnect meters seasonally, because the system would have to be maintained whether or not the properties were occupied.

On the question of defining a “commercial use,” Chandler observed that the practice since he had been City Manager was to consider VRDs as a commercial use, and the agreement would state that only residential uses would be allowed. He added that the proposed policies would only apply to Sunset City, because there were already existing mains there inside the Urban Growth Boundary (UGB) that were fronted by undeveloped lots.

Chandler suggested the undeveloped lots would either remain vacant, be developed as single-family homes, or become VRDs. He noted that only around 20 percent of the single-family homes in Sunset City were occupied by year-round residents. Most were either VRDs or vacant for most of the year. That meant Sunset City was unlikely to ever provide workforce housing for Bandon or affordable housing for most Bandon residents.

Given the low level of occupancy in Sunset City homes, Chandler recommended that the City allow water connections for residential uses and include VRDs as a residential use in that area. If the City were to annex all or part of Sunset City at a later date, the TOT would come to the City for all of those units, and they would become part of the City’s system instead of competing.

Seymour wanted to know how much water Bandon's existing VRDs were using, and she thought that might be determined by taking a sample group of five or six VRDs and calculating the average annual water consumption per unit. She felt that would enable an estimate of how much water would be used by VRDs in Sunset City.

Chandler pointed out that the City had water usage information from existing VRD accounts in Sunset City. He also responded to an email from Bandon resident Robert Schroeter, which he said was "very well thought-out and he raised good points." Schroeter's email, copies of which were given to the Councilors, questioned "subsidizing the development of property outside the city limits by providing water service connections to those properties outside the city limits."

Chandler shared the points he had made in a reply to Schroeter:

First, out-of-City water users paid a higher fee because they did not have to pay the utility tax and property taxes that included general obligation bonds paid by in-City users.

Second, out-of-City property owners paid the same SDCs that in-City developers paid, so they contributed to the costs of the overall system with each new hookup in the same way those who developed property in the City did.

Third, considering the checkerboard pattern of undeveloped lots in Sunset City, allowing more utility connections would fill in gaps in that checkerboard and accommodate a more rational annexation plan for those who were willing to or had already agreed to annex to the City. In turn, that would bring a significant assessed value to the City. Chandler added that although the general property tax rate in the City was a low \$.46/\$1,000, the Local Option Street Tax rate for City residents was \$.84/\$1,000, and residents added to the City by annexation would pay the utility tax as well as SDCs.

Seymour asked if the only lots that would be affected by lifting the moratorium would be ones on the perimeter of the Sunset City area, where the water mains were located.

Chandler replied that there were also several water mains running through the center of Sunset City. He acknowledged that there was a large block of properties where there were no water mains, and those lots would not be eligible under existing rules. He estimated there were 40 lots that did front on water mains that had been built and paid for and would be re-paid for through SDCs when those lots were developed.

Powell proposed adding a condition to Chandler's suggested conditions for lifting the moratorium. He thought homes that became a vacation rental in Sunset City should be required to pay TOT taxes to the City if they wanted water services.

Schamehorn agreed with Powell's idea. She believed out-of-City VRD operators using City water should pay the TOT because they would otherwise engage in unfair competition against those in town who had to pay the tax.

Chandler thought it might be possible for the City to impose that condition on new VRDs establishing water services, but it might not be allowed to do so retroactively.

Seymour wondered if the County had a TOT, and Schamehorn recalled that one had been turned down. Chandler concurred that the County had no TOT.

Smith asked if TOT fees could be collected from a property not annexed into the City.

Chandler explained that it would be a fee in lieu of the tax. He said there were a number of options to address some of the equity issues of out-of-town users and utility customers. He was not sure which options might have to go to a vote under the City Charter, but he planned to revisit the issue within the following six months. Chandler planned to check on the viability of Powell's idea and get back to the Mayor and City Council with a determination right away.

Seymour asked if there were any applicants waiting for water in Sunset City.

Chandler answered that he received inquiries almost weekly, and he knew of four or five property owners awaiting the City's decision. He added that the VRD issue was important to many people, because for them the economics of what they would build would depend upon whether or not they could rent it out.

Vick commented that he had a particular interest in Sunset City because earlier in his real estate career he had represented a client who owned a lot of property there. They put in roads and drainage systems, and they brought in water. He insisted that his client should pay the SDCs up front. Vick understood the Planning Department was telling people the City would not allow any VRDs in Sunset City, and he thought that was premature.

Chandler stated that the City's policy had been that way as long as he had been there, but he said it was the Council's decision.

Vick suggested the main reason the Council was even considering a moratorium on VRDs was to keep from having "one on every block." He agreed with Chandler that no workforce housing was going to be built in Sunset City, and he remarked that the lots there were being sold for high prices. On top of that, it had become difficult to find a contractor to build anything, and Vick contended it might take three to five years for anything to be built there.

After a side discussion with Kudlac, Chandler announced a possible interim solution: Since property owners were asked to sign an agreement preventing them from any commercial use, including a VRD, the City could instead have them agree to pay the TOT to the extent that the City could legally impose it. He thought this policy could be put in effect until the City came up with a permanent solution, and it might only apply to the few people who were waiting at the time.

Seymour made a motion to lift the moratorium on out-of-City water service, subject to the conditions in Chandler's memorandum, adding that the commercial designation would be removed from VRDs. Procetto seconded the motion, which passed by unanimous show of hands (6:0).

5.2.2 American Rescue Plan Follow-up

Chandler began what he termed an "introductory discussion" about what the City might do with approximately \$640,000 in American Rescue Plan funds it was to receive. He explained that there were limits on how the funds could be spent. Generally, the City had to demonstrate that the funds were being used to respond to the pandemic or to help people who suffered a disproportionate impact from the pandemic.

Chandler indicated there was quite a bit of flexibility in what the City could do with the funds, including responding to the public health emergency; providing premium pay to essential workers; offsetting lost revenues to provide essential government services—he said not that much had been lost; water, sewer, and broadband infrastructure; and fostering affordable housing. Funds were not allowed to be used to reduce taxes or make deposits into pension funds.