

**CITY COUNCIL MEETING  
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August 20, 2013**

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**City of Dundee**  
**City Council Meeting Minutes**  
**August 20, 2013**

**Call to Order**

Mayor Crawford called the meeting to order at 7:02 P.M.

**Council and Staff Attendance**

Present: Mayor Crawford, Councilors Adlong (left 10:41P.M.), Munson, Nelson, Pugsley, and Weaver. Excused absence: Councilor Russ. Staff members: Rob Daykin, City Administrator, and Peter Watts, City Attorney, Captain Chris Bolek, Newberg-Dundee Police Department, and Debra Manning, Assistant City Recorder.

**Public Attendance**

Brian Fields, Mariann Hyland, Lisa Erb, Solstice Body Arts, Steven Erb, Kevin Moore, Louise Myers, Peter Siderius, Russ Halstead, Stan Stupor, Craig Nies, Dundee Garden Art, Gale Nies, Christie Mavredakis, West End, Hal Medici, Nathan Roedel, Newberg Public Schools, James Schultz, Valerie Schultz, Roger Patocka, Chong Park, Joyce Colling, Art Matheny, Dundee Covenant Church, and Gary Langenwalter, Dundee United Methodist Church.

**Agenda Changes**

None.

**Public Hearing: Local Improvement District No. 2013-1**

Mayor Crawford called the hearing to order at 7:03 P.M. for the hearing to consider testimony on the proposed construction of sidewalks and other public improvements along Highway 99W from First Street to Parks Drive and formation of a local improvement district to partially fund those improvements.

City Engineer Eaton advised the scope of the Transportation Enhancement (TE) grant (\$1.5 million) is to construct new sidewalks where none currently exist, provide connectivity, replace existing sidewalks in "poor" condition, improve crosswalks, comply with state, local and ADA laws, provide for increase pedestrian lighting, provide landscaping and other pedestrian amenities. The engineer checked the project for compliance with current standards and found many American with Disabilities Act (ADA) compliance issues and poor condition sidewalks. The only ADA compliant driveway along Highway 99W is the ARCO station. A concept plan and cost projections were prepared using ODOT's costing methodology resulting in an estimated \$400,000 shortfall for the project. The Council directed the City Engineer to prepare a preliminary report using specific formulas for each type of work. The city will share 50% of the cost for sidewalk improvements; the property owner's 50% was split 50% to the frontage of each lot and 50% to the area. The city will pay 25% of the cost for driveway improvements, with the assessed cost of the driveways shared equally by the properties served by the driveway. Property owners will be responsible for 100% of the curb improvement cost where none currently exist, and assessed on the basis of linear frontage. The TE grant and City match will also fund required drainage and water quality improvements. Additional costs not included in the LID assessments: illumination, crosswalk improvements, landscaping, safety improvements and pedestrian activated signals to First Street and Parks Drive intersections, surveying, design, environmental aspects of the project, and ODOT's highway surface preservation project costs.

Councilor Weaver asked for confirmation that the property owners will not be assessed for underground improvements. City Engineer Eaton confirmed they would not be responsible for

underground work. Weaver inquired what the water quality elements include. Eaton responded water runoff from the road surface has to be cleaned of oils and greases prior to reaching pipes or the receiving basin.

Mayor Crawford questioned the City's match for the grant. Daykin confirmed an estimated 10% of the project cost. Crawford asked what other city funds would be earmarked for the project. Daykin replied the city will dedicate \$177,000 from street funds, \$300,000 from water funds, and \$135,000 in bike/pedestrian funding. Project completion is expected in 2014 after which the final assessment will be compiled from the actual project costs, mailed to the property owners; followed by an opportunity to discuss the final assessment before the Council. The next step would be adoption by the Council of an ordinance spreading the assessments. The property owners would have thirty days to make a payment; at the end of thirty days the unpaid balance would go on a ten year installment plan, with no prepayment penalty.

Councilor Pugsley inquired the process for the terms. Daykin replied the City will probably seek financing of the debt with a ten year term; subject to current loan rates. The terms of the financing would be part of the ordinance that spreads the assessments.

#### **Public Comment**

Brian Fields, 875 Highway 99W, questioned the sixty foot driveway frontage and why a driveway for Ninth Street in lieu of asphalt. He noted the whole community benefits from the improvements not just the property owner.

Lisa Erb, 1226 Highway 99W, expressed concern that the \$12,000 assessment is a lot of money. She questioned why not use pavement for the driveway. Erb relayed her driveway is ADA compliant. She estimated she could construct a sidewalk at less cost.

Kevin Moore, 291 Highway 99W, asked for a basic cement sidewalk. He noted the design plan has a sidewalk across Third Street; a street which has not been paved for about thirty years. He feels that all the citizens should pay for the improvements and is against the LID.

Louise Myers, recently purchased the property at 1200 Highway 99W. They have been working on cleaning up the property; which was full of garbage. Myers noted they can't afford an assessment of \$8,500 on a property which they do not have any current plans for.

Peter Siderius, 1025 Highway 99W, expressed concern that the plan does not reflect access to Highway 99W for his property. He likes the improvements. Siderius supports all citizens helping fund the improvements; which he feels can be placed at less cost and be ADA compliant.

Russ Halstead stated he is against the LID. He relayed it is unclear to him whether he owns the property with the ten foot frontage; which he believes he gave access to the City for development of Ninth Street to Tenth Street.

Craig Nies, 225 and 792 Highway 99W, supports the improvements as beneficial for their long term plans. He expressed concern with recovering the cost of the assessment if the property was sold in the short term. Nies inquired how common is a LID.

Christie Mavredakis, West End, agreed with the importance of the sidewalk project, but she concurred with the need for the citizens to help pay for the project. She expressed concern that the construction will adversely affect businesses on the highway.

Stan Stupor, 992 Highway 99W, expressed his concern that it is a large financial burden for the business owners along the highway. He questioned the idea of making it pedestrian friendly; then they should help pay for the improvements. He asked for further discussions on the LID.

Kevin Moore added that the school should not be assessed and suggested flashing lights be installed at the school crossing.

Pete Siderius asked if a special improvement district had been considered for the project.

Valerie Schultz, 179 SW 3rd Street, relayed as a homeowner she does not have the funds to pay for the assessment and asked for all the citizens to be included.

### **Final Questions**

C. Pugsley asked for options for people who wish to construct the improvements themselves. Eaton cautioned excepting out properties could cause issues with the scope of the project and the terms of the grant requirements. Property owners wishing to do the improvements themselves would need to go through ODOT for permits for their work.

City Engineer Eaton addressed questions: the ADA driveway width requirements for state highways for a two car driveway (twenty-four foot) is forty-eight feet (a twenty-four foot addition to any driveway width), the district includes property owners who have access to the highway as their only access within two hundred feet of the highway

Mayor Crawford asked Eaton to address the differences in the assessments. Eaton clarified the *Improvement Cost* column on pages 27 and 28 of the packet includes all the improvements: sidewalks, driveways, curbs, illumination, storm water facilities, survey, design and environmental impacts. The *Estimated Assessment* column is the property owner's portion of costs for the sidewalks, driveways and curbs. Driveways and curb improvements are more costly than sidewalks; with driveways costing an estimated 2.5 times the cost of a sidewalk construction. The ratio between the improvement cost and the estimated assessment varies with each property depending on the extent of new curbs and driveway improvements, and whether driveways are shared between properties.

Eaton clarified there is a type B driveway slated for the Siderius property; which is similar to what will be constructed for the Fire Department. The type B is required for properties with elevation issues to the highway. Siderius asked if the sidewalk could be placed behind the driveway. Eaton advised the problem for the City would be right-of-way (ROW) acquisition; which is a long drawn out process with a federal job. The City could not even accept a ROW donation.

Mayor Crawford questioned the Special Improvement District. City Attorney Watts shared it allows a private property owner, with an improvement which could benefit a large number of people, to fund the improvement. Neighboring property owners developing within ten years would have to pay back their percentage of the cost; otherwise they would not have to pay for the improvements. Daykin stated that would be referred to as a Reimbursement District in the Dundee Municipal Code; which would not be applicable for this project. Example: A private developer building a sewer line, with undeveloped property in between the existing sewer main and his destination. Future development of the in between property, within the set timeline, would be required to reimburse the original investor for the improvement costs.

Councilor Adlong questioned the sidewalk cost versus an "average sidewalk" and what features would be included. She also questioned the cost of an asphalt driveway versus a concrete

driveway. Eaton replied the sidewalk is a standard six foot wide sidewalk. There is no additional cost for the scoring pattern; which also facilitates maintenance issues. Included in the improvements, but not assessed in the LID, is a ten foot section of asphalt behind the concrete driveways to prevent future damage to the concrete. He clarified it is cheaper to construct sidewalks/driveways through the stub street sections, such as Tenth Street, rather than to construct all the required ADA improvements for an intersection.

The Mayor inquired the methodology for the interest rate. C.A. Daykin suggested one option is using the League of Oregon Cities LOCAP financing program, a capital funding pool. Daykin estimated a 4% interest rate for a ten year term. C. Nelson questioned how long of a term could be set for payments. City Attorney Watts counseled the Dundee Municipal Code has installments for a period of ten years according to terms determined by the City. A longer term would take a code amendment.

C. Pugsley asked for options to include a greater portion of the citizens in Dundee for the Highway 99W improvements. C.A. Daykin clarified that property owners of currently undeveloped property would be required to pay for the full cost of these improvements plus storm water improvements when they develop their property in the future. This project will remove this condition of improvement from these properties. He also noted that current City code places the responsibility on the property owner for the cost of replacement of sidewalks in poor repair, non-compliant or a safety hazard. LIDs have been in effect for over a hundred years and are commonly used to extend city funds. Other possible funding options: increase the franchise fees and dedicate the increase to the project, establish a transportation utility fee, set up a utility fee to pay for streetlights freeing up gas tax revenues for the project. These options will not bring in large dollar funding on their own. Daykin expressed concern that the project is subject to a timeline; where the City can lose TE grant funding if it is not kept.

Siderius asked if consideration had been given to limiting the scope of the project; placing the infrastructure and completing the rest of the improvements in the future. Daykin shared that had been considered; possibly placing improvements on existing developed property and limited infrastructure on undeveloped property. Siderius suggested shortening the length of the project. Eaton cautioned rescoping the project would bring us in conflict with Department of Justice issues with the American with Disabilities Act.

C. Pugsley inquired how going back to the project's original scope would affect the cost. Eaton replied we would still be short on funding, but the main issue is the original proposal did not include allowances for driveways. Once you start on the sidewalks you must bring the rest into compliance. Eaton relayed the question would be to the grant agency to determine if the scope of the project can be changed to First Street to Twelfth Street or Fifth Street to Parks Drive. He cautioned that changing the scope will affect the other funding mechanisms and the Newberg/Dundee Bypass (which plans on connecting to our sidewalks). ODOT is now highly focused on water quality; which was not anticipated during the original scope.

Kevin Moore questioned landscaping plans and cost. C.A. Daykin advised it is not a major component. There are landscaping opportunities at the street stubs (such as Eighth and Tenth streets), at the upper end of town where the ROW is wider, and for a water quality rain garden. Eaton noted landscaping also includes repair to damaged landscaping after completion of the improvements.

Councilor Munson inquired the cost of the landscaping and if it was part of the assessment. Eaton confirmed it is not part of the assessment; the estimated cost is \$40,000. Siderius, Newberg High Horticulture, offered help with landscaping. Daykin shared the project will be designed by ODOT

and the bids specifications will be combined for the Dundee's TE project and ODOT's Preservation project.

Decisions will not be made at this meeting; the September 3rd Council agenda will include discussion on the total funding package and other possible funding sources. The hearing was closed at 8:35 P.M.

**Deliberations:**

Deliberations were continued to the September 3rd Council meeting.

**Public Comment**

None.

**Consent Agenda**

**The motion** was made and seconded to approve Consent Agenda item 6.1 City Council Minutes, August 6, 2013. **The motion** passed unanimously.

**Old Business**

**TE Sidewalk/Streetscape Project Update**

The funding sources for the project were noted on page 37 of the agenda packet. A Lighting Evaluation Summary was distributed. City Engineer Eaton referred to the new options provided by the consultants. He suggested picking one from each manufacturer to promote competitive bidding. The Swan and Domia fixtures are lower cost options. The estimated price includes the BD 11 base cover; a split base which wraps around the pole and can be upgraded in the future.

The double poles are twenty-four feet in height to place 40 LED light over the sidewalk and an extension of light into the crosswalk. Arm options considered include shepherd's hook or a straight arm; the straight arm is recommended for the upper arm to achieve the light extension over the crosswalk. The total project budget estimate is just short \$800,000 for illumination and landscaping. The new estimate comes close at \$863,900 for ninety poles. He polled interest in a lower eighteen foot height and more candle power; with the Council majority consensus for the lower height. The Engineer will forward the information to the consultant to finalize pole placement for coverage needed. Any shortfall from the final contractor's estimate will determine final placement/changes. After further discussion the majority consensus was in favor of the Swan and Domia fixtures, a straight pole, base cover BD 11, and the shepherd's hook. The poles are aluminum and can support banners and/or flower baskets. Eaton noted that PGE's standard arm is a four foot extension; which would work for the upper arm.

**Use of Local Streets for Bypass Construction Activities**

Item 7.2 was tabled to the September 3rd Council meeting.

**Street Paving Bids**

Councilor Nelson recused himself from the discussion and the vote. The Engineer's recommendation is to award the base bid to the lowest bidder. **The motion** was made and seconded to award the bid for the 2013 Street Overlay Improvements to the lowest bidder, Roy Houck Construction, LLC, at \$46,055. Engineer Eaton recommended waving any irregularities or informalities in the bid documents and authorizing the City Engineer to administer the project in accordance with project specifications. **The motion** was amended and seconded to wave any irregularities or informalities in the bid documents and authorize Engineer Eaton to administer the project in accordance with project specifications. **The motion** passed unanimously with C. Nelson abstained.

## New Business

### Community Supper Program

Gary Langenwalter, Dundee United Methodist Church, estimated a cost of \$100 for the community suppers; \$2,400 would fund twenty-four suppers with two a month. Additional funding will be sought to fund the remaining two weeks each month. They have been averaging sixty meals including “to go” meals with any leftover food going to Love Inc. The demographics of the attendees have not been surveyed.

Art Matheny, Dundee Covenant Church, added they are getting new attendees, including people new to the City. Some of the “to go” meals have been delivered by attendees to some of the elderly in the community. The attendees are staying after the meal to talk.

C.A. Daykin suggested promoting the supper through venues other than the grade school. He suggested targeting seniors. Langenwalter advised flyers have been distributed to the Rose Park Apartments. Matheny went door to door at Rose Park and at the Dunhill Apartments. He inquired if the City newsletter could post the information. Roger Patocka added that local VFW members have attended. The supper is held at the Methodist Church; which has been certified by the County Health Department.

C. Munson inquired who manages the funds. Langenwalter replied the funds are in the care of the United Methodist Church’s Treasurer.

C.A. Daykin suggested upfront quarterly payments, with a report of the quarter’s activities.

City Attorney Watt relayed issues with a similar program in West Linn. He cautioned there is an organization that examines the exchange of funds from a municipality to a church. Their focus is to bring lawsuits against any municipalities with an activity involving proselytizing. There is a prohibition if proselytizing is used. He cautioned volunteers and church leaders not to address spiritual issues at the function; to maintain the separation between church and state.

**The motion** was made and seconded to direct the City Administrator to prepare and execute an agreement for the use of City funds supporting the Community Supper Program with advance quarterly payments. **The motion** passed unanimously. The City Attorney suggested a contract for twenty-four dinners paid out at four at a time.

## Old Business

### Ordinance No. 521-2013, Dundee Development Code

**The motion** was made and seconded to adopt Ordinance No. 521-2013, an ordinance amending the Dundee Municipal Code to adopt a new Title 17, to be known as the Dundee Development Code. C. Nelson confirmed the code was reformatted with minor corrections. C.A. Daykin confirmed there were minor corrections, wrong references, and minor policy adjustments and changes to comply with State law; which Planner Nunley reviewed during the Council workshop. Mayor Crawford noted the zoning for destination resort was removed. Daykin confirmed it was never used and therefore removed. **The motion** passed unanimously.

### Ordinance No. 522-2013, Noise

Ordinances 522-2013 and 523-2013 return from discussion of chronic nuisance properties at the last meeting. The noise nuisance was subject to a “reasonable person” standard, staff developed a regulation using decibel thresholds to determine if there is an unwanted noise violation. The noise nuisance has been separated from the Nuisance ordinance to be a standalone chapter in the Dundee Municipal Code. It was modeled after Newberg’s ordinance. One exception being the

City of Newberg uses a permit process for specific exceptions; whereas this ordinance uses a variance process to approach the Council for a variance.

C. Adlong referred to the previous discussion of the number of occurrences within the number of days. Daykin stated the Chronic Nuisance Property ordinance is a hybrid with a short and a long time period to consider; three events within sixty day continuous period and a longer six month period. The emergency clause will allow it to go in effect immediately with a unanimous vote.

Mayor Crawford inquired who the appropriate responsible agency would be under section 8.28.050 Exemptions for sporting events. Daykin recommended naming the agencies: the Newberg School District, Chehalem Park and Recreation District. Captain Chris Bolek, NDPD, suggested limiting the hours. The amended wording "...authorized by the Newberg School District or Chehalem Park and Recreation District, for events that are held within the boundaries of the city between the hours of 7:00 A.M. to 10:00 P.M."

C. Nelson suggested expressed concerns with the allowance of five minutes for testing of emergency signals and with the proposed decibel levels, and asked for a demonstration of the levels. Daykin reminded the Council we were trying to adopt a consistent standard with the City of Newberg's to facilitate the efforts of the NDPD. Bolek advised Newberg's ordinance, in effect for five years, has worked well for the police department. The courts will not prosecute on a "reasonable person" standard.

**The motion** was made and seconded to adopt Ordinance No. 522-2013, an ordinance relating to noise and amending the Dundee Municipal Code correcting section 8.26.020 4.i to ...such test cycle time exceed two minutes and to section 8.28.050 1 ...authorized by the Newberg School District or Chehalem Park and Recreation District, for events that are held within the boundaries of the city between the hours of 7:00 A.M. to 10:00 P.M. C. Nelson requested examples of decibel levels. The motion was withdrawn to allow examples to be brought returned to a future Council meeting.

### **Ordinance No. 523-2013, Chronic Nuisance Property**

C. Nelson inquired if the ordinance is in compliance with landlord tenant laws. C.A. Daykin stated the ordinance is modeled after the City of Hillsboro's regulation. The intent is to notify the owner prior to a violation situation of complaints received and what enforcement actions and additional complaints would levy. Bolek assured the Council that this would be a proactive tool to address situations prior to becoming violations. Daykin clarified once cited the owner would appear before the Municipal Court Judge; who would review the evidence and issue a verdict. City Attorney Watts noted staff has the authority to take into consideration a property owner appealing to the City with extenuating circumstances in the decision to commence a civil action. **The motion** was made and seconded to adopt Ordinance No. 523-2013, an ordinance relating to chronic nuisance property and amending the Dundee Municipal Code. **The motion** passed unanimously.

## **New Business**

### **Employee Medical Plan/VEBA Change Proposal**

The City Administrator noted the Request for Coverage to CIS has to be completed by month end. Continuation of the current program, Copay A with a \$250 deductible, was included in the budget. An opportunity to provide good coverage at a lesser cost is Copay B (per person deductible increases to \$500). Copay B is lower premium cost to the city. Staff recommended increasing the VEBA to offset the deductible by an equal amount. The end result is a reduction of premium cost to the city and the out of pocket cost to the employee. Also, the change allows more control by the employee on the use of health care dollars. **The motion** was made and seconded to

authorize the City Administrator to complete the Request for Coverage to CIS for the Copay B medical plan and to direct the preparation of a resolution adopting the amended VEBA schedule effective January 1, 2014. C. Pugsley inquired on the employees' input. Daykin relayed the proposal was presented at an employee meeting and was received favorably. **The motion** passed unanimously.

### **Council Concerns and Committee Reports**

The "Welcome to Dundee sign has been approved by ODOT and is close to the final design. The Dundee AVA will contribute \$5,000 to the cost of the project.

C. Nelson suggested additions to the Council packet be added to the next meetings packet under the Consent Agenda. The additions will be posted to the website as an addendum to the current packet. Once the TRIM site is available the public will be able to access the full final packets in the archives.

### **Mayor's Report**

None.

### **City Administrator's Report**

The arborvitae along the City Hall parking lot will be removed this week. Staff met with Scott Picker, Aspen Creek Landscaping, who will help design the new landscaping; which will be placed with the help of George Fox University students during their Community Serve Day on September 11th.

K& R Plumbing construction negotiated a price of \$1.50 per cubic yard (4,000 cubic yards) to move excavated material to complete the berm for Lagoon 1 at the WWTP. The material they had placed from the Eighth Street waterline relocation project is reducing the amount of material needing to be moved.

### **Public Comment**

None.

### **Executive Session:**

The City Council entered Executive Session at 10:50 P.M. in accordance with ORS 192.660 (2) (h) to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed. Executive Session ended at 11:20 P.M. and the Council did not reconvene.

  
Ted Crawford  
Mayor

Attest:

  
Debra L. Manning, CMC  
Assistant City Recorder