

**CITY COUNCIL MEETING
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April 1, 2014**

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City of Dundee
City Council Meeting Minutes
April 1, 2014

Call to Order

Mayor Crawford called the meeting to order at 7:00 P.M.

Council and Staff Attendance

Present: Mayor Ted Crawford, Councilors Jeanette Adlong, Jennifer Munson, Storr Nelson, Doug Pugsley, David Russ, and Tim Weaver. Staff members: Rob Daykin, City Administrator, Peter Watts, City Attorney, John Stock, Fire Chief, Brian Casey, Newberg/Dundee Police Chief, and Debra Manning, Assistant City Recorder.

Public Attendance

Valerie Evans, Yamhill Community Action Partnership (YCAP), Linda McGougan, Sarah Bennett, Human Collective, Bob Staples, Human Collective, Art Matheny, Dundee Covenant Church, Ray Doyle, Lisa Baker, Gene Parker, Joyce Parker, Rob Felton, Larry Eaton, GSI Consulting, Scott Moore, Mackenzie, Paul Schmidt, Carolyn Morse, Donald Morse, Human Collective, Robert Staples, Brad Berry, Yamhill County District Attorney, and Ken Moore.

Agenda Changes:

Item 7.3 Test Well Abandonment Project will be heard first under Old Business.

Public Comment:

Ray Doyle has a residence on the corner of Charles Street and Neiderberger Road with two city storm drains and a collapsed fourteen inch cast iron pipe between his property and his neighbor's. Storm water is not exiting through the pipe; it appears to be flowing under his neighbor's house and leaching out of the bank on Neiderberger Road. His house floods with big rain events. Doyle estimated damages from the recent rain at \$10,000 and asked for help with the issues. Councilor Pugsley inquired when the last flooding event occurred. Doyle replied the end of the summer of 2013. City Administrator Daykin noted the storm drain was installed in the 1960's and sized for the original subdivision. The fourteen inch pipe exiting Mr. Doyle's property to Neiderberger is not part of the public storm drain system. The problem is water from outside the city is surcharging our system and the excess water is flowing onto Mr. Doyle's property. The City Engineer will present recommendations at a future meeting.

Linda McGougan's water bill is \$340; it normally runs \$44 a month. Her family used the facilities at her home while she was absent from her property; resulting in a stuck toilet running for four days. She is on Social Security and asked for help with the bill. C. Pugsley noted the water went into the sewer system. Water entering and being processed through the sewer system does not qualify for a reduction in the billing. Daykin confirmed that under the leak policy he has no authorization to reduce the bill if it is not a leak. McGougan was referred to Administrative Assistant Osborne to setup a payment plan; there is no discount on the bill.

Lisa Baker, resident and local realtor, noted that a lot of time and work has been put into branding Dundee's image as a part of the Wine Country. Dundee is known to be a safe place and a strong community with a low incidence of crime. She expressed concern for people's reactions to a Medical Marijuana Dispensary on the main street; fearing the majority of people will find it controversial.

Gene Parker, resident, noted that Dundee is a great place to live. He concurs with Baker's comments. He has concerns regarding: the quality of the people that will be attracted, the local school and the children, and that people will drive under its influence after medicating on the marijuana they receive.

Rob Felton, resident, concurred with Baker. The city has done a great job with the Dundee branding project. His concerns from a marketing and branding perspective, is that the city will become known as the "pot town".

Don Morse, Human Collective, hopes to open their second medical marijuana dispensary on Highway 99W. There will not be any consumption on premise. He shared there are about 1,000 patients in Yamhill County who are registered with the State for medical marijuana use. He stated views are changing on this issue and the State of Oregon recognizes this as a medicine.

Ray Doyle stated that the signage for no through trucks on Charles Street has been removed. There is a resident who works for Cascade Steel and parks his semi-truck on Eleventh Street near his residence. The truck is breaking up the asphalt on his corner next to the drainage ditch. He asked for the sign to be replaced. C.A Daykin will investigate the issue.

Presentation:

Utility Assistance Program

City Administrator Daykin and Councilor Weaver met with Valerie Evans and Carolyn Garza, Yamhill Community Action Partnership (YCAP), to review their services. The intent is to place funds in the upcoming budget for assisting customers with hardships to pay their water bill.

Evans passed out a draft of the Memo of Understanding. It is proposed for the city to keep control of the funds. Staff will refer families in need. YCAP will review applications, confirm the need, and issue a sample voucher which the family will return to the city. C.A. Daykin clarified this is for hardships like the one presented tonight; the city has an ongoing discount program for eligible low income households. YCAP would make the eligibility decisions. The proposal would cover one to two families a month or less depending on the needs of the families and the funds available. A family would be eligible for help once during the funding year.

Councilor Munson queried if they could receive funds from both Newberg and Dundee if a move was involved. YCAP will have to consider that possibility. There must be a true need and they must have the means to keep up payments after receipt of help from YCAP.

Councilor Nelson asked if there is a cap as to how much assistance can be provided in addition to the one per year period. Evans replied not at this time.

C.A. Daykin suggested a limit for funds dispersal on a quarterly basis to ensure funding for the fiscal year; with carryover available for use in the current quarter.

C. Munson questioned where the funds will be dispersed from. Daykin proposed the State Shared Revenues, non-utility revenue. Evans shared that YCAP will also look at other means of help available to the family. Daykin relayed that the city will rely on staff to make referrals as the need appears. The program will be brought back for formal approval.

Consent Agenda

The motion was made and seconded to approve Consent Agenda item 6.1 City Council Minutes, March 18, 2014. **The motion** passed unanimously.

Old Business

Test Well Abandonment Project

Three bids were solicited for the abandonment of the lower section of the test well; one was received from Schneider Water Services. Staff recommends accepting the bid. If the liner can be removed the cost will be \$29,830; if it cannot the cost will be \$31,830.

Larry Eaton, GSI Water Solutions, Inc., noted the contract document is a deduct contract; if the liner comes out the lower price applies if not then the higher price applies. The three companies asked to bid are getting busy and two decided not to bid at the last moment. Schneider gave an estimate a year ago at \$20,000; the difference is this bid includes an aquifer test which places this bid in line with the earlier quote.

C.A. Daykin inquired when the process of changing the appropriation location for the test well would start. Eaton replied as soon as the aquifer test is completed. They will try to expedite the process, which usually take six months. GSI will compile a design recommendation after the aquifer test for Kennedy/Jenks to build a pump station. Eaton recommended waiting to size the pump until GSI tests a temporary pump in the well to determine the need. The work is to be completed by June 15th.

C. Nelson inquired preparation needed to place the rig. Eaton relayed some grubbing by Public Works staff is needed; the bid request included additional gravel.

The motion was made and seconded award the bid for the City of Dundee Test Well modification project to Schneider Water Services. **The motion** passed unanimously.

Fire Station Project Update

Scott Moore, Mackenzie, updated site work: SIP panel installation has been completed, the ice and water shield has been installed on sloped roof areas and the mechanical, electrical and plumbing systems have been roughed in. Work is progressing on the exterior veneer, the built-up roof system, sheet rock, metal siding and work along Highway 99W including the driveway approach from the apparatus bay and the exterior apparatus bay aprons, storefront windows, exterior doors, and the solar panels. Solar tubes are being placed to bring some natural lighting into the northern portion of the apparatus bay. Payment Application #9 for \$375,884.26 includes masonry veneer, roofing, fire suppression system, storefront windows, mechanical, plumbing and electrical work, and miscellaneous exterior site work. The total expended to date is just under \$1.8 million. Twenty three additional days have been added due to weather delays. The updated building completion date is May 16th; with July 3rd for site completion encompassing an overall delay to the building of eighty-six days and seventy-one days to the site.

Baldwin Construction Contract – Change Order 4

Change Order 4 included in the packet is in the amount of \$22,596. C. Pugsley asked if the contingency for change orders is 6%. Moore passed out a printout on the change orders with cost and appropriate percentages. Pugsley questioned the revision to roof “F” on page 13. It reflects modification of the SIP panels on the low sloped roof above the living quarters and administrative area. The panels were modified to create artificial valleys to the drains. The change order is for the labor to make blocking integrate with the SIP panels. Pugsley questioned why this wasn’t included in the original project scope. Moore replied the original thought was the blocking was not necessary. **The motion** was made and seconded to approve Change Order No. 4 in the amount of \$22,596 to the contract with Baldwin General Contracting Inc. for the Fire Station construction project. **The motion** passed unanimously.

New Business

Medical Marijuana Dispensary Legislation

At the March 18th meeting the Council requested Newberg/Dundee Police Chief Casey address the marijuana issue with the Council. Brad Berry, Yamhill County District Attorney, shared he is an outspoken critic of the Oregon Medical Marijuana program. He believes there are appropriate medical uses for marijuana. The Federal government has restricted research on marijuana. Oregon does not treat medical marijuana like other medicine. Berry expressed concern that it should be treated as a medicine if it is a medicine; with control over the dosage, quality, and quantity. The question before the Dundee government is whether or not to allow medical marijuana dispensaries in the city at this time. In 2013 the State Legislature authorized medical marijuana dispensaries. In 2014 the law was modified by Senate Bill 1531; which clarifies zoning regulations and allows local jurisdictions to impose a moratorium for up to one year. Berry asserted if you increase availability of marijuana; it would follow that its use would increase including by youth. According to the National Institute on Drug Abuse and the National Institute on Health: it is addictive, with regular use by teens it lowers their IQ, it is the most common drug involved in auto fatalities (not the sole intoxicant), and all forms of marijuana are psychoactive. Hazelden Treatment Center, Newberg, noted that in 2013, 26% of their patients were addicted to marijuana.

A letter was submitted from Jackie Lacey, Los Angeles County District Attorney, to John Governor Kitzhaber regarding the marijuana issues they have encountered. The District Attorney's office have prosecuted crimes for criminal mischief, theft, assault, robbery, and attempted murder related to medical marijuana. Berry reminded the Council that medical marijuana is currently illegal according to Federal law. The State may opt not to prosecute or to not give authority to law enforcement to enforce. He suggested placing a one-year moratorium to learn from the states that are moving forward with medical marijuana.

Brian Casey, Newberg/Dundee Police Chief, relayed that the State identifies medical marijuana dispensaries as a location for patients to obtain marijuana for various medical conditions. In light of this, why is the State restricting dispensaries: to one for every 1000 feet, to being 1000 feet of a school, requiring high security (alarms and video surveillance), restricting patient access to medical marijuana with a ban for one year, why zoning restrictions, and why such tight restrictions on a business trying to help people in pain. These are not normal business stipulations. Casey suggested there is too much unknown about the dispensaries and questioned the harm in waiting to discover what unfolds. Newberg/Dundee Police Department's experience with medical marijuana users is the majority arrested for marijuana crimes possess a medical marijuana card. Casey expressed concern that if the amount of marijuana available is increased there will be an increase in crime. He asked for a moratorium until there are more definitive answers.

Councilor Weaver asked if there was still evidence of abuse of medical marijuana cards. Berry estimated there are between 60,000 to 70,000 medical marijuana card holders in the state. He noted there are a small number of physicians authorizing a large number of cards. Abuse in the system is part of the problem.

Mayor Crawford referred to a study by the University of Texas in Dallas, Texas of the eleven states with legalized medical marijuana which did not show an increase in crime rates. Berry noted when Montana authorized medical marijuana the DUI rates rose an estimated 25%. C. Pugsley inquired if there was a change in DUI testing. Berry replied officers are specifically trained as Drug Recognition Experts (DRE) to look for clues and to analyze whether they are under an influence of a depressant, a stimulant, marijuana, etc. The question is how the officers in the state will be trained to recognize when someone is under the influence. Casey noted the study

considers crimes such as robbery, murder, homicide, and kidnapping; it does not include the lesser crimes such as theft, vandalism, criminal mischief, domestic assault, etc. Pugsley asked if legalization of marijuana will be on an upcoming ballot in Oregon. Berry replied it is likely it will appear on the November ballot.

The motion was made and seconded to open Public Comment at this time in the meeting. **The motion** passed unanimously.

Paul Schmidt is retired from thirty-four years of federal law enforcement. After retiring from the federal law enforcement the State of Colorado hired him as agent in charge for the Colorado medical marijuana Enforcement Division; where he worked for eighteen months. They delayed moving forward with their program; taking too long with applications, rules and regulations. They lost out on one year's funding of approximately \$10 million and had to downsize from fifty-five employees to twelve. Colorado took the vote to the people decide whether to ban or allow medical marijuana centers. Schmidt stated from the federal perspective the largest problem facing youth is pharmaceuticals.

Don Morse, Portland Human Collective, stated medical marijuana is being treated as a medicine. He noted THC's and CBD's and CBN's in the marijuana product have to be listed; it has to be tested for the psychoactive effects, as well as to ensure it is not contaminated by molds, mildews or pesticides. He stated the 1000 foot rules were agreed upon between law enforcement and the proponents of Senate Bill 1531. They want medical marijuana to be readily available to people who need marijuana as medicine. Morse related the increase in theft and vandalism is a result of the small grows. They are working with law enforcement members on regulations to ensure concentrates are made in controlled environments.

Carolyn Morse is a medical marijuana card holder; using the drug to address Glaucoma, Fibromyalgia, Posttraumatic stress disorder (PTSD). She received opiates to address her illnesses until the side effects required a change in medication to medical marijuana. She has seen an improved quality of life from the marijuana medication; which she uses for pain management and relaxation. The dispensaries have rules and provide safe access for her. The medical marijuana card is not easy to get. The patient has to apply with the State of Oregon, receive approval from a doctor and then receive approval from the State of Oregon. Councilor Adlong asked the period the card is good for. Morris replied one year; you must apply, be screened and have your doctor's visit prior to the expiration date.

Robert Staples advised he is caregiver to his invalid wife. He read a letter from Tamara Staples, who is bedridden with Lupus, Fibromyalgia and Chronic Fatigue Syndrome. She started on medicinal cannabis two years ago after problems from opiate therapy. He noted the medicinal marijuana is looking to provide high CBD and low THC with little to none psychoactive component.

Sarah Bennett, Human Collective, submitted additional information and letters from Jason Beck (the site owner) and from Morse and Bennett. They applied for a City business license and were approved for a business license. They have deposited over \$7,000 for the lease on the property. The proposed signage for the business is Human Collective with a green cross (the symbol for the medical cannabis industry). She noted there are over 60,500 patients with over 1,574 physicians. Medical facilities such as Keizer and Providence do not prescribe medical marijuana (it is illegal from the federal government's perspective). There are 1,025 medical marijuana patients in Yamhill County. They suggested recommendations on page 4 of the information supplied:

- hours of operation between 9:00A.M to 7:00 P.M. Monday through Saturday
- hiring employees over 21

- submit a copy of their Oregon Health Authority License to the City of Dundee annually and may not operate without this license
- submit floor plan of the premises along with a copy of the Alarm permit to the City
- sign a waiver that it will not convert to retail cannabis sales

C. Munson questioned the physical location of the Portland dispensary. Bennett replied they operate out of 9220 SW Barbur Boulevard, Portland. Munson advised she tried to find the facility and found an empty storefront. Bennett advised they are Suite 106 in the back.

The Mayor asked if they have applied to OHA for a permit for the Dundee location. Bennett replied they haven't.

C. Weaver questioned storage of the drug when the facility is closed. Bennett replied there is a safe, surveillance and an alarm.

Art Matheny, Pastor of the Dundee Covenant Church, stated the question is if this is the best location for the facility. There were fifty facilities approved this month. There are 1,000 children in Dundee. He shared a conversation with a drug counselor, a Dundee resident with a practice in Newberg, with a large concern on the ability to prescribe. Medical prescriptions limit the amount of a drug over a certain time period; whereas there are no such restrictions for medical marijuana. Dundee is one of the highest populated cities with youth in the county. Matheny shared that the church is working on reestablishing the old preschool on the site.

The Mayor asked Counsel if the City placed a moratorium could any of the State application fees be refunded. Bennett noted an applicant may submit a request to withdraw the application and for a refund of the fees.

C.A. Daykin noted the recommendation is to provide an opportunity to consider a moratorium for the purpose of drafting further restrictions for future placement of a facility in Dundee. He asked Counsel if regulations are crafted after allowing placement of a facility in the city; would there be difficulty in enforcing the regulations. Watts referred to a "preexisting condition"; but it is unclear as it is new territory. C. Russ questioned Counsel if the city legislation could open the door for potential litigation. Watts replied the Federal Constitution requires the minimum constitutional rights; the Oregon Constitution can provide additional rights, and the city can also provide additional rights. He referred to the Home Rule Constitution allowing the State legislature to regulate a law of state wide importance; while the city regulates laws of local importance.

C. Nelson inquired if there is a way to deny the business license. Daykin stated the issuance of the business license is not based on compliance with other laws or regulations in the city's code, it is required when a business operates in Dundee.

The motion was made and seconded to direct staff to prepare an ordinance declaring a moratorium on medical marijuana facilities in Dundee for consideration at the April 15th meeting. C. Pugsley inquired why business is on a cash basis only. Federal law prohibits banks from doing business with the dispensaries. After further discussion **the Vote:** Mayor Crawford-nay, C. Nelson-aye, C. Munson-aye, C. Adlong-nay, C. Russ-nay, C. Weaver-aye, and C. Pugsley-aye. **The motion** passed four in favor to three against.

Tourism Committee Appointment

Ashley Bell has resigned the Tourism Committee as she is no longer able to attend the meetings. Val Cutz has retired from Argyle Winery and now has the time to volunteer on the committee.

The motion was made and seconded to accept the Mayor's appointment to the Tourism Committee for Valerie Cutz. **The motion** passed unanimously.

Council Concerns and Committee Reports

Further discussion ensued among the Councilors regarding the medical marijuana facility.

C. Weaver advised the Newberg/Dundee Police Department will focus on pedestrian enforcement on May 22nd at the crosswalk at Seventh Street near the Fire Hall.

C. Weaver will be attending the Marijuana Conference on May 1st hosted by the League of Oregon Cities.

Mayor's Report

None.

City Administrator's Report

The first five lights on First Street from the highway have been converted to LEDs; with three downgraded to a lower light level than the lights they replaced.

A stakeholder workshop meeting on commercial zones will be held on April 9th at City Hall from 6:30 P.M. to 8:30 P.M. They would like to follow-up with a workshop for the Council on May 6th. The Mayor and C. Pugsley will not be able to attend and C. Munson can't make 6:00 P.M. time. C.A. Daykin will look to reschedule; possibly bringing it to a regular Council meeting.

Roy Winery, a new winery on Worden Hill Road outside of the city, is asking for a fire hydrant from the city to meet their fire flow needs. They would otherwise be required to build a 40,000 gallon reservoir tank and install a sprinkler system. The city will provide a fire hydrant on their property connected to our water system in exchange for them to upgrade the eight-inch asbestos concrete waterline with a new twelve-inch line along the frontage of their property. Daykin asked the Council's approval for the project; as there is a prohibition on extending water use outside of the city limits. This water would be used for fire suppression only. The majority consensus was in favor. An agreement will be brought back to the Council.

Public Comment:

None.

The meeting was adjourned at 11:11 PM.



Storr Nelson
Council President

Attest:



Debra L. Manning, CMC
Assistant City Recorder