

**CITY COUNCIL MEETING  
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September 2, 2014**

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**City of Dundee  
City Council Meeting Minutes  
September 2, 2014**

**Call to Order**

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

**Council and Staff Attendance**

Present: Mayor Ted Crawford, Councilors Jeannette Adlong (7:21 P.M.), Jennifer Munson, Storr Nelson, Doug Pugsley, David Russ, and Tim Weaver (7:52P.M.). Staff members: Rob Daykin, City Administrator, John Stock, Fire Chief, Peter Watts, City Attorney, and Debra Manning, Assistant City Recorder.

**Public Attendance**

None.

**Agenda Changes:**

Added item 5.3 OLCC Liquor License Application, Chapter 24 Vineyards, LLC to the Consent Agenda.

**Public Comment:**

None.

**Consent Agenda**

**The motion** was made and seconded to approve Consent Agenda item 5.1 City Council Minutes, July 15, 2014, 5.2 City Council Minutes, August 5, 2014, and 5.3 OLCC Liquor License Application, Chapter 24 Vineyards, LLC. **The motion** passed unanimously.

**Old Business**

**Fire Station Project Update**

An updated summary for Baldwin General Contracting Inc. was handed out to the Council including Change Order No. 8. Chief Stock advised that the punch list should be completed this week with the exception of the flooring. The USDA representative reviews the status of the building with Chief Stock every month. He recommends requesting the finish work/painting be corrected to address problem areas; the architect will draft wording to address these concerns with the contractor. The building is functioning well. Stock informed the Council that the Fire Department volunteers donated time setting up the new station and they purchased the big screen television and chairs for the recreation room. City Administrator Daykin noted another moisture test on the flooring will be completed in a couple of weeks to determine if the moisture content is low enough to finish the flooring installation. He asked if the Fire Department had considered hosting an open house. Stock added they would like to hold an open house the second week in October before the rainy season hits. Daykin stated that the parking area striping is scheduled to be completed by October 16th.

**Baldwin Construction Contract – Change Order 8**

Change Order No. 8 includes charges for over excavation work on parking lot and driveway areas. Councilor Nelson questioned if Mackenzie has any financial responsibility for the items under the column for Drawing and Construction Coordination on the handout. C.A. Daykin shared counsel from City Attorney Hickey that the architect standard is if the design was completed to a reasonable expectation. City Attorney Watts noted the general understanding is that there are changes that will need to be made as the project moves forward. Architects are

liable for elements of design which they did not address or fundamental changes due to the design engineering. Daykin noted that Mackenzie initially thought they could accommodate the city's request to expand the SIP (structural insulated panels) panel construction part way thru the bid document preparation without additional cost. There were additional costs for the changes which they did not bill. **The motion** was made and seconded to approve Change Order No. 8 in the amount of \$23,773.61 to the contract with Baldwin General Contracting Inc. for the Fire Station construction project. C. Nelson questioned the eleven extra days for March due to weather delay. Daykin relayed the City Council had previously approved the eleven days under a previous change order but the amount did not get added into the change order total. **The motion** passed unanimously.

### **Acorn Street Light LED Conversion Proposal**

Tracy Aguilar, PGE, has confirmed that they do not have options for different globe covers or wattages for the two LED conversion options offered for the high pressure sodium (HPS) Acorn lights. The light from the LED Acorn Acrylic fixtures appears to refract outward; this would not meet the intent of the Exterior Lighting standards. The Holophane LED light is a full cut off with the light directed downward. It is the more expensive option and staff has not been able to find a site with these in place to view the light performance. PGE does not have a decorative LED Town & Country light currently. It is possible that light could fit the same posts currently holding the Acorn lights. With the recent conversion of the Cobra HPS street lights to LED, the majority of the street lights now comply with the Exterior Lighting regulation. The City will have to resolve the nonconforming status with the current decorative lights in about seven years. We can wait for a replacement for the Town & Country lights and possibly consider using it where the Acorn lights are currently located.

Councilor Adlong stated that if you can see the light; the light is heading towards you. Mayor Crawford inquired the cost. Daykin estimated the increase in the annual street light cost for replacing the HPS Acorn lights with the full cutoff Holophane LED fixture at \$2,127 for all eighteen lights. Under Option A the installation of the LED light is recovered through the rates and PGE is 100% responsible for maintenance. The City Attorney cautioned it is important that the new lights comply with the Exterior Lighting regulation; if they don't comply the city is responsible for the compliance of the lights now as the preexisting condition goes away. The majority Council consensus was to wait for more options. Daykin stated that there are three 200 w HPS Acorn lights on Ninth Street. He suggested that PGE might be able to reduce the wattage on the three lights to 100 w HPS during their normal maintenance. The majority consensus was that the Council wants to see a LED option for the Town & Country light fixture and to request PGE reduce the wattage on the three lights on Ninth Street to 100 w HPS.

## **New Business**

### **Ordinance No. 533-2014, Marijuana Tax**

This returns from the last meeting with Council's direction to draft an ordinance for consideration. City Attorney Watts noted that the New Approach Oregon Initiative on the November ballot would prohibit cities from passing a tax on marijuana and marijuana-infused products. The tax needs to be pre-existing, if a city does not have a tax at the time the initiative passes the city is prohibited from taxing marijuana. The State currently has a tax of which the city receives 10% percent based on population. Watts shared reports on the impact of legalized marijuana in the state of Colorado; where drug arrests are down, driving under the influence is up, and the number of homeless is up dramatically. An ordinance must be passed prior to the November election if the city wants the option to tax marijuana in the future. C.A. Daykin noted the draft of the ordinance was not publically posted one week in advance as required for adoption by unanimous approval in one meeting; therefore it will return to the September 16th meeting for a second vote. Councilor Adlong questioned if the city would receive a portion of the state tax if marijuana was not allowed in the city. Watts stated his understanding of the initiative is in the

beginning the amount of the state tax the city would receive would be based on population on a per capita basis and later the tax becomes based on the amount of marijuana sold in the city rather than the population. If the initiative passes the medical marijuana program would probably cease since marijuana would be legal and there is would no longer be a reason for a separate system for medical users. Currently there is no state tax on the medical marijuana sold.

C. Nelson asked if the tax percentage splits on were 5% for medical marijuana and 10% for recreational marijuana. Watts confirmed this. He noted the city will have the option of raising or lowering the tax amounts after the election. If the City Council deems they do not want a tax then the tax can be lowered to 0% and later it can be raised to address expenses associated with the changes in the law.

C. Pugsley questioned if this would allow taxing a medical marijuana facility in the city if the initiative fails and the Council regulates medical marijuana. Watts confirmed.

Councilor Munson questioned why an earmark for the usage of the funds was not included in the ordinance. Watts suggested holding off on an earmark for the funds and seeing what the system is that goes into place. Usages for the funds might change as it evolves and that decision could be dependent on the amount of revenue received. C.A. Daykin inquired if some cities are adopting a tax and prohibition at the same time. Watts replied cities are doing a variety of options; including extending the moratorium and prohibiting it whether it is medical or non-medical marijuana. The New Approach Oregon group is well funded and it could be if this passes some of the cities, prohibiting marijuana, will have lawsuits filed against them. C. Nelson supports an earmark for the funds and suggested "Whereas the tax collected is intended to fund the governing and policing of marijuana sold within the city limits". C. Russ offered wording noting for the "health and safety". Watts recommended "the proceeds from the city tax are intended to be used for public health and safety purposes". After further discussion **the motion** was made and seconded to amend Ordinance No. 533-2014 to add an additional "Whereas, the tax collected is intended to fund public health and safety." **The motion** passed unanimously.

C. Munson expressed a concern that an opportunity exists for this type of business not to claim all of its gross sales. The City Attorney advised that the initiative will be administered by the OLCC. The selling store would be regulated by the OLCC; probably a statewide warehouse system tracking the amounts with price controls. The same structure doesn't exist for medicinal marijuana; where the growers bring it to the stores; who sell the marijuana on a cash basis which is more difficult to track.

**The motion** was made and seconded to adopt Ordinance No. 533-2014, as amended, an ordinance establishing a tax on the sale of marijuana and marijuana-infused products in the City of Dundee. **The motion** passed unanimously. The ordinance will return for the second reading on September 16th.

## **Council Concerns and Committee Reports**

None.

## **Mayor's Report**

The Newberg/Dundee Bypass bid came in \$4 million under the bid expectation. ODOT noted that right-of-way (ROW) acquisitions and utility conflicts are costing more than expected.

## **City Administrator's Report**

Staff met with Baker Rock, who was awarded the street paving projects. Notices will be delivered to residents this week with the work starting on the projects next week. There will be excavation work to add a hammerhead at the end of Laurel Street to accommodate emergency vehicles and

dig outs on failing portions of Alpine Street. They will be working on several locations in the city at the same time.

Mayor Crawford questioned what improvements were made to View Crest Drive last week. Daykin replied a surface sealer was applied on View Crest Drive between Ninth Street and Tomahawk Place.

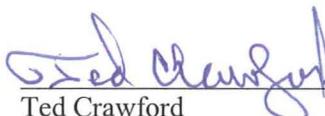
Photos of the contaminated soils at the Fire Station were distributed to Council members. The bottom photo is about 230 cubic yards of clean material and there is about 490 cubic yards of contaminated soil covered in visqueen in the top photo. The final soil test was delivered to the lab today and the results should be back in about one week. The contractor will evaluate the next stage based on the results. The city will have to do a contingency investigation where a driller will take core samples at various locations to determine the extent of the contaminated plume and a report will be delivered to DEQ. The consultant wants to fine tune the costs before bringing an estimate back to the Council. The hole has been filled and The Saunders Company will finish compaction tomorrow. Then the order will be given for the Fire Station contractor to resume work. Daykin estimated the total cost of all work related to resolving the contamination at \$54,000. The cost and the process for the land farming at the WWTP is not known; it will include staff training, DEQ permits, and costs to secure the perimeter around the contaminated soil. The intent is not to have to take the soil to an outside disposal site which is very expensive. C. Adlong asked for additional information on land farming. C. Nelson stated generally land framing is accomplished naturally by exposing the contaminated soil to the air until tests come back clean; this could take one to two seasons.

**Public Comment:**

None.

**Executive Session:**

The City Council entered Executive Session at 8:14 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 8:48 P.M. and the Council did not reconvene.

  
Ted Crawford  
Mayor

Attest:

  
Debra L. Manning, MMC  
Assistant City Recorder