

**CITY COUNCIL MEETING
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City of Dundee
City Council Meeting Minutes
February 3, 2015

Call to Order

Mayor Russ called the meeting to order at 7:00 PM.

Council and Staff Attendance

Present: Mayor David Russ, Councilors Jeannette Adlong, Ted Crawford, Storr Nelson, Doug Pugsley, Kristen Svicarovich, and Tim Weaver. Staff members: Rob Daykin, City Administrator, Peter Watts, City Attorney, Jessica Pelz, City Planner, and Debra Manning, Assistant City Recorder.

Public Attendance

Allen Springer, Yamhill County Commissioner, Zack Stratford, Debbie Scott, Nathan Hillis, and Colin Staub.

Agenda Changes:

None.

Public Comment:

Zack Stratford is a commercial real estate broker who locates properties for dispensaries and warehouses. He supported the proposals which the Council will consider at the meeting. Stratford brought handouts for the Council's consideration. One of his clients just leased the property at 1178 Highway 99W for a dispensary.

Nathan Hillis owns property at 23225 NW Hagey Road and is requesting to be added to city water service. He shared that they run out of water in the summer from their shallow well. Debbie Scott, same property, shared that her mother has a hardship permit with a double wide mobile home on their property. She expressed concern for the quality and quantity of their well water and asked to be added to the city water. Councilor Adlong inquired if the well had been on the property for a long time. Hillis advised that they had just bought the house. City Administrator Daykin inquired if the Council wanted to bring this issue back to the next meeting for further consideration. He clarified that the current ordinance states that water service will not be extended outside of the city limits. The city's water supply was uncertain when this was adopted; some of those concerns are expected to change in the near future. The majority consensus was for the issue to be added to the next agenda.

Presentation:

Economic Development Program

Allen Springer, Yamhill County Commissioner handed out information on two grant programs: Strategic Investment Fund Grants and Economic Development Small Grant Program.

Strategic Investment Fund Grants are funded with State lottery dollars for economic business development. Companies just starting or those which are not stable are not probable candidates for this grant. The intent of the grant is to encourage businesses with firm foundations to establish and grow in the community. Applications may be submitted anytime during the year with funds available upon completion of set milestones.

Councilor Pugsley asked for some of the firms which were funded last year. Commissioner Springer replied Construction Equipment Company in Sheridan (\$25,000) and Elk Creek Lumber

Company (\$8,000). Elk Creek Lumber Company consolidated operations from the cities of Independence and Eugene to McMinnville where they bought the old Forest Grove Lumber Company property. They now have fifty employees.

Economic Development Small Grant Program applications are due by March 1st with the funds dispersed in November. The funding amount is \$10,000 or less.

Mayor Russ stressed that Dundee is significantly different than McMinnville; it needs to look appealing to new business. C.A. Daykin relayed the application last year was for a feasibility study to consider impediments to development considering storm water, undergrounding overhead utilities, waterline and street improvements. The intent was to do this in conjunction with an Urban Renewal District. Staff has considered an application for improvements to local business facades for this year's application. Daykin advised that the response from the Commissioner's office was that this type of project was not the type of project approved in the past. Springer relayed his input that improvements to appearance are tied to economic development. He suggested contacting their grant writer, Jane Mercer, to help fine tune the city's application.

Councilor Crawford inquired if a matching grant was required. Springer advised this could be used as a matching grant with application for a grant from the State; but matching grants are not required. He recommended applying for the full grant amount, even though you may get a grant funded at a lesser amount because of the number of awarded grants.

C. Crawford noted that the City of McMinnville turned down the Green4Growth grant of \$15,000 from Waste Management (WM). He asked what will happen to those funds. Springer replied WM will decide. McMinnville is against the expansion of the Riverbend Landfill. WM is providing \$150,000 for a one-time grant; which will be divided as \$15,000 for each of the ten cities in the county.

Consent Agenda

Correction to the minutes, page 6 paragraph three under Sign Code Revisions: Chief Stock suggested a sign size of four *feet* by eighteen *inches* (six square feet)... **The motion** was made and seconded to approve Consent Agenda item 6.1 City Council Minutes, January 20, 2015 as amended. **The motion** passed unanimously.

Old Business

Planning Commission Appointment

One application was received from Daniel Sikkens to fill the unexpired term for the position vacated by the resignation of Kristen Svicarovich on the Planning Commission. **The motion** was made and seconded to appoint Daniel Sikkens to the Dundee Planning Commission to complete the unexpired term ending December 31, 2017. **The motion** passed unanimously.

Medical Marijuana Legislation

In 2014 the City adopted an ordinance placing a moratorium on the location of medical marijuana dispensaries in Dundee to allow time to determine if there was a need for additional reasonable regulations regarding placement and operations of this type of facility in the city. The moratorium will expire May 1st. The City of Newberg has initiated similar regulation to the proposed code amendment.

City Attorney Watts stated the intent of the moratorium was to allow time to receive additional guidance from the legislature; but instead we have received more uncertainty. It is unsure how the regulations for recreational marijuana will interact with the regulations for medical marijuana. It

appears the State will move forward with a dual system continuing to maintain the medical marijuana dispensary system and will also have recreational marijuana. One unknown is if a recreational marijuana facility may be placed with 1000 feet of a medical marijuana facility. It is probable that it will take until December of 2015 to have the needed answers from the legislature. In some smaller cities, including Dundee, once the first marijuana facility is in place; it will be difficult to place a second facility in relationship to schools and parks. This process will likely be amended in the future as regulations and guidance for recreational marijuana comes into play. There is debate as whether the State regulations are a floor (this is allowed and you can be more restrictive) or a ceiling (this is the most restrictive you can be). Counsel interprets the State requirements either as this is a floor or it is both a floor and a ceiling. It doesn't appear you can be less restrictive. The more restrictive the regulations are the higher the legal risk that they could be challenged. Oregon has Home Rule, which means it is up to the community to decide what is best for the community to the extent that the State wants to preempt the local community from doing something. If you do not want the risk of litigation then abide by the State guidelines. Some cities are applying the 1000 foot barrier to parks as they are similar to schools, some are applying time restrictions in consultation with their police department to address staffing concerns, and some are considering extending the moratorium noting without the full picture they can't responsibly come up with criteria. The process tonight is to give the Planning Commission guidance to hold a public hearing; after which the issue will return to the Council. Watts cautioned it is possible that any ordinance put into place by the city, addressing the medical marijuana program, could be referred for a vote or a citizen initiative.

Mayor Russ referred to the Memorandum (page 13) and asked if the first item under Dundee zoning interpretation addressing no on-site use by customers was interpreting from the State or staff. Watts replied it is part of the State regulation.

Planner Pelz relayed that the planning issues should consider what should be regulated against and the impacts of the regulations. The medical marijuana dispensary is considered as a pharmacy under retail sales as a commercial use. Recreational marijuana is looser, since the medical marijuana is prescription based. The proposed regulations are closely in line with what the State is proposing; but extending the buffer to parks where children congregate. The City of Newberg initiated the same proposal at their City Council meeting on the 2nd. C. Pugsley questioned if the Newberg Council made any additions/deletions. Pelz stated they did not make any changes. The Council may initiate changes to the Development Code; it will go to the Planning Commission for a hearing and then return to the Council. The Planning Commission hearing will be on March 11th to allow it to return to the Council for adoption prior to the expiration of the moratorium.

The Mayor relayed conversation with the Newberg City Manager that dance academies are to be considered as a school. Pelz advised that the Chehalem Dance Academy is considered a career school, based on their promotional materials and website. Watts advised the States' website describes a career school as a school preparing youth for a future career. That type of facility is a place where youth congregate. Pugsley questioned daycare centers. Watts stated that cities do not regulate daycares and typically do not register them. Cities including day care facilities as schools have clarified if a dispensary is placed prior to the day care facility, the dispensary is grandfathered. C. Adlong questioned grandfathering in regards to a new school. Watts replied that reverts to the State law regarding a public elementary school. Adlong questioned alternative schools such as Head Start. Watts replied that would be hard to determine.

Councilor Weaver questioned the parcels of property along Highway 99W and Fifth Street that are intended for future parks. Pelz noted the property along Fifth Street has not yet been dedicated for public use. It is not clear what becomes non-conforming or not and would probably be subject to further litigation.

C. Pugsley inquired if the Council would have the opportunity to address hours of operation if the Planning Commission doesn't. Pelz confirmed they would.

C. Nelson asked why not consider the changes to apply for both medical and recreational dispensaries. Watts advised because it is unknown how the laws will apply for recreational marijuana. Mayor Russ asked if the city has a tax on both medical and recreational. Watts informed 5% on medical and 10% on recreational. It is unclear whether the tax on recreational marijuana will be maintained. Nelson supported that the same logic applying to a medical marijuana dispensary also applies to a recreational dispensary. The Mayor relayed his opinion that there will be more business at a recreational marijuana facility, more dollars on site and it will be a higher security risk for the city. Daykin advised that we are defining medical marijuana dispensary using the State regulation as part of the definition. We do not have a definition for recreational marijuana. It was suggested to use the language "retail establishment that sells marijuana". Nelson speculated that the same security requirements would apply to both. Pelz noted the zoning codes would only include regulations in addition to State rules. Daykin added the codes would define which zoning district. Pugsley clarified that the Council could send this to the Planning Commission to add definitions to the Dundee Development Code regarding marijuana dispensaries and retail facilities and to require the 1000 foot buffer around parks. It was noted recreational marijuana dispensaries could open in January 2016 in Dundee.

C. Adlong clarified that the retention basin off of Eleventh Street and Fir Court is not a park. She stated the 1000 foot buffer around Fortune Park on Locust Street doesn't make sense with Highway 99W.

Mayor Russ questioned if it could be stated that a medical facility could not convert or be dual purpose. Watts replied currently they can't be both. It is up to the legislature to decide if medical marijuana dispensaries could be converted into Oregon Liquor Control Commission (OLCC). The two most likely possibilities are that the OLCC will utilize their current model; that could be selling it out of liquor stores or a parallel system like a liquor store or convert existing medical marijuana dispensaries.

C. Pugsley questioned if the Viewmont Greenway is considered a park. Daykin confirmed it is.

Mayor Russ asked for Council recommendations to the Planning Commission. Nelson asked for consideration for dispensaries in general. Pelz relayed noted Council concerns: hours of operation, buffer for parks, and inclusion of recreational marijuana making rules for dispensaries across the board. **The motion** was made and seconded to initiate a proposed amendment to the Dundee Development Code to add definitions regarding medical marijuana dispensaries and to require a 1000 foot buffer around parks where dispensaries would not be installed. **The motion** passed unanimously.

New Business

Yamhill County Economic Development Grants

C.A. Daykin asked direction for application for the Economic Development Small Grant Program. Mayor Russ supported combining that grant with the Green4Growth grant for a face lift for a portion of downtown to improve the appearance of local businesses and entice new business to locate in Dundee.

C. Nelson suggested getting targeted businesses to contribute matching funds. C. Crawford suggested low interest loans; paying back to the grant program. C. Pugsley expressed concern that this might create a negative impact on current businesses who have been improving their site with their funds. C. Weaver noted it would help them if their neighboring properties are improved. The

Mayor suggested all businesses could apply for grant funds to make improvements. The City Attorney cited Oregon City as an example of a city who has improved their downtown business image through their Main Street project with a business match. Lloyd Purdy helped develop Oregon City's program and is now working with the City of Tigard on a similar program. The program leverages tourism and state grants and gets business owners to help contribute.

C.A. Daykin stated we are not likely to get \$10,000 to match the \$15,000 Green4Growth grant from WM. He suggested applying for a grant for the Storm Water Master Plan since storm water rates are not sufficient to cover both the update and fund committed improvement projects. Mayor Russ expressed concern that the Storm Water Master Plan update would not fit in with economic development. C. Crawford replied anything to reduce barriers to development as businesses can't afford the costs. The Mayor asked if \$10,000 would fund the update. Daykin replied the intent was to try to complete the update in house with the City Engineer. Russ asked if this is feasible. Daykin replied it is for \$15,000. He does not want to increase storm water rates as the water and sewer rates are already high. He proposed use of State Shared Revenues. Daykin recommended applying for the maximum grant amount of \$10,000. Mayor Russ supported the goal to remove barriers to economic development for the grant application. Daykin questioned:

- Apply as a facade grant program or a loan program or a combination of both. Majority consensus was to apply as a loan program.
- Only facade or other types of impediments to development of their property. He relayed there is a small business owner who wants to start business in Dundee but is being hampered by the developmental requirements (paving parking lots, access roads, and ADA sidewalks). Majority consensus was for above ground exterior improvements/curb appeal.
- Include improvements to address the sunset clause on nonconforming signs and exterior lighting. Majority consensus was in agreement to include those issues.

C. Pugsley suggested requiring a match in lieu of a loan; which would reduce the administrative work load.

The majority consensus favored applying for both programs (\$10,000 for the Economic Development Small Grant Program and \$15,000 for the Green4Growth grant) to remove barriers to economic development to business, including above ground exterior improvements/curb appeal, improvements addressing the sunset clause on non-conforming signs and lighting, and requiring a match.

The Mayor expressed concern for the upcoming budget and the need to have State Shared Revenue funds available for the Budget Committee to allocate. C. Nelson supported the need to address the shortfall in the Storm Water Fund by raising storm water rates to help fund the update of the Storm Water Master Plan. It was noted that the Storm Water rates have never been raised since they were first introduced in 1997.

Council Concerns and Committee Reports

C. Crawford asked if the holiday banners have been taken down. Daykin advised staff is in the process removing the holiday banners and their posts. Crawford informed that the Committee is working with the Dundee Hills AVA on banner design with the possibility that the wineries might sponsor their own banners. They would alternate every other banner with the city's banners. Fueled by Fine Wine is also interested in funding twelve banners for the half-marathon. The banners are four feet tall. The new streetlights are lower and a banner any larger might not fit. The Committee is working with the Dundee Hills AVA to apply for a grant for wine country license plates. The grant requirements are to promote food, wine and tourism. The Committee has allocated \$500 to place the website on a new platform.

Mayor's Report

The City of McMinnville refused the Green4Growth grant funds from WM. They do not support the landfill expansion and have forwarded their recommendation to the County Commissioners not to accept the expansion. The City of Newberg has also recommended that the expansion not be accepted. It was noted that we have been blocked from competitive bidding for waste disposal.

City Administrator's Report

There is a joint City Council/Planning Commission workshop on February 18th at the Fire Hall.

The chairs and tables have been ordered for the new Community Room at the Fire Hall.

ODOT has started pile driving for the bridge over the railroad and Highway 99W for the Bypass. The work is expected to be intermittent over a two month period from 7:00 A.M. to 5:00 P.M.

ODOT did check the reflectivity of the decorative steel panels for the bridge noting no negative results.

The paperwork has been filed from the Bond Counsel to USDA Rural Development on the loan for the fire station. Closing is now expected on March 16th.

The punch list for the Fire Station project has been completed. A new warranty issue is water penetrating through the brick mortar of the tower. McKenzie will be out to review the issue.

Baldwin General Contracting is waiting for a response on their claim to their insurance company prior to delivering a proposal to repair the bay floor.

The Council will have their regular meeting on February 17th at City Hall.

City Attorney Watts relayed that the Clackamas County Tourism Department wants to advertise their hotels along Highway I-5. They propose partnering with a community in Yamhill County, which doesn't have many hotels, to promote wine tasting in that community and lodging in the I-5 hotels. It appears they would pay for the advertising from their \$4 million annual budget with the intent to use the city's branding. The majority consensus supported further contact.

Public Comment:

None.

The meeting was adjourned at 9:25 PM.



David Russ
Mayor

Attest:



Debra L. Manning, MMC
Assistant City Recorder