

**CITY OF PORT ORFORD
WORKSESSION OF THE COMMON COUNCIL
THURSDAY, August 8th, 2024, AT 5:30 P.M.**

**If you can not join in person, please feel free to join this meeting from your computer,
tablet or smartphone.**

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AGENDA

- 1. Call to Order/Roll Call**
- 2. Workshop Items:**
 - a. Discussion: Findings from ERP**
 - b. Discussion: Effluent Master Agreement**
 - c. Discussion: State Funds for Water Recycling**
- 3. Adjourn**

CITY OF PORT ORFORD

City Council Decision, Order, and Findings
2024 Extension of CUP 16-02 and 16-03

Findings:

1. This Order resolves and approves the 2024 application for a one-year extension of the approvals above related to land applying treated city wastewater on an approved golf course that is under construction. The Commission denied the 2024 request for this extension.
2. On January 10, 2023, the Port Orford Planning Commission approved a one-year extension of two CUPs authorizing pipelines to transport recycled water from the city's wastewater treatment plant to a planned golf course. The golf course was approved by the County; LUBA has found that the right to complete the golf course has vested.
3. The original approvals by the City Council were dated June 16, 2017. Successive one-year extensions have been approved by the City in subsequent years. The third approval, filed in 2020, was appealed to the Land Use Board of Appeals, which affirmed the extension decision and, more importantly, confirmed that under the city code these CUPs may be extended one year at a time without limitation on the number of extensions. See *Suess v. City of Port Orford*, ___ Or LUBA ___ (No. 2020-076, Jan. 22, 2021).
4. The extension approved by the Planning Commission on January 10, 2023, was appealed to the City Council by Penny Suess.
5. An appeal hearing before the City Council was properly noticed, assuming it is a land use decision of the City. The City Council voted to approve the extension in its shearing on April 20, 2023. However, the Order approving the 2023 extension was not signed until March 8, 2024 due to oversight.
6. The Applicant filed for this 2024 extension on January 3, 2024. At the request of the applicant, processing of that application was held in abeyance by the City until the City issued a signed order for the 2023 extension application. The 2024 extension application was then heard by the Planning Commission.
7. Under the code provisions that apply to this extension, the issue of whether to grant any particular one-year extension is completely within the discretion of the City. As explained in the LUBA decision, the code includes standards for determining when a project has started and thus no further extensions are needed. However, it does not state mandatory standards for an extension of time to start a project.
8. Construction has not started on the pipeline project as of this date. Therefore, the 2024 extension is needed in order to keep the original CUP approvals active.
9. Based on developments to date, the City and the applicant expect that when the applicant's golf course north of the City is constructed, it will use the city's treated effluent for irrigation, and the irrigation water will be conveyed from the city treatment facility to the golf course via the pipeline approved by the City in these CUPs. The County has also approved a pipeline location on county land.

10. The original CUP approval at issue here includes Condition N, which requires DEQ permitting prior to the start of construction. Condition N says: “No work may commence in any way on any of the pipeline and pump station until all local, County and State permits are in hand.”
11. DEQ approval is still needed. The applicant has an active application before the DEQ. The DEQ is working with the applicant to finalize the exact footprint of the golf course lagoon size and location as well as the equipment package to be used to both deliver the effluent water to the lagoon and the equipment package to distribute that water. Once those plans are finalized the DEQ can conduct its health and safety review.
12. The applicant in January 2024 forwarded a draft contract to the City formalizing the arrangement for the City to provide treated wastewater to the applicant for land application. That agreement is also needed for the DEQ to complete its review. The City, due primarily to staffing issues, has not reviewed that proposed contract.
13. The Planning Commission voted to deny the extension request by decision dated June 18, 2024. Following a timely appeal, and following a public hearing on the applicant’s appeal, the Council hereby approves the requested 2024 extension.

Conclusion and Order:

Based on all of the above, the City Council concludes that another one-year extension of the CUP is warranted and is in the interest of the City.

The appeal is upheld; the decision of the Planning Commission is reversed.

The one-year extension is approved, and the term of this extension runs from June 16, 2023, which is the anniversary of the original permit issued on June 16, 2017.

Signed this ____ day of July, 2024.

Pat Cox, Mayor
City of Port Orford, Curry County

Joseph Harrison, City Recorder
City of Port Orford, Curry County

NOTICE

This is notice of the final decision of the City in this matter. Any party seeking further review must file an appeal directly with the Oregon Land Use Board of Appeals (LUBA) within the timelines set forth in state law. See LUBA’s website for more information.