

**CITY COUNCIL MEETING
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March 19, 2019**

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City of Dundee
City Council Meeting Minutes
March 19, 2019

Call to Order

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

Council and Staff Attendance

Present: Mayor David Russ; Council President Tim Weaver; Councilors Storr Nelson, Kristen Svcarovich, Patrick Kelly and Ted Crawford. Absent: Councilor Jeannette Adlong. Staff members: Rob Daykin, City Administrator; Dan Olsen, City Attorney; Melissa Lemen, Administrative Assistant; Chuck Simpson, Pubic Works; and John Stock, Fire Chief.

Public Attendance

Bram Davidson; Beth Staats; Brian Staats, 792 SE Boysen Lane; James Rollandi; Phillip Staats; Dawn Nelson; and Allie Rollandi, 701 SE Locust Street.

Agenda Changes

Item 7.0 Water Service Truck Purchase Request was added to New Business.

Public Comment

Phillip Staats, 792 SE Boysen Lane, approached Council inquired about the possibility of completing maintenance or improvement work on the Harvey Creek trail for his Eagle Scout project. Staats explained that he would complete the work along with a couple of additional troop members. Council voiced support of the idea and suggested presenting a plan to the City Administrator and Parks Advisory Committee for approval. C.A. Daykin indicated that he will contact Staats with information pertaining to when the next Parks Advisory Committee meeting will be held.

Consent Agenda

A **motion** was made and seconded to approve Consent Agenda item 5.1 City Council Minutes, February 19, 2019 and Item 5.2 Financial Report Ending February 28, 2019. **The motion** passed unanimously.

Old Business

Locust Street LID Assessments

C.A. Daykin discussed information contained in his agenda report on page 35. He discussed that since the meeting on February 19, 2019, the City Attorney did write a letter to the developer, Del Boca Vista, demanding payment for the extra costs related to the relocation of improperly placed water meters. He stated the City has not received a response from the developer. C.A. Daykin discussed the two alternate final assessment schedules on pages 39-41 in the agenda packet. Discussion ensued with regard to potential options for Council to consider. He pointed out that there is a provision in the Code that Council has 60 days to resolve any objections of assessments from the February 19 meeting. C. Atty Olsen confirmed that it was their evaluation that the City has a right to demand payment because clearly the meters were not installed where the as-builts said they were installed. He explained that if the developer doesn't respond to their request, they would want to complete further evaluation before making a recommendation that the City move forward with a lawsuit. C. Atty Olsen discussed that they determined that Del Boca Vista's bond was not the best option for a couple of reasons though mainly because the bond was really

directed towards the public improvements that were in the right-of-way; part of the issue is that the discussed improvements were supposed to be private improvements outside of the right-of-way. He clarified that the bonding company bonded to put in the water and sewer lines and not the meters. Discussion ensued and C. Atty Olsen explained that bond companies are very difficult to recover from unless there is a pretty clear case; it was determined that the recourse against the developer was more likely than recourse against the bond. Discussion ensued and C. Atty Olsen explained that in Oregon there is a requirement for either a contractual provision or statutory provision covering attorney fees before claiming those. He provided clarification that though they feel confident that Del Boca Vista should be paying the incurred \$9,060.98 in additional costs as their responsibility, they haven't taken the next step and evaluation that would go into filing a lawsuit; this could be done if Council directed. Additional discussion ensued. C. Atty Olsen explained that regardless of which decision the City makes it doesn't preclude them from filing and attempting to recover; if the City absorbs the costs and funds are recovered then the City would be reimbursed, if the property owners were to be assessed and they were to recover there could be some sort of reimbursement back to the property owners. Discussion ensued.

James Rollandi, 797 SE Locust Street, approached Council and expressed appreciation for their efforts in attempting to collect the additional costs incurred from Del Boca Vista. He discussed his belief that this matter should be between the City and the Developer, and doesn't feel the property owners should be responsible to pay for the additional relocation costs incurred; he cannot afford these additional costs. Mr. Rollandi voiced support of the funds being absorbed by the City and distributed as a whole; the nearby park is enjoyed by all. He indicated that he has been a part of the Dundee community and is looking forward to watching the area continue to grow, and stressed the importance of the City Council making the best decision regarding this matter.

Allie Rollandi, 701 SE Locust Street, introduced herself to Council and explained that she was unable to attend the previous Council meeting. She discussed her belief that it would be unfair of the City to ask the property owners to pay the additional costs and noted that she cannot afford to pay an additional \$1600. Ms. Rollandi explained that she had thought this had all been sorted out prior to signing for the house; it was her understanding that the builder was going to pay for the street and the sidewalks, etc., and that the property owners would not be responsible for those costs. She expressed appreciation that the City is attempting to collect the additional funds from Del Boca Vista, and indicated her belief that they should be held accountable as they placed the water meters incorrectly.

Discussion ensued and C.A. Daykin pointed out that this water line was a project that the City identified in the Master Plan. He explained that after this first block of water line was replaced then the City continued with the street project, the water line replacement for the next two blocks on Locust Street. He discussed that within the next two blocks where there were already residences, the City had to get involved with the disconnecting/reconnecting of their water meters and the additional costs. He pointed out that this situation is similar in that there were additional costs other than simply putting in the water line; he is comfortable classifying this as a water line expense. Additionally, C.A. Daykin pointed out that this is the City's first ever process for completing a Local Improvement District (LID) in the City of Dundee; though the City does not have a lot of experience, he encouraged Council to consider how they might want to use this financing tool in the future. He pointed out that it would also be helpful to bridge some goodwill within the community. C.A. Daykin discussed that his recommendation is to accept the revised assessment (which excludes the water meter relocation costs), and continue to try to pursue collection from Del Boca Vista. C.A. Daykin explained that typically water meters are located in the right-of-way, though they should be on the edge of the property line in the right-of-way. C.E.

Reid clarified that the original plan located the water meters on the edge of the right-of-way and instead they were placed further into the right-of-way; the City has now revised the standard by requiring them to now be placed on the other side of the right-of-way line. C.E. Reid also discussed that the issue was further complicated by the fact that all of the irrigation boxes also were placed in the right-of-way which they should not have been.

M. Russ offered discussion and pointed out that if the City pursued this the legal costs would probably be considerably more than the return. Discussion ensued and it was suggested that in the future the City be aware of this issue specifically with Del Boca Vista though also being conscientious of developers in general. The consensus of Council was that the property owners should not be held responsible for the additional charges. **A motion** was made and seconded to accept the revised property descriptions and assessments using construction costs that do not include the water meter relocation costs, and for the city administrator to provide an ordinance for the LID for Locust Street at the April 2, 2019 City Council meeting. **The motion** passed unanimously.

ODOT Street Lighting Funding Agreement

M. Russ inquired about whether if the project costs totaled over \$500,000, and the City were to drop a couple of lights on the outside edges, if ODOT would then include them in the next phase. C.A. Daykin stated that would be our expectation. He explained that included in the \$500,000 are the inspection costs, permitting fees, and also the City Engineer for document preparation, bid process and inspections. Additionally, he explained that DKS Associates have a direct contract with ODOT for providing the City the plans and specifications for the project. Discussion ensued and it was noted that only conduit is present at this time with no wiring. C.A. Daykin discussed that the cost estimates were actually in consultation between ODOT and DKS and were raised from \$430,000 to \$500,000 to allow for cost increases. He pointed out that anything that is unexpended would roll back into Phase B to help assist in completion of those improvements. It was noted that the Agreement includes a project of 53 lights. Discussion ensued. **A motion** was made and seconded to approve Agreement No. 33141 with ODOT for funding street light improvements on Highway 99W in Dundee. **The motion** passed unanimously.

New Business

Water Service Truck Purchase Request

A memo and photos from Chuck Simpson, Public Works, were provided to Council regarding the 1995 GMC Topkick C7 available for purchase from the City of Newberg at a price of \$9,000. Simpson approached Council and was available to answer questions. Simpson explained that he has seen the vehicle in person and inspected it to the best of his ability. He described the truck to be in impeccable condition for its age; the vehicle has been stored inside. It was noted that the tools shown in the photos would not be included with the truck purchase. Simpson informed that the City of Newberg had the vehicle custom built for their needs. C. Weaver discussed the City of Newberg's excellent reputation for maintaining and caring for their equipment, and voiced his support of this opportunity. M. Russ inquired as to whether the size of the truck poses any issues with where it will need to be used. Simpson pointed out that this truck is about the same size as the dump truck they have now and that the size will not be a concern. **A motion** was made and seconded to authorize the purchase of the 1995 GMC Topkick C7 water service truck in the amount of \$9,000.00 from the City of Newberg. **The motion** passed with Mayor Russ and Councilors Weaver, Nelson, Kelly and Crawford voting in favor; C. Svicarovich abstained from voting.

Protective Clothing Quote

Fire Chief John Stock reviewed his memo on page 57 of the agenda packet. C. Crawford inquired about the use of this type of protective clothing. C. Stock discussed that it is dual

purpose and used for vegetation fire responses as well as for nighttime medical calls; this type of protective clothing is much lighter and less bulky. It was also noted that this is the protective clothing used when they assist with forest fires. **A motion** was made and seconded to approve Chief Stock's request to purchase new Wildland protective clothing from L.N. Curtis Tools for Heroes in the amount of \$7,851.50. **The motion** passed unanimously.

Chief Stock initiated a conversation with regard to the previously discussed ESCI proposal for the Dundee Fire Department study. He discussed that he did do some research and only found three large consultants who complete this type of work in the United States. Chief Stock explained that he contacted the next closest consultant in California and had a discussion with them regarding similar services to which they estimated to cost \$30,000-\$50,000. He asked Council to reconsider the previously discussed ESCI quote; though the price was higher than expected, he stressed the importance of having the work completed to evaluate for the future needs of the Department. M. Russ inquired as to whether Chief Stock would be capable of completing some level of the work with or without additional assistance. Additional discussion ensued. C.A. Daykin explained that he and Chief Stock had previously discussed the value in having a third party complete the work; someone who has the credentials and expertise to conduct this type of study and is also third party would provide an unbiased report. C.A. Daykin also pointed out that if the City will be going to the voters it is important that this information be provided in a transparent manner. Additional discussion ensued. C. Crawford discussed the importance of having this work completed by professionals for the future of the fire department; the City has invested \$3 million in the new fire station and it is important that the research be done correctly. C. Nelson discussed the importance of a third party conducting the study, especially in a City that is understaffed and overworked already, and voiced support of reviewing the proposal a second time. It was noted that removing items from the scope of the proposal to lessen costs is not an option. The consensus of Council was to bring back the ESCI proposal for a second discussion at a future meeting. C.A. Daykin discussed that at that time potentially the consultant could be available by phone to address any questions from Council.

Budget Committee Appointments

It was noted that only one Budget Committee application has been received from Dawn Nelson. **A motion** was made and seconded to appoint Dawn Nelson to the Budget Committee with a term ending December 31, 2021. **The motion** passed unanimously.

Drainage Ditch Maintenance Policy

C.A. Daykin discussed the agenda report beginning on page 67. C.A. Daykin discussed that moving forward Staff will monitor the drainage ditches annually and evaluate them on a check-off list process; if improper filling is observed then the homeowner will be asked to remove it or obtain a permit and will be required to comply with the Dundee Improvements and Design standards. C.E. Reid pointed out that the other issue is driveways that might not have culverts under them and are impeding water flow. Discussion ensued. He explained that properties where the owner has extended and filled a ditch without placing a culvert will be dug out over to the driveway to expose the existing culvert. C.E. Reid explained that if those property owners wish to refill the area they will need to submit an application. In those instances where there is a driveway with no culvert present, C.E. Reid explained that he has to assume (since the history is not available) that the City approved it without a culvert, and that if needs one the City will place it at their cost; if the culvert has been buried then the City will uncover the existing culvert. Additional discussion ensued. C. Svicarovich pointed out that if parking has been added where the ditch is located then this is in the public right-of-way which is for the City to decide; without a permit the property owner doesn't have a case that the parking is allowable. C. Atty Olsen discussed that it's not uncommon for cities to have regulated driveway access; it's pretty uncommon for cities to permit owners to fill ditches for parking.

With regard to the larger lot located on the southwest corner of SE 10th Street and SE Elm Street (pictured on page 67), C. Svcarovich inquired about whether there is a remonstrance agreement for sidewalks for the two new houses being constructed. Discussion ensued and C.A. Daykin offered to complete additional research as he cannot provide a clear answer to that question at this time. M. Russ suggested that providing some information to residents in the quarterly City newsletter regarding this issue could be beneficial as many have swales around their property. C.E. Reid discussed that it is anticipated that persons residing in other areas will see Public Works crews working the ditches and request similar work for the drainage ditch next to their home; he does not anticipate this to be the end of the ditch work in this area. C. Weaver voiced support of having good drainage and working now to prevent potential future issues.

PERS Side Account Incentive Program

C.A. Daykin discussed that this information has been provided to Council as an introduction of the issue. He provided a detailed discussion of the information contained in his agenda report beginning on page 71. Establishing a PERS side account sets aside resources that are invested by the State for the exclusive use of the City to offset future contribution rates. New legislation established an Employer Incentive Fund (EIF) funded by the State that will provide up to a 25% incentive to match a new side account on a “first come, first serve” basis. C.A. Daykin provided clarification that when the initial application is made, the City would be committing a certain dollar amount for the match which is the amount that would need to be placed on September 30, 2021; monies could still voluntarily be placed incrementally into the side account annually apart from the incentive program if Council so chose. He also offered clarification that the City could incrementally deposit funds in over a period a 2-3 years leading up to when the final commitment is ultimately required in 2021. A budget review process will be required before C.A. Daykin will know more accurately what amount of funds might be available. He pointed out that the new EIF program prohibits the use of debt and requires the deposit to be made in cash. C.A. Daykin discussed that he felt that \$200,000 (in looking at the general fund with the reserves in place at this point in time) would probably be the max that the City would want to contribute. He explained that he was reluctant to look at reserves in some of the other funds because those go to more of the active programs such as water line replacements, sewer main corrections, street repairs, etc., which he is not comfortable taking funds from. C.A. Daykin explained that he wanted to introduce the program at this time and further discussion can take place through the budget process. He also pointed out that the City’s unfunded actuarial liability to payroll is less than 200%, and by rule with this program those with a higher percentage will be provided the first opportunity; after that then the program will open to others. It was noted that this program is a one-time opportunity. C. Svcarovich inquired as to whether it is known how much funding that the State has allocated for the program to which C.A. Daykin cannot answer. Discussion ensued. C. Nelson inquired as to what the City’s three-year outlay is for PERS to which C.A. Daykin referenced the table on page 75 and pointed out that the City contributed approximately \$110,000 per year in the prior biennium. Additional discussion ensued and C.A. Daykin discussed that it is his understanding that the EIF 25% match will occur until they expend all of their funds. C.A. Daykin indicated that he will provide an update and his recommendations during the upcoming budget process.

Council Concerns and Committee Reports

None.

Mayor’s Report

M. Russ reviewed that he traveled to Washington, D.C. since the last Council meet. He discussed his trip and noted that he was able to speak with an Oregon Senator as well as other Staff and had a productive trip. Additionally, M. Russ explained their group met with three different people at the United States Department of Transportation (USDOT) where they discussed the Bypass

project. He discussed that they voiced support of the project though funding is a challenge. Additional conversation ensued.

M. Russ discussed that recently LUBA affirmed the City's decision on the McCaw subdivision. He inquired about what the costs to the City were associated with that process. C.A. Daykin confirmed those costs to be several thousand dollars though noted that the McCaw's likely spent quite a bit more money. C. Atty Olsen discussed that he can check on the costs though explained that the main costs for the City in this case would have been reviewing and preparing the record. He explained that the property owner took the laboring oar on the legal arguments while they reviewed them and agreed on the City position with regard to them. M. Russ offered additional conversation. C. Svicarovich supported that one action that should take place as a result of this scenario should be an update of the Development Code to make that point clear in the way that it was interpreted. C.A. Daykin voiced support of this as well and noted his belief that this is not the only unclear provision in the Code.

City Administrator's Report

C.A. Daykin reminded Council that the next meeting on April 2, 2019 will begin with an executive session at 6:00 pm followed by the regular meeting beginning at 7:00 pm. He encouraged City Council to go online to complete the review process for the city administrator position so that the consultant is prepared to provide feedback. It was noted that a link and a reminder have been provided to Council. C.A. Daykin also noted that tomorrow evening on March 20th at 6:00 pm will be the second joint training session with Planning Commission.

C.A. Daykin discussed that he and C.E. Reid had the opportunity to meet with Frontier Communications representatives to discuss future undergrounding. He explained that they will be continuing the conversation with Comcast. He discussed that undergrounding is a very complex issue for the franchises and will not happen before the City installs street lighting this year. Additional conversation ensued. C.A. Daykin explained that the City installed separate conduit per their specifications underneath the sidewalks installed (though not the whole City); when ODOT completes their phase of work the thought process is that there is enough room in the right-of-way behind the sidewalk that they can continue placing their fiber in. Additional detailed discussion ensued about the complex installation process.

Public Comment

None.

The meeting was adjourned at 8:14 P.M.



David Russ, Mayor

Attest:



Rob Daykin, City Administrator/Recorder