

**CITY COUNCIL MEETING
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April 15, 2014**

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**City of Dundee
City Council Meeting Minutes
April 15, 2014**

Call to Order

Council President Storr Nelson called the meeting to order at 7:00 P.M.

Council and Staff Attendance

Present: Council President Storr Nelson, Councilors Jeannette Adlong, Jennifer Munson, Doug Pugsley, David Russ, and Tim Weaver. Excused Absence: Mayor Crawford. Staff members: Rob Daykin, City Administrator, Peter Watts, City Attorney, Charles Eaton, City Engineer, Brian Casey, Newberg/Dundee Police Chief, and Debra Manning, Assistant City Recorder.

Public Attendance

Kelly Amador, ODOT, Donald Olson, M.D. Sarah Bennett, The Human Collective, Theresa Stevenson, Kathleen Husvar, Danielle Wait, Karen Saunders, Chehalem Pool Committee, Dave Miller, Chehalem Pool Committee, Jim McMasters, CPRD, Trevor Woods, Lynn Turriff, Preston Van Meter, Kennedy/Jenks, Michael Humm, Kennedy/Jenks, Art Matheny, Dundee Covenant Church, Bruce Maguenin, Donald Morse, Human Collective, Amy Tuttle, Katy Swarz, Jeff Peck, Jordan Lutz, Natalie Horton, Jon Henningson, Sara Wood, Steve Wood, Nick Martin, Anthony Taylor, Compassionate Oregon, Rose Stephens, Bob Staples, Human Collective, Robert Omay, Trupharm, Darleen Skustad, Isiac Cornell, Jessie Arvin, Lisa Peck, Lisa Erb, LMT, Solstice Body Arts, and Ronnie Enoch.

Agenda Changes:

Item 6.3 OLCC Liquor License Application, Panther Creek Cellars was added to item 6 Consent Agenda and item 7.8 Change Order for the Test Well was added to Old Business to be addressed after item 7.1.

Public Comment:

None.

Presentation:

Chehalem Pool Committee

Karen Saunders and Dave Miller, Chehalem Pool Committee, relayed their personal experiences utilizing the pool facility. The pool is forty-four years old. The power point presentation showed examples of the deterioration of the pool infrastructure. Replacement parts for the originally installed equipment are difficult to find or no longer manufactured. The boiler system is not energy efficient and the pool is undersized for the surrounding population. The pool is used for water safety programs, therapy for handicapped/disabled and the elderly, and training for the Newberg Fire Department.

Saunders advised the proposed project would utilize the existing property. Increased parking would come from a non-utilized back section of the park. The proposal includes: multiple pools with different temperatures to accommodate different uses such as: a splash pool, a slide, a lazy river, a zero entry pool for handicapped access, and a competition pool. The facility will host: an expanded weight room, a group fitness/cardio room, an indoor multipurpose gym with a walking/running track, private family changing rooms, a childcare room, and meeting/party rooms which can be rented out. The committee is in the middle of their community awareness and education campaign. They are looking for volunteers this Saturday to help with a neighborhood canvas with the goal to hang 5,000 door hangers. They will make use of a website,

social media, and a political action campaign to spread the word. Brochures were distributed to Council members and made available to the public.

Council President Nelson inquired Chehalem Park and Recreation District (CPRD) Board's position on the project. Saunders relayed the committee has been meeting for about one year and five months. CPRD is willing to move ahead with the project if the committee can show there is increased community support backing the project. Councilor Pugsley inquired the response to the first poll. Saunders replied it was a moderate response without any information or education presented.

Jim McMaster, CPRD, shared they have been receiving concerns regarding the pool for the last ten years. CPRD wants the project to be community driven. They expect to place the new pools toward the Haworth Road while maintaining the existing pool during construction. Saunders noted a second floor will accommodate weight and meeting rooms.

Councilor Adlong questioned the project's cost and CPRD's funding match. Miller responded \$19.6 million bond or \$13.90 per month for the average home (\$232,000) in the district. Saunders replied the estimated property tax rate for the bonded debt service is \$.72 per thousand dollars of assessed value. McMaster added he expects the project will need bonded authority to cover most of the cost. CPRD will provide staff help on the project and they are working with Energy Trust of Oregon (ETO) for possible funds.

Consent Agenda

Correction to 6.1 City Council minutes, April 1, 2014, page 3, Utility Assistance Program, paragraph 3: Councilor Munson "queried" if they could receive funds from **The motion** was made and seconded to approve Consent Agenda item 6.1 City Council Minutes, April 1, 2014 and 6.2 Financial Report Ending March 31, 2014, and 6.3 OLCC Liquor License Application, Panther Creek Cellars. **The motion** passed unanimously.

Old Business

WWTP Performance Evaluation Report

Michael Humm, Kennedy/Jenks, stated the performance evaluation on the Wastewater Treatment Plant is a stipulation from the Clean Water State Revolving Fund loan to verify everything is operating within the permitted limits; the flows and the loads. The Inflow and Infiltration (I & I) plan will address the high flows and the high loads with the goal of verifying plant capacity. Kennedy/Jenks will compile the annual plant data to be presented to DEQ. There have not been any permit violations. An operational strategy will be developed to help mitigate the flow issues. Incoming ground water entering the system through the cracked pipes needs to be addressed by maintaining an empty equalization basin to act as a buffer and accept peak flow. In anticipation of severe storm events the water cap in the facultative sludge storage lagoons may be reduced prior to the event in order to increase overflow storage capacity.

The influent data showed periodic events when influent Biological Oxygen Demand (BOD) and Total Suspended Solids (TSS) are higher than expected; perhaps tied to the wineries. After review they determined there is no reduction in rated plant capacity. Van Meter expressed concern with the warranty; which is based on maximum flux rates for the membrane bio-reactor (MBR) panels and our records show the system operating at higher than normal flux rates during the storm events. They will take the data back to Ovivo to ensure we are okay under the warranty of the MBRs as we move forward.

C. Russ inquired the maximum length of duration for a peak event the plant could handle. Humm replied the concrete basin can handle a daily peak flow event; whereas the sludge lagoons can

accommodate many more days. Van Meter stressed the need to address I & I issues; as it is expensive for the plant to treat rainwater. The intent is to expend \$45,000 for I & I improvements each year. Fifteen hundred feet of sewer piping in the lower basin was addressed last year. The focus will remain on the lower basin; an estimated 14,000 feet of pipes. It will take an estimated 12.5 years to complete the lower basin at \$45,000 of annual improvements. Van Meter shared the useful service life for the cured-in-place liners is thirty plus years. The 2014 project will focus on three areas: Tenth Street and Cedar Street, along Tenth Street, and Edwards Drive at Fifth Street; the entire basin will be smoke tested.

Public Works Facility

The plan is to rebid the project in two phases. Phase I would include the slab, the equipment storage building and provisions for the future such as utilities stub-ins. Phase II would build out to the finished building as funds permit to include a work area. The Building Department is requiring drawing modifications to only show Phase I for the permit set. The rebid scope and budget and the construction services scope and budget were included in the packet. C.A. Daykin clarified the proposed structure would only be for the storage of equipment. A remodel will be needed when staff is ready to occupy the building. Humm confirmed. C. Pugsley questioned the heater credit. Humm advised it is provided to address an undersized heater at the WWTP. **The motion** was made and seconded to accept the scope of work for Phase I of the Dundee Public Works Building project with Kennedy/Jenks Consultants in the amount of \$12,449. **The motion** passed unanimously.

Test Well Update

Photos of the liner removed from the test well were distributed to the Council. The steel liner was full of encrusted buildup. Schneider Water Services recommends replacement with a PVC product at the additional cost of \$6,253. A savings was recognized with the removal of the old liner. The total project cost is \$38,083. **The motion** was made and seconded to increase the change order by \$6,253 to add the PVC liner to the Test Well project. **The motion** passed unanimously. C.A. Daykin noted a temperature profile reconfirmed movement in the water column; which is a sign of water movement between aquifers which concerns Oregon Water Resources Department.

Regarding other projects, Preston Van Meter reported:

- Lagoon 1 is being drained. The intent is to dry the lagoon through the end of April; with a weather dependent dry out period followed by earthwork reconfiguration of the berm. The west half of Lagoon 1 will be left as a natural pond to collect rainwater.
- The second part of the automation of the wells and reservoirs will continue this year.
- The ODOT waterline conflict project at Parks Drive and Fulquartz Landing Road will be completed by the second week of June.
- There will be additional design required on Eighth Street later this summer consisting of a waterline at the overpass which will be installed through a jack and bore process punching the pipe under the roadbed and reconnect to the existing 12-inch pipe on the other side.
- The ETO incentive for the WWTP will be finalized next week.

Bypass Project Noise Variance Request

The City has restrictions on excessive noise; with an exemption for construction during specific time periods. ODOT is requesting a variance to go beyond those periods.

Council President Nelson asked if all the construction would be accomplished at night. Kelly Amador, ODOT, clarified the request is for the option to cover the duration of the project for night work. It helps with the bids to have the option to work at night and can help move the project along quicker. Nelson expressed concern that construction would take advantage of every night allowed. He noted that Fridays and Saturdays are excluded and suggested a limit on the number of days in a row.

C. Adlong questioned what specific areas this would apply to. Amador stated it would apply to D contract (Highway 99W to Chehalem Creek) where materials need to be excavated and embankment needs to be brought in. It would also cover over Highway 99W for the bridge work and the work on Highway 99W.

C.A. Daykin asked for clarification if local streets would be part of the route for the work. Amador noted they would still be using Fifth Street or Parks Drive as access points. The intent is to use the bypass bridge to access the alignment. Amador estimated the night time hours would usually entail time past 10 P.M.

Councilor Pugsley would support a variance for a few days; but not for all summer. Amador proposed a seventy to eighty day window to complete work on the bridge and over Highway 99W; it would not necessarily be consecutive days in a row. Pugsley questioned the time line for the seventy to eighty days. Amador replied it would be within the construction window; the contractor would have to notice the work to be completed fourteen days in advance.

C. Russ suggested the use of a flagger at Parks Drive and Highway 99 W to keep the construction traffic off of Fifth Street. Amador will follow up on that possibility.

City Engineer Eaton asked when the contract will go to bid and the duration of the contract. Amador advised it would go to bid on June 5th with completion of unit D late in 2016/early 2017. Eaton stressed the need to coordinate with the Transportation Enhancement project for the grind on Highway 99W; another nighttime project.

C. Weaver inquired if Highway 99W would be closed for overpass construction. Amador advised the only closure would occur when the bridge beams are being set; about twenty minutes per beam.

Council concerns included the time frames transitioning into the school year and keeping traffic off of Fifth Street and Edwards Drive. C. Russ suggested the possibility of work for ten days with two days off. Amador suggested allowing a set number of days within the construction period to extend the hours beyond the noise limitations. Munson asked how public is notified. Amador responded the ODOT notifies by mailings, newspaper, postings at City Hall, and website postings.

After further discussion the Council was interested in specific time frames and more restricted hours. Daykin asked if ODOT could function with a limitation of a set number of days but consecutive days would require Council's approval. Eaton confirmed the primary need is for excavation and the beam placements for the six bridges. Daykin suggested limiting it to the Highway 99W work and beam delivery with some conditions. City Engineer Eaton will work with Amador to bring back further information to the May 6th Council meeting.

Bypass Project Intergovernmental Agreement

The Bypass Project intergovernmental agreement (IGA) for the use of the city streets is basically what we asked for. There are two stages of payment for the use of city streets (Fifth, Edwards, Eighth, Fulquartz Landing, Parks, and Neiderberger) and for the use of the County roads; once we transfer jurisdiction to the City. The intent of the funding is for repair of the streets once ODOT has completed work in the area. The IGA includes deck maintenance and power for the bridge lights for the Fulquartz Landing Road and Eighth Street bridges and landscape maintenance along Highway 99W as previously discussed as a responsibility of the City. Funds are included for the City to pave from Eighth Street to the end of ODOT's project. C. Munson inquired how snow removal is accomplished on the bridges. Eaton stated a deicer spray would be used on the bridge deck. We can contract with the County for deicing services. Eaton shared that ODOT agreed to do the annual inspections on the bridges for perpetuity. Daykin questioned the landscape maintenance along Highway 99W between the curb and the new sidewalk. Amador confirmed the intent for the landscaping to be low maintenance grasses. The city is responsible for the maintenance as ODOT will not get to the maintenance as often as needed. The majority consensus was in favor of the IGA; which will be forwarded to the Department of Justice for review prior to the parties signing the agreement.

TE Sidewalk/Streetscape Project Update

The project is 60% through the design process for Phase 1 of the Transportation Enhancement (TE) grant project. City Engineer Eaton asked for Council direction on:

- Tenth Street stub - The current Transportation System Plan (TSP) notes the completion of Tenth Street to Ninth Street west of Highway 99W; but there is potential development on the Head Start property. The TSP update looked at a number of options, including the possibility that section of Tenth would not be developed as a street. The Council was asked if there is interest to develop Tenth Street.
- Twelfth Street stub - The winery has an active site development permit for new buildings. The question is will we require Twelfth Street be built to city standards.

C.A. Daykin noted Twelfth Street is not likely to be a through street and essentially serves one property owner; a sidewalk/driveway approach along the east entrance of Twelfth Street would be appropriate. The City could still require a construction deferral agreement for the street improvements; this could also apply to the Head Start property. Eaton noted the ROW dedication for Tenth Street cannot be deferred. Daykin offered if it was designed as driveway approach; it could be redone as a street at a later date.

C. Russ inquired if curb returns are more expensive than driveways/sidewalks. Eaton advised it would be more restrictive as far as what can be done within the ROW and as regarding landscaping amenities. Tenth Street would require design changes for curb returns; costs would increase with required ADA improvements.

Daykin relayed the intent to bring the Planner and the TSP consultants to the May 6th Council for more direction on the cross connections; including Ninth and Eleventh streets. The thirty foot ROW dedication from the Head Start property can be given back if the City decides not to extend the street. Consideration is being given for a connection between Ninth and Eleventh on the backside of the property (15 feet). Eaton recommended the fifteen feet dedication be included as part of the development in the pre-application meeting.

C. Pugsley noted Twelfth Street is one of the City's rail crossings. Eaton advised that ODOT Rail wants that crossing closed, but they are offering options. Discussion on this will be included in the May 6th Council meeting.

City Engineer Eaton would like to maintain the current designs of the Tenth Street and Twelfth Street intersections with Highway 99W as driveways with continuous sidewalks in the TE project; streets can be extended in the future as needed. The majority consensus concurred.

ODOT's position is their storm system is designed only to drain their highway; not the additional loads from the neighborhoods. The Storm Drainage Master Plan reflects increasing some of the highway piping to help accommodate some of the neighborhood flows. This would be an opportune time to revise the Master Plan map basin. The storm drain system along Highway 99W was placed in the teens and modified in 1935 with additional connections made for additional streets. Staff will have to work with ODOT as the storm water system in Highway 99W is their property. The majority consensus was to take the opportunity to address issues.

The Ninth and Eleventh street intersections are designed as full T intersections, with driveway approaches located across from the developed streets. The TSP update is considering alternates to extend Ninth and Eleventh streets. Eaton advised it would be easy, with no additional cost, to convert them to four-way cross intersections in consideration of future street extensions. The majority consensus agreed with conversion to four-way cross intersections.

The big problem is still the undergrounding of the utilities. He cautioned if the conduits are not placed now under the sidewalk in Phase 1; they will never be placed.

Ordinance No. 530-2014, Medical Marijuana Moratorium

Returns from the April 1st meeting, City Attorney Watts gave background to the legislation on medical marijuana, including restrictions on medical marijuana facilities not to be within a 1000 feet of a school or another medical marijuana facility. In 2014 the Legislature gave cities the option of passing a moratorium for one year or less, allowing for case law to be developed regarding zoning and reasonable restrictions to medical marijuana facilities. It is probable that the Legislature will provide additional guidance in the upcoming regular session. The ordinance is brought from the Council's request for further consideration. It would impose up to a one-year moratorium on a medical marijuana dispensary facility, expiring May 1, 2015, allowing the city to consider zoning or other regulatory issues. If the moratorium was not passed and other regulations were imposed on a previously approved facility, then it could expose the City to the potential liability of a lawsuit.

Public Comments was limited to three minutes due to the number of requests received.

Teresa Stevenson, Dundee resident, noted this is a great, safe community with a great school. Allowing this business would open the door to an unwanted element. It would bring an increase in crime, bad driving, and accidents. She noted marijuana is an addictive drug. The facility is not needed in the community; the location is too close to the school.

Art Matheny, Dundee Covenant Church and Dundee resident, relayed concerns that the Church is in the process of reestablishing the former preschool at their property, which is in close proximity to the proposed medical marijuana facility. He questioned how re-establishing the preschool would affect an established medical marijuana facility and whether it would hinder his plans for the preschool. The location is not an appropriate location for a dispensary; there are other better locations than Dundee.

Kathleen Husvar supported Stevenson's comments. She noted an increase in crime in her neighborhood on Tenth Street east of the railroad in the last twelve years and questioned studies stating it doesn't increase crime. A medication should be dispensed through a pharmacy; which

marijuana can't be since it is against Federal law. The dispensary would bring in the wrong element.

Anthony Taylor, McMinnville resident, Director of Compassionate Oregon, is against the ordinance. He added the State restrictions on the dispensaries are for public safety with enforcement by the Oregon Health Authority. Taylor referred to a copy of the temporary regulations. Implementing a moratorium to allow time for consideration of regulations is misguided.

Robert Omay, Salem resident, noted that marijuana is already being sold all over without regulation of the people or the products. This can raise money for the city. Crime is less for the states with the clinics. He asked the Council to take control and make it safer for the community by allowing a safe access point, the dispensary. Omay is owner of Trupharm, a medical marijuana grower.

Robert Staples, read a letter from his wife who has Lupus, Fibromyalgia, and CFS and is bedridden. In 2011 her doctor medicated her with opiates, which caused her system to collapse. She tried marijuana, which has kept her from dying. This is not about the recreational marijuana users, these people have medical needs. THC has psychoactive agent on people, but dispensaries are moving to the use of CBD products. Strains are being developed to address seizures in children.

Ronnie Enoch, Newberg resident, drives to Portland once a week to purchase his medical marijuana and would appreciate a closer dispensary.

Darleen Skustad, Dundee resident, supports the ordinance. She relayed her experience for the managing a Victim Witness Center in the District Attorney's office. A large percentage of the victims were involved with drugs leading them to become victimized. An estimated 90% of the people prosecuted for crime had drug related issues. This is not needed in the community. For use as a medication it should be processed through the pharmacies and be regulated through that process. She knows many who started with marijuana use and became addicted to additional drugs and none where marijuana usage improved their lives. A dispensary is not needed in Dundee.

Danielle Wait, Newberg resident, has cancer, Fibromyalgia, and is a medical marijuana user who would like closer dispensary location.

Dr. Donald Olson, Yamhill County resident, relayed his wife died two months ago of brain cancer. Legal drugs did not accommodate her pain. Olson questioned how regulation of medical marijuana will be accomplished. He supports its use; but stressed the need to have it highly controlled. It needs to be researched and monitored to collect data to understand what is going on. Olson submitted an Oregon Pain Management Commission Position Statement to the Council prior to the meeting.

Sarah Bennett, Human Collective, started the Human Collective in 2010. The medical marijuana dispensaries will be highly regulated, the medicine is tested, and alarms are required. She noted it would be in pharmacies if the federal government would change. She stated the law has been in place since 1998 for the use of medical marijuana. It is going to happen; but Bennett wants to be role model. She stressed this will not be a detriment to the city. She reminded the Council that she came before them on March 4th, she was issued a business license and she has signed a lease. She asked for permission to move forward with the dispensary.

Donald Morse, Human Collective, shared that as of this date 71 Oregon cities out of 242 have imposed a moratorium. There are over 1,000 medical marijuana patients in Yamhill County who have to travel to Portland or Salem to get their medicine. He stated citizens are afraid to support the medical marijuana issue. The Human Collective is offering safe access. They have submitted further regulations and rules they would stipulate to which exceed the State's regulations.

Deliberation:

C. Munson supported there is a lot of unknowns. It does not fit the vision for the community to benefit the majority of citizens.

C. Weaver stated the moratorium is not a prohibition. He expressed concerns with timing and location. Medical marijuana will be here in time; but it is not a cure all. It is a gateway drug; it goes with everything and is easily procured. Time is needed to learn more about medical marijuana facilities. Weaver supports the moratorium for education, training, for time for the Council and the community to better manage the issue.

C. Adlong believes the Council has enough information to understand what the facility is, what it would do, and who it would help in the community. She relates to comments received that people have a fear of supporting the issue. Adlong does not see a threat to the community from the facility and does not support the moratorium.

C. Russ stated the question is whether to adopt the ordinance to create additional regulation. The Council's actions should be true to the stated intent, limit exposure for the city, and have integrity. The Human Collective applied for a business license; which the city issued. He questioned what regulations would be added which the State Legislators has not addressed.

C. Pugsley believes in the need for the medication; but supports the moratorium listening to the voices of the community including Dr. Olson's comments noting the need for data/research.

Council President Nelson addressed the business license which was issued according to the city's regulations. He noted the Human Collective does not have a permit from the State at this time. Nelson questioned if a medical marijuana dispensary is appropriate in the central Business District and/or the other districts. A moratorium would allow the city time to be prepared.

The motion was made and seconded to adopt Ordinance No. 530-2014, an ordinance of the City of Dundee declaring a moratorium on medical marijuana facilities, and declaring an emergency. **The Vote:** Council President Nelson-aye, C. Adlong-nay, C. Munson-aye, C. Pugsley-aye, C. Russ-nay, and C. Weaver-aye. **The motion** passed four in favor of the moratorium to two. The ordinance will come back for the second reading at a Special Council meeting prior to the Budget meeting on April 24th at 6:45 P.M.

Budget Committee Appointment

One application was received for the Budget Committee from Isaiah Cox. Mr. Cox has not verified that he has updated his voter registration in the City. **The motion** was made and seconded to appoint Isaiah Cox to the Budget Committee for term ending December 31, 2016, contingent on the update of his voter registration. **The motion** passed unanimously.

New Business

Yamhill County Economic Development Grant

A summary of the applications to the Yamhill County Economic Development Grant program was distributed to the Council. The Commissioners rejected the City's application for a \$10,000 grant (with a \$5,000 match) for an Urban Renewal Feasibility Study. They want to fund projects

with immediate impact with business. Also, the forming of an urban renewal district may be seen as being controversial. Dundee was invited to submit a new application for an amount of \$2,500 or less, provided that it is received before the Commissioners start reviewing the proposed budget. Daykin noted several of the successful grant applications are from downtown associations. Suggestions for the application included: banner flags, publicity brochures or a kiosk. The Tourism Committee will bring back a proposal after their April 28th meeting.

Council Concerns and Committee Reports

None.

Mayor's Report

Council President Nelson thanked the Council for the healthy discussion on the medical marijuana facility moratorium issue tonight.

City Administrator's Report

The Technical Assistance grant workshop reviewing the downtown commercial zones and design standards will be held on Wednesday, May 21st at 7:00 P.M.

The City is eligible for an additional ETO incentive of \$8,500 for the streetlight conversions from high pressure sodium (HPS) to LED; the paperwork has been filed. Work should start in the next couple of weeks. About forty of the two hundred plus existing lights to be converted are being modified for a lower LED lumen conversion to their HPS counterpart.

The inverter at the fire station, which would have allowed for continued use when the power is down, will not work due to the power being three phase. The basic inverter will be used for the solar system.

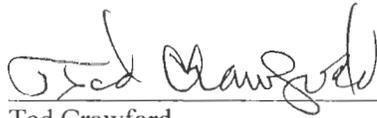
Assistant City Recorder Manning updated the Council on the proposed venue for the upcoming Local Government Dinner on August 21st at the new Fire Hall. It will be catered by the Volunteer Firefighters with a no host beer bar by Deception Brewery, our new local business. She asked the Councilors to consider donating an item for a City basket for one of the door prizes.

Public Comment:

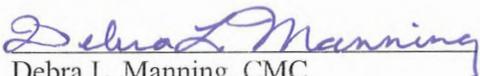
Lisa Erb, LMT, Solstice Body Arts, inquired if there are certain businesses the city does not want. C.A. Daykin noted the zoning code delineates the uses in the commercial zones and it is currently under review. She noted that she doesn't want a medical marijuana dispensary next to her business.

Police Chief Casey complimented City staff on the quick notification of a water leak at his residence.

The meeting was adjourned at 10:16 P.M.


Ted Crawford
Mayor

Attest:


Debra L. Manning, CMC
Assistant City Recorder