CITY COUNCIL MEETING
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City of Dundee
City Council Meeting Minutes
July 16, 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; Tim Weaver, Council President; Councilors Kristen Svicarovich, Jeannette Adlong, Storr Nelson, and Patrick Kelly. Absent: Councilor Ted Crawford. Staff members: Rob Daykin, City Administrator; Tim Ramis, City Attorney; Greg Reid, City Engineer; and Melissa Lemen, Administrative Assistant.

Public Attendance
Saj Jivanjee, Developer, and R. Mike Henry, P.E., HBH Consulting Engineers; Mike Sherwood, 876 SW Alder Street; Ed Carlisle; Andrea Carlisle; Reid Stewart, ACOM/Verizon; Rebecca Minifie; Keeley O'Brien, O'Brien & Company; Daniel Tremblay; and Matt Frey, 809 SE Elm Street.

Agenda Changes
Item 5.2 City Council Minutes, July 2, 2019 was added to the Consent Agenda.

An Executive Session was added to the agenda 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.

Public Comment
Saj Jivanjee, Developer, and R. Mike Henry, P.E., HBH Consulting Engineers, approached Council and provided copies of their proposed site plan and sewer system information with regard to the Fox Farm Resort development. Jivanjee voiced his appreciation of Council's previous support of the water resources needed for his project. He discussed at length his desire to be forthcoming and work with the City to help build community, while also protecting his investment and moving forward in a way in which Fox Farm Resort provides the most benefit to the local area. Jivanjee discussed that after much thought, he has determined that giving up 42 RV sites and replacing them with 42 cottages would better meet the demand of the area. He explained that his project engineer, R. Mike Henry, P.E., completed calculations to see what the impact would be for the use of water for the discussed changes to the model; a copy of the report was provided to Council. Jivanjee pointed out that Fox Farm Resort is a sustainable development and lengthy discussion ensued. P.E. Henry explained that the whole sewer system is going to be treated on-site and recirculated water will be a Class A affluent which will be used to for irrigation on-site; the site will be self-contained. Additionally, he discussed that all water used will be for domestic purposes only, for use inside the units only; none of the water will be used outside of the units. Henry also explained that the addition of 44 cottages was the original thought, though it has been determined that they can only accommodate 42 cottage units. He pointed out that with regard to water; there will be an approximate 250 gallons per day more usage with the new model in comparison with the one he originally presented to Council, though he pointed out that this is a pretty small percentage of the usage.

C. Nelson inquired about what occupancy rate is being assumed to reach the 250 gallons per day usage difference to which Jivanjee confirmed to be 70%. Jivanjee discussed that he hasn't seen

cottages or RV space over the whole year rated for more than 45-55%. He pointed out that in the winter months RV's are not used as much, and explained that his hope is that the cottages will be used more during that time period. Jivanjee explained that his sewer system provides limitations as to what he can do; he is unable to increase the units as DEQ will not allow it and, thus, his water usage demand will reflect this limitation as well. Henry discussed that DEQ requires them to design at 80% occupancy for the summer times, as well as requires them to design at 50 gallons per unit per day, though their research of RV parks reflects a lesser use per day. Jivanjee discussed that his research indicates that many RV's travel with a full tank of water and that they oftentimes use their own resources, though M. Russ and C. Svicarovich pointed out that these users may also then fill up their water before leaving the Resort as well. Jivanjee provided additional lengthy discussion regarding all of the improvements will be completing as a part of the project.

The site plan was reviewed and Council questions were addressed. Jivanjee noted that they will be removing the billboard sign along Highway 99W. M. Russ voiced appreciation for the information provided.

C. Svicarovich discussed that she was not present at the meeting when the original decision was made by Council to extend City water to the development. She discussed that she has a great concern with regard to the water, which is a limited resource for the City, and encouraged Council to consciously and wisely consider the request to properties not within the City limits. C. Svicarovich acknowledged that the development would bring value to the area and the community though pointed out that there are tradeoffs.

The consensus of Council was to support the changes presented for Fox Farm Resort. Jivanjee expressed his appreciation to Council and informed that if there are any additional changes he will notify Council.

Mike Sherwood, 876 SW Alder Street, introduced himself to Council and provided a packet of information regarding his concerns about the design of Alder Street in the new development and the plans for going forward with extending Alder Street improvements to 9th Street. He reviewed the information provided with Council in detail. Sherwood discussed his concerns with the current design, costs, review process and provided his recommendations. He recommended that Council review the TSP with the current design; it is his belief that the way it is built today provides an extremely unsafe street if parking is allowed on the west side next to the curb.

C. Svicarovich pointed out that the Street today matches the current TSP. She offered clarification that the centerline of a street is almost never the centerline of the asphalt pavement area. She reviewed where the centerline of the street is located on the drawings provided. Detailed discussion ensued and she explained how the current configuration does indeed match the TSP. C.E. Reid offered that 28 feet of a 36 foot street was built; in the future this will meet the full collector standard. Additional discussion ensued and C. Svicarovich reviewed that what has been built has been built to the City's TSP standard from the centerline.

M. Russ voiced that Council will consider Sherwood's comments moving forward. Sherwood expressed frustration with regard to the information provided and M. Russ pointed out that the only way to truly identify the centerline would be through survey; it cannot be visually identified. Additional brief discussion ensued and Council thanked Sherwood for his comments. Sherwood encouraged Council to visit Alder Street and noted that he would be available to discuss the conditions present.

Consent Agenda

A motion was made and seconded to approve Consent Agenda Item 5.1 Financial Report Ending June 30, 2019, and Item 5.2 City Council Minutes, July 2, 2019. **The motion** passed unanimously.

Old Business

Planning Commission Appointment

C.A. Daykin informed that Katie McFall did not qualify as an applicant for Planning Commission as she is not a Dundee resident and does not own property within the City. He explained that he discussed this information with McFall and she has withdrawn her application. The Council expressed appreciation to the applicant present, Edward Carlisle. **A motion** was made and seconded to appoint Edward Carlisle to the Dundee Planning Commission to fill the unexpired term. **The motion** passed unanimously.

Cell Tower Lease

Reid Stewart, Acom Consulting, Inc., 1630 NE Irving Street, #76, Portland, OR 97232, and representing Verizon Wireless for the proposed communication facility, introduced himself to Council. Stewart reviewed that previously Verizon Wireless had withdrawn their land use application and the lease with the City had been put on hold. He explained that Verizon Wireless would like to reapply for land use for the proposed Verizon Wireless Communications Facility at 801 N. Highway 99W. Stewart referenced the basic lease terms, as outline on page 33 of the agenda packet, and indicated that these are the same terms being proposed by Verizon Wireless at this time. He asked for Council feedback with regard to these terms and noted that once this information can be agreed upon they would next like to move forward with the land use portion. Stewart explained his belief that the original proposal was for a black monopole structure, though they are now proposing a stealth tree design as he explained this may be a more favored option at this time; either design style is acceptable to Verizon and both would allow for collocation.

M. Russ inquired about the height of the structure to which Stewart clarified would be an approximate 70 foot tower, with 5-10 feet of additional tree structure placed above that with the stealth tree option. C.A. Daykin explained that the stealth tree concept came up at the Planning Commission level. Stewart referenced the example on page 34 of the agenda packet, and indicated that if Council desires to move forward with this design additional photo simulations could be provided that show the updated design from various standpoints, as well as updated plans that reflect the option chosen.

C. Nelson pointed out that the original lease terms are from 2017. M. Russ discussed the average CPI and pointed out that it has been two years since the price was proposed. Discussion ensued and the consensus of Council was to propose an increase in the rental use of City property to $32,000 a year. The consensus of Council was also to increase the fee reimbursement from Verizon to $3,000. Discussion was had with regard to the annual 2% rental increases. Stewart pointed out that Verizon would likely be more amenable to doing some sort of a legal fee or signing bonus as opposed to increasing the annual percentage of rental fees. The consensus of Council was to double the $1,500 sign-on bonus to $3,000, and allow discussion to unfold at the Planning Commission level with regard to the tower design before making a decision in that regard.

C. Adlong expressed concern about the long-term nature of the proposed lease, and inquired about unforeseen circumstances which could potentially arise and cause the City to want to terminate the lease early. She pointed out that there are no specific details mentioned pertaining to the maintenance of the property. C.A. Daykin and Stewart confirmed that maintenance is covered in the lease agreement. C. Atty Ramis discussed that it doesn't appear that the City

would have the right to terminate the lease because they are not happy with the maintenance, though the City could terminate for clear violations in any of the covenants of the lease. Through the land use process, C. Atty Ramis explained, the City could condition it to specifically require some identified measure of maintenance or condition; if that is not complied with then the City could use land use power rather than the lease authority. Stewart offered that typically the requirement is maintaining whatever standards were approved for the conditional use permit that then must be maintained throughout the term. He noted that he has never had an issue with this concern in any jurisdiction or state site. Stewart explained that due to the costs in capital investment in the site, Verizon does desire to lease for a term of 20-25 years.

A motion was made to affirm the September 19, 2017 decision of authorizing the City Administrator to execute the land lease agreement with Verizon subject to the final review and approval by the City Attorney with the modifications as discussed tonight to increase the rental use for the City property to $32,000 a year, to increase to an additional $3,000 to be paid to the City following the execution of the agreement and prior to the commencement date, and the legal fees increased to $3,000. **The motion** passed unanimously.

Matt Frey, 809 SE Elm Street, introduced himself to Council and voiced concern with regard to the proposed cell tower. He discussed that he has been a homeowner in Dundee for five years and expressed concern about potential decreased home and property values because of the eye sore effect of the proposed cell tower. He explained that the tower would be within view of his home as well as many other areas of Dundee, especially given the height of the proposed tower. Frey also expressed concern regarding the pure environmental aesthetics of the tower; he discussed his feeling that it would be an eye sore in Dundee, especially during a time of development and beautification within the downtown area.

Kelley O'Brien, 249 SW 9th Street, introduced himself to Council. He voiced appreciation that the City would receive revenue from the proposed cell tower, as well as voiced appreciation for the how much the City has put into beautification of the downtown area, including future planning for the area. He discussed his opinion that having a 75 foot tree in the heart of the City of Dundee would be an enormous eye sore. Though the revenue would be nice, O'Brien supported that it will pale in comparison to the developments and hotels which will come to the area one day. Though O'Brien acknowledged that the tower is needed somewhere, he suggested that a different location elsewhere in the City would be a better option.

Saj Jivanjee, Developer, approached Council and indicated that he has been working with the City of Portland on some issues very closely related to the discussed, and offered to provide some insight of the legal implication of making a decision regarding the cell tower. Jivanjee pointed out that the City is making a land use decision on their own City property. He explained that the City can dominate the land use process because there is no third party review to say that a cell tower can be placed. He noted that it's more of an economic decision rather than a land use decision. Jivanjee shared his opinion that he is not sure whether legally the City Council can make this decision; the owner cannot make the land use decision at the same time. Additional lengthy discussion ensued and he encouraged Council to be careful and seek legal counsel before making the decision about the cell tower. He voiced concern about a cell tower potentially being the tallest structure in the City, and suggested that there are likely many other options. Jivanjee offered to provide the City a piece of his land in the light industrial area for a cell tower; he offered that the City could also receive the revenue. He pointed out that it is not an economic decision but rather a major decision reflecting what the City wants in terms of urban design; the economic benefit from everything else would be far greater than the cell tower.

M. Russ voiced appreciation for Jivanjee's offer and suggested that if he is indeed serious to discuss his thoughts with Reid Stewart. Jivanjee discussed his belief that there is a partnership between himself and the City; whatever the City does impacts him and whatever he does impacts the City. Additional discussion ensued.

2020 SCA Grant Project

C.A. Daykin discussed that City Staff reviewed the preferred Myrtle Street project, though they came back with some costs which were somewhat alarming. He explained that even breaking the project into two one-year projects was still greatly exceeded the annual maximum SCA grant allowance of $100,000. C.A. Daykin discussed that C.E. Reid has done some additional refinement since the report was completed on page 53. He discussed the importance of timing with regard to the Myrtle Street project, with the hope to be able to get in and get out with the project in anticipation of trying to do a combined finding to improve Ninth Street that would combine a leg of Alder Street as one project (with multiple funding sources). Additional detailed discussion ensued. C.A. Daykin pointed out that one project which could be considered that could be completed with minimal design considerations would be completion of the rebuild of Red Hills Drive.

C. Svicarovich recalled that during a previous Council discussion where the recommendation was Myrtle Street, Alder Street had not been selected due to some of the design challenges in that location. She voiced support that the Red Hills Drive project does make the most sense for moving forward with at this point in time.

C.A. Daykin discussed that since the original report was provided for the agenda packet, there has been some additional refinement done with regard to the Myrtle Street project. He explained that one thing reviewed was minimizing the amount of curb removed, and not changing the existing sidewalk configuration from a 4 foot separated to a 5 foot abutting the curb, and putting that burden of repairs of the sidewalk directly on the property owners for areas where sidewalk segments are repaired to address tripping hazards. C.A. Daykin discussed that even with this change the project would still be costly and require two years to complete. M. Russ pointed out that moving forward with this plan would also result in a patchwork sidewalk. C.E. Reid discussed that the cost is approximately $100,000 to complete the driveways and sidewalks; if these repairs are minimized to include only the pieces of curb which are pushed up by the trees, remove the trees, and remove those pieces of sidewalk then the City could save approximately $85,000. Even with that change, C.E. Reid discussed that the City would still need to obtain the additional funding required to complete the project or do an LID to provide those funds. Full sidewalk, curb and driveway costs for the 14 involved properties on Myrtle Street would be approximately $6,500 per property; if the City picked up 50% of those costs this would be lowered to approximately $3,000 per property. C.E. Reid discussed that other options Council could consider would be to leave the 4 foot setback sidewalk, just remove the trees and then fix only the pieces of sidewalk needing repaired.

C.E. Reid pointed out that Alder Street is being reviewed again because, as he and C.A. Daykin discussed, it would not need to be developed all of the way to Ninth Street. The curb returns could be avoided and that truncated project could be completed. C.E. Reid explained that the three properties on the corner have remonstrance agreements and construction deferrals for the undergrounding and street improvements. He pointed out that there would still be the ¾ street improvement until reaching those three properties, then the full width alternative could be completed after additional right-of-ways are obtained from the properties on the uphill side of Alder. C.E. Reid pointed out that pulling out the sidewalks and the driveways of that portion of the project only saves $62,000; an LID could potentially be divided amongst the property owners at a cost ranging from $13,000 to $25,000 depending on the frontage of the property.

C. Nelson inquired as to what the street width is for the Red Hills Drive project to which C.E. Reid discussed is not full width and a substandard street of approximately 18 feet; this street width would not be changed. C.E. Reid addressed additional questions from Council. C. Adlong pointed out that not many people reside on that stretch of Red Hills Drive in comparison with the number of people who live on Myrtle Street, including more traffic as well. C.E. Reid discussed that both roadways are in poor condition, but Red Hills Drive will deteriorate more quickly due to the hill factor. Discussion ensued.

C. Nelson discussed his belief that both the north and south sections of Myrtle Street are larger projects than an SCA Grant could assist with. He voiced support that Alder Street should be included with the Ninth Street work, as far as design and construction, and noted that he is in favor of the Red Hills Road project for the SCA Grant project. M. Russ noted that he would much rather see the City address Myrtle Street at this point but based on costs and complications he felt Red Hills Drive would also be best for the SCA Grant. C. Nelson pointed out that some of the streets in poor condition on the river side of Dundee have been addressed with the paving project that was recently completed. C. Weaver pointed out that though not as many people live on Red Hills Drive, the roadway is used by many and becoming a more popular alternative route. C.E. Reid explained that one option discussed was potentially widening Red Hills Drive similarly to what was done on Dogwood or Alder Street, to stripe it and provide a space for pedestrians and bikers. Discussion ensued and it was noted that widening Red Hills Drive would likely be a challenging task due to the cross slopes and existing improvements. Additionally, C. Weaver pointed out that if this roadway were widened traffic in that area would likely increase in volume and speed as well.

C.A. Daykin discussed that the final application is due at the end of July, and final direction from Council is sought tonight. The consensus of Council was to move forward with the Red Hills Drive project for the 2020 SCA Grant application.

New Business

Viewmont Greenway Trail Bids

C.A. Daykin discussed that the City received very good bid prices on the trail improvement. He provided Council with an additional map of the Viewmont Greenway path improvements and explained that the area highlighted in yellow represents the gravel trail that would remain gravel. C.A. Daykin pointed out that $1,000 was budgeted to top dress it with ¼'' minus rock, but with the savings seen in the asphalt, consideration is being given to paving this area as well which would help with ongoing trail maintenance and erosion issues. C. Nelson inquired about the width of the trail to which C.E. Reid noted to be 8 feet in the main section with the alternate section 6 feet in width. C. Nelson pointed out that the narrower 6 foot section will be more expensive to pave. He explained that the contractor can use a paving machine to complete the 8 foot width section of work, while the 6 foot section would be considered hand paving which is a slower and more expensive process. C. Nelson voiced that if the contractor were willing to extend the unit price or a similar price he would be in favor of paving it, though he is doubtful of similar pricing. C.A. Daykin discussed that the trail likely won't be paved anytime soon, so he offered to obtain that pricing information and bring it back to the next Council meeting. C. Adlong suggested that replacing some of the trees that have been mowed down would also be a beneficial option. **A motion** was made and seconded to award the contract for the Viewmont Greenway Improvements – AC Paving, Part 2, to H&H Paving for the price of $16,307.20. **The motion** passed unanimously. It was noted that K&E recently bought out H&H Paving, though they will continue doing business for now under the same name.

Council Concerns and Committee Reports

C. Nelson inquired about what time limit was set for the Farmer's Market banner placed at the entrance to town. The time frame was noted to be 30 days and C.A. Daykin informed that he will look into the matter tomorrow.

Mayor's Report

M. Russ discussed that he reviewed the flag cinder blocks with Chief Stock. He explained that at this time the Fire Department would like to keep them in place through Labor Day, which is the next time the flags will be placed. M. Russ discussed his hope that the lights will be going in soon and pointed out that when that happens things should change. M. Russ inquired as to whether holes are planned to be placed for flags to which C.A. Daykin offered that perhaps the light poles could be modified though he indicated Staff would need to talk to PGE about that possibility. Discussion ensued and C.E. Reid offered that placing holes in the sidewalk could be considered as well.

City Administrator's Report

C.A. Daykin discussed that PGE just modified their approved list of materials on June 1, 2019, and they are now offering a 3,000 Kelvin bulb for the Westbrook fixture. He explained that the lighting consultant DKS is ready to go and are hopeful they will have the specs in the next couple of weeks. C.A. Daykin discussed that once this information is received; it can be repackaged with the City's bid documents and go out to bid. A potential timeframe for completion of the work was briefly discussed and C. Svicarovich pointed out that oftentimes the material order for poles is 8-12 weeks.

C.A. Daykin discussed that, with regard to the fire station repair project, Porter Construction did not close out their project and the City did not release retainage. He explained that about a $60,000 balance is being carried over into this year's fiscal year which will then require a supplemental budget to reallocate that to pay the retainage and other ongoing costs. C.A. Daykin discussed that Baldwin has been slow to get suitable bids from contractors to complete the sealing of the concrete. He noted that Jim Omundson is becoming somewhat frustrated; some additional time will be provided but then Attorney Scott (who arbitrated the agreement) may become involved.

With regard to the Viewmont Greenway, C.A. Daykin discussed that a neighbor to the property complained that she is unhappy with people who walk their dogs off leash as their pets are coming into her yard. She has asked for the City to place a sign at the park which shows a leashed dog, though C.A. Daykin explained that under the Dundee Municipal Code leashing is not required. He offered that a sign could be placed suggesting that leashing pets is a good idea. Brief discussion ensued with regard to the Code language, and M. Russ suggested that this information should be reviewed. The consensus of Council was to place a dog leash sign next to the dog waste station.

C.A. Daykin informed that he did put in a request for George Fox University (GFU) Serve Day, September 11, for improvements to the picnic area, plantings and additional work related to the Viewmont Greenway. He explained that he talked with Bryan Stewart, Chehalem Park & Recreation District, to try to coordinate with him ahead of the event due to potential scheduling challenges.

C.A. Daykin informed that ODOT will be providing a presentation at the next City Council meeting to provide an update on the final Highway 99W improvements. He discussed that due to the fact that that the project is a full depth reconstruction of the Highway (going down 4 feet), it will be a conflict with the existing City waterline on the east side of the highway and waterline

crossings, and as the agency that owns them the City is responsible for relocation and the associated costs. C.A. Daykin discussed that City Staff will be working with MurraySmith to update the City model for the hydraulic analysis for the Water Master Plan. He explained that they are working with the previous firm they had worked with to transfer that data to MurraySmith. It was noted that the goal is to assess what infrastructure is needed for fire flow and connection purposes prior to rebuilding what will need to be removed from the highway location. M. Russ inquired as to whether the waterline will need to be dropped down or relocated to which C.A. Daykin explained that this information is not yet known; there is a sewer line in close proximity. C.A. Daykin also explained that the City has asked ODOT to include this work as part of their contract documents even though the City would be responsible for paying it; it does not make sense for the City to incur all of the traffic control and back up traffic one year, only to have ODOT come back and do the same thing the following year. Brief discussion ensued.

C.E. Reid discussed that, with regard to the 2019 Paving Projects, he is trying to get that contract out and as part of that he is extending the work on Cedar Street that Council approved. He discussed concerns with regard to the unpaved driveway approaches along Cedar Street. C.E. Reid pointed out that the street is not curbed and will be similar to Red Hills Drive. He explained that the challenge he had in coming up with the final extension and design is that some of the driveways have asphalt and many of them are still gravel; most of them are gravel with a small piece of concrete right up against the garage which he explained in many cases is 15-20 feet away from the paved roadway and sometimes outside of the right-of-way. C.E. Reid explained that some properties also have a second driveway going to a barn/shop at the back of their property or have expanded their driveways with gravel to widen it and/or extend it to the street. After discussion with C.A. Daykin and review of previous similar projects, C.E. Reid explained that in the past the City has completed the first 5 feet of gravel to try to minimize the rock from getting onto the street. He pointed out that this doesn't meet the 10 foot standard, but completing the 10 feet standard also doesn't reach the driveway; and funding is not available to complete that length of improvement for everyone. C.E. Reid also explained that the gravel parking areas created along the frontages will also not be paved; the access to driveways would be paved along with 5 feet; any existing driveways would be paved up to the 5 feet on each to help minimize rock on the street. M. Russ noted that some of the driveways may have been placed without permits to which C.E. Reid confirmed could indeed be the case. C. Nelson inquired about where the drainage swale would be in relation to the 5 foot mark. C.E. Reid pointed out that where the driveways have a culvert is where the 5 feet of concrete will go. He noted that there is one driveway that has a substandard culvert that is failing which will not be paved over (only 3 ½ feet will be paved up to the culvert in this area). M. Russ suggested communicating this information to the property owner prior to the work being done to provide them an opportunity to upgrade their culvert if they desire. C.E. Reid discussed that if he receives Council approval, he would like to discuss with the contractor about providing the property owners with an option that if they wanted to pave the rest of their driveway they could pay for that portion themselves. It was noted that H&H Paving would also need to indicate their willingness to take on the additional work prior to this option being offered; this potential option would be between the property owner and the contractor directly. Discussion ensued. The consensus of Council was to support C.E. Reid's proposed plan with regard to paving the first 5 feet of existing driveways on Cedar Street which are included in the 2019 Paving Project.

Public Comment

None.

Executive Session

The City Council entered Executive Session at 7:36 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 8:43 P.M. and the Council did not reconvene.

David Russ, Mayor

Attest:

Rob Daykin, City Administrator/Recorder