

**CITY COUNCIL MEETING  
TABLE OF CONTENTS FOR MINUTES  
September 4, 2018**

Call to Order .....	2
Council and Staff Attendance .....	2
Public Attendance .....	2
Agenda Changes .....	2
Public Comment.....	2
Consent Agenda.....	5
Old Business .....	5
Tree Planting Proposal .....	5
Resolution No. 2018-16, Budget Amendment .....	6
New Business.....	6
Yamhill County Property Sale .....	6
Planning Commission Concerns (continued from Pubic Comment) .....	6
Mayor’s Report .....	7
Council Concerns and Committee Reports.....	7
City Administrator’s Report .....	8
Public Comment.....	8

**City of Dundee**  
**City Council Meeting Minutes**  
**September 4, 2018**

**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 Kristen Svicarovich; Councilors Storr Nelson, Jeannette Adlong, Doug Pugsley, Ted Crawford, and Tim Weaver. Staff members: Rob Daykin, City Administrator; Bill Monahan, City Attorney; and Melissa Lemen, Administrative Assistant.

**Public Attendance**

Andrew Estroff, 825 SW View Crest Drive; Mike Dorostkar, owner, Unique Auto, Inc.; Roshanck Dorostkar; Shari Kahnarooiah, Picasso Design; Michael R. Simpson, 625 SW 9<sup>th</sup> Street, #22; Dorene Simpson; Phil Santucci; Ron Clem; Pam Clem; Andrew Estroff; Don Lowe, 959 SW 7<sup>th</sup> Street; Sandy Santucci; Cynthia Stevenson; John Stevenson; and Susan Brannon, Newberg Graphic.

**Agenda Changes**

None.

**Public Comment**

Andrew Estroff, 825 SW View Crest Drive, introduced himself to the Council and indicated that he would like to bring to their attention to some conduct he alleges has occurred at recent Planning Commission meetings, particularly with regard to the Chairperson and Vice Chairperson. Estroff alleged that it appeared to him that the Vice Chairperson showed a lack of respect for the process of the Planning Commission Hearing; he felt the Vice Chair seemed to express frustration of him being present in opposition and did not seem to be interested in what he had to say when continuances were requested, etc. Estroff also alleged that the Vice Chairperson showed disrespect to the citizens of Dundee by calling them names in the meeting which Estroff deemed inappropriate. He discussed that this made them feel that perhaps they were biased one way or another from the outset of the meeting; he noted this is concerning as they are looking for a fair hearing.

Estroff alleged that the Chairperson doesn't seem to have a strong grasp on the fundamentals of public meetings or how to run one, which he felt led to a contentious situation from the beginning. He acknowledged that these meetings can be difficult as people come in with a lot of feelings and emotions. He suggested that potentially more training may be indicated for the Chairperson. With regard to the Vice Chairperson, he suggested consideration of removal of them from the Commission in order to have a fair hearing. Though he explained that he is not well versed on the removal process, he indicated that it is something he is interested in pursuing. He explained that some of his comments are contained within the appeal that he filed with the City Council regarding the Planning Commission's recent decisions as well.

C. Pugsley inquired about why Estroff feels additional training might benefit the Chairperson, though not the Vice Chairperson. Estroff explained that his concern about the Vice Chairperson is with regard to their conduct and respect for the entire process that has already occurred; while it is his belief that the Chairperson issue had more to do with Robert's Rules and how to conduct a meeting. C. Crawford inquired as to how long Estroff has lived in the City of Dundee to which

Estroff explained that they closed on their house in September 2017 and moved there in November of 2017.

City Attorney Bill Monahan relayed that it is his understanding that the appeal has been filed; this matter will be coming before the City Council likely at the beginning of next month though the exact date is not known. He explained that the hearing will be a de novo hearing where the same issues may be raised or perhaps different issues raised about the actual land use matter. He cautioned the Council to make sure they are not in any way becoming biased in their opinion of the decision either for or against. He discussed that it appears that the issue which is primarily being raised is about the process at the Planning Commission and the actions or the demeanor of the Planning Commission representatives. He explained that once all of tonight's comments are heard it may be their recommendation that those comments made tonight are incorporated into the record for the upcoming hearing so that everyone is apprised that Council is taking all of the comments made in public settings about the pros and cons of the land use action into consideration. Additional discussion ensued and C.A. Monahan recommended that Council not express their opinions or take any action in regards to the complaints about the Planning Commission Chair or Vice Chair prior to them making the decision on the appeal of the land use decision; the two issues should be kept separate and it is his recommendation that Council not take any action, though action could be taken to investigate or gather information. C. Adlong inquired as to whether Council members could listen to the recording of the Planning Commission session. C.A. Monahan confirmed this option and explained that while it's a de novo hearing, Council has the right to take all of the information that was presented at the Planning Commission meeting; it is part of the ongoing record of the land use hearing. Additional discussion ensued. Estroff encouraged Council, if they are interested in reviewing the recordings, to begin this process dating back in March or April.

Don Lowe, 959 SW 7<sup>th</sup> Street, introduced himself to Council and indicated that he has been a resident of the City of Dundee for about two years. Additionally, he explained that he grew up in Dundee in the 1950s and 1960s during which time his brother and father were part of the Dundee Volunteer Fire Department; his father was also on the Planning Commission at that time. Lowe voiced his opinion that the City is broken and needs to be fixed right away; he also indicated that he is here to discuss the removal of Planning Commission Vice Chairman, Dustin Swenson, as well as to request the removal of Chairperson Shannon Howland from Planning Commission. He read a letter aloud that he wrote dated August 16, 2018, which he indicated was emailed to M. Russ and a copy provided to C.A. Daykin as well. He discussed that he had requested that Mayor Russ add this topic to the agenda for the meeting tonight, which he alleges that the Mayor initially agreed to do. He discussed that subsequently their appeal was filed and noted that the Mayor responded afterwards that it would not be added to agenda due to the liability that it may cause to the City. Council informed Lowe that though he has reached the 5 minute time mark he may continue his public comment at this time. He stressed the importance of his concerns and suggested that it cannot wait until the resolution of the appeal; he explained that the appeal will likely carry on for quite some time due to alleged violations which he went on to discuss further. He reiterated his concerns and discussed that during the meetings where the alleged issues took place, no one from the City Staff or other Commission members stopped the behavior from happening which he deemed inexcusable and urged immediate action from the Council.

M. Russ reviewed that at the City Attorney's advice, this item was not added to the Council meeting agenda at this time for Council action; a public hearing would need to be done first. Additional discussion ensued, and M. Russ briefly discussed processes moving forward. M. Russ inquired about what C.A. Daykin witnessed at the Hearings that Lowe has described. C.A. Daykin discussed that with regard to the alleged improper language at the May meeting, the word "dammit" allegedly was used in context to a decision for a continuance. He explained that he

asked the Planning Commission secretary about whether she recalled the remark though she did not; she also could not locate the remark on the meeting recording. C.A. Daykin advised that he listened to the portion of the meeting recording preceding the decision and discussion on Continuance, the vote on continuance, and post-vote of the Continuance and he did not hear that being stated. M. Russ inquired about the overall demeanor of the Vice Chair to which C.A. Daykin indicated would be more of a perception issue at this point rather than what is accurate versus what is inaccurate. With regard to the written allegations pertaining to one of the Commissioners voicing her lack of support for the subdivision on the basis of criteria that was not part of the Development Code C.A. Daykin explained that that information was discussed to some extent and that Vice Chair Swenson noted that the Code came to them and it is their obligation to adjudicate on the basis of the criteria within the Code, and that at some point the Code could have been modified to be something from what it is today. In context with that statement C.A. Daykin recalled the Vice Chair referring to Mr. Lowe as "Old Man River" as in if Old Man River had participated in prior Code amendments perhaps there would have been a different outcome in terms of the Code criteria used today. Lowe affirmed that to be one of the instances he had referenced. In addition, Lowe recalled that at the time when he asked for the Chair and Vice Chair's resignation (at the August meeting), and they both had declined and moved on to other items, Vice Chair Swenson indicated to him that he could feel free to leave the meeting at any time he wanted which Lowe voiced was an unacceptable comment. Lowe acknowledged that in listening to the recording of the May meeting this information may not be understood, however, he suggested that there were a number of City residents who have heard it, including their attorney (at the time) that they hired due to the issues with the City Staff and the Planning Commission. Lowe alleged that Vice Chair Swenson's behavior was unacceptable and possibly swayed the decision.

C. Pugsley inquired about whether Lowe feels that the degree of lack of knowledge and possible need for training in comparison of the Chair and Vice Chair is equal in this case or whether one is more severe than another. Lowe explained that he had initially asked for both parties to be removed, but after further discussion with friends and neighbors he discussed that he "amended" that decision somewhat though is still requesting the immediate removal of the Vice Chair. Lowe discussed the Chair's lack of knowledge in parliamentary procedures and processes, as well as her lack of ability to control a meeting, and suggested that a better role for her may be in the position of a Commissioner rather than the Chairperson. Lowe alleged that the Chair had such difficulty in controlling a meeting that the police were called. Though they didn't get involved and later left, he expressed concern about the message having police presence sends to the residents of Dundee; that when residents show up to a meeting to voice their opinion, the police could possibly be called and restrict that ability. Lengthy discussion ensued and Lowe went on to describe an alleged incident at the April Planning Commission meeting where he felt there was a violation of the public meeting laws in Oregon. Conversation ensued until C. Weaver politely interrupted and asked the Mayor's support of allowing Mr. Lowe a moment to recollect his thoughts while they allow others in the audience to speak during public comment. C. Weaver next inquired as to whether or not C.A. Monahan had been involved in each of the discussed Planning Commission meetings. C.A. Monahan confirmed that a City Attorney was present at the meetings though it was not himself. C. Nelson voiced support of continuing the Public Comment portion of the meeting to hear everyone's concerns. M. Russ suggested continuing this discussion in New Business so that Council can make a decision on what to do moving forward.

Mike Dorostkar, 309 Third Street, Unique Auto owner (located at the same address), introduced himself to the Council. He discussed that he applied for a license to operate a home occupation business with a limitation of business to auto sales. He indicated that this was approved. He reviewed that when operations started he was allowed to park two cars on the side of the Highway to sell there. Dorostkar discussed that a few months later he received a letter from the

City stating that cars were parked too close to the Highway, and that by law this is not allowed as he would need to park them 50 feet away from the Highway. Dorostkar informed that he complied with that requirement and has kept the vehicles 50 feet away from the Highway though still visible; again, stressing that there were only two cars. He next discussed a letter he received several months later in which he was advised that he wasn't allowed to have the cars and they must be stored; the cars should not be visible from the Highway. In addition, he also noted that he was asked to remove a sign he had placed on the property. He acknowledged he is not able to afford the site improvements required for a fully developed commercial auto sales business. Dorostkar discussed the placement of signs located on nearby properties and asked for clarification about what the requirements are for the business he would like to operate. He expressed concern about what he needs to do moving forward as he doesn't want his business closed down; he referenced a recent letter he received from the City in which he must comply with by August 21<sup>st</sup>.

M. Russ discussed that his belief was that Dorostkar was provided with a home business rather than a full regular business due to the costs associated with complying with those requirements. He pointed out that all businesses have laws which they must comply with in order to operate their businesses in Dundee, including federally regulated ADA requirements. M. Russ indicated that the home occupation was provided with significant restrictions, including the limit of having only two cars associated with the home occupation. M. Russ discussed that the addition of as many as twenty cars along with gravel placed on the property clearly demonstrates otherwise. He discussed that the City has codes in place to address driveways and noted that no approval was given for the gravel areas which are in place on Dorostkar's property. M. Russ discussed that the City has provided him with a great deal of leeway to operate though he is clearly operating outside of those parameters. He emphasized that the City is supportive of local businesses though discussed the importance of adhering to the requirements. Dorostkar reviewed that there are only two cars in place at this time and that he would like to comply to operate his business at this level. Additionally, he noted that he cannot afford to replace the gravel areas with asphalt and noted that Third Street is virtually a gravel surface. The consensus of Council was to move this to a future agenda item so that all of the details can be reviewed at a later time. Dorostkar's deadline will be extended to the September 18, 2018 council meeting.

Michael R. Simpson, 625 S. 9<sup>th</sup> Street, #22, introduced himself to Council and indicated that he has been a member of the Newberg/Dundee community since 1981. He discussed his relationship with Mike Dorostkar and voiced his support of Dorostkar's business. He suggested that Dorostkar's business is meeting a need in the community and shared his belief that Dorostkar is trying to do the right thing and supporting his family. He encouraged the Council to work with Dorostkar so that he is able to continue to operate his business.

## **Consent Agenda**

**The motion** was made and seconded to approve Consent Agenda Item 5.1 Special City Council Minutes, August 2, 2018, Item 5.2 City Council Minutes, August 7, 2018, and Financial Report Ending July 31, 2018. **The motion** passed unanimously.

## **Old Business**

### **Tree Planting Proposal**

M. Russ inquired about whether or not the tree planting proposal is inclusive of the trees along the back side of the fish hook to which C.A. Daykin indicated it is not; he discussed the affected areas in detail. C. Crawford expressed frustration with regard to trees on the berm area which

were dying and noted that this information had been relayed to ODOT as well. C.A. Daykin explained that this area was part of a different contract which has since expired. A **motion** was made and seconded to authorize the city administrator to enter into an agreement with ODOT District 3 regarding the purchase, installation and maintenance of trees planted by the City on ODOT property. C. Nelson inquired about additional details related to tree species and planting locations. C. Adlong discussed the tree placement selection process in detail. C.A. Daykin confirmed that C. Adlong will continue to offer her support and suggestion with regard to the trees and discussed additional details with regard to the project. C. Adlong suggested that planting native trees which don't require as much watering and better able to thrive would likely be the best choice. C.A. Daykin reviewed that ODOT has offered to provide financial support for the temporary irrigation materials to be used until the trees are established. **The motion** passed unanimously.

### **Resolution No. 2018-16, Budget Amendment**

M. Russ briefly reviewed the resolution. A **motion** was made and seconded to adopt Resolution No. 2018-16, a resolution amending the Fire Station Construction Fund budget appropriation for year 2018-2019. **The motion** passed unanimously.

## **New Business**

### **Yamhill County Property Sale**

M. Russ inquired as to whether or not C.A. Daykin has heard back from the Commissioners yet about the possibility of the property potentially being donated to the City. C.A. Daykin discussed that the Commissioners are waiting to hear back from the Dundee City Council regarding whether or not they are truly interested in the property; the Yamhill County Counsel would then approach the Commissioners to let them know that the City is interested. C. Crawford voiced support of allowing the abutting property owner to pursue the property. Discussion ensued with regard to the property potentially being useful as a bus stop in the future; other thoughts and ideas were also voiced. C. Svicarovich voiced concerns that given the shape and location of the property, a fence built on this property could potentially be a safety concern. She also voiced her opinion that the property could be a neat asset for the City. It was noted that there is a fair amount of pedestrian traffic in the area. C. Weaver voiced agreement that there is a potential safety and sight issue at this location. C. Nelson suggested that this location could be a gateway invitation to Viewmont Greenway Park. The consensus of Council was to offer their support of seeing if the County would gift the property to the City, or entering into negotiations for purchase, if necessary.

### **Planning Commission Concerns (continued from Public Comment)**

M. Russ welcomed additional input from City Staff present at the Planning Commission meetings with regard to their experiences. C.A. Daykin voiced that his experiences may not be that relevant to the issues. He explained that he did not perceive the Vice Chair intentionally trying to disparage Mr. Lowe. C.A. Daykin discussed that the Vice Chair's view is that the Planning Commission needs to base their decisions on the criteria in the Code. He also noted that he has a jovial personality and likes to joke around which works well with the other Planning Commission members; though it was unclear to C.A. Daykin what was meant by a comment referencing "Old Man River". C.A. Daykin discussed that at the end of the Planning Commission meeting there was extensive discussion with the City Attorney, and Tim Ramis did offer to lead the group in some additional training later in the fall which they will plan to partake in. It was noted that Dundee has a fairly inexperienced Planning Commission, with the oldest member perhaps two years into term; there has been a lot of turnover in recent years. C.A. Daykin explained that if Council would like to pursue investigation of the allegations against the Vice Chairperson, he would recommend that there be some sort of impartial third party to conduct fact finding which would then be brought back to the City Council, at which point it may be decided to conduct a

hearing based on that information. Discussion ensued with regard to potential options and training opportunities. C. Crawford expressed an interest in City Council having a joint workshop with the Planning Commission to become more acquainted with them and discuss Council objectives. C. Svicarovich pointed out that this was one of the Council goals that was set for the year ahead. The consensus of Council was to plan a future joint meeting with the Planning Commission to get to know one another and discuss City-wide goals, as well as schedule a separate training session. C. Adlong discussed the importance and value of the Planning Commission receiving training, and suggested that Council members could also benefit from training as well as a variety of topics would likely be covered.

M. Russ voiced support of moving forward and following appropriate procedures to obtain the facts and details pertaining to the Planning Commission meetings, though stressed that this will take an undefined amount of time. C. Adlong inquired as to whether or not the City Attorney was present at the meeting where Lowe alleged that there was a violation of the Oregon public meeting law to which C.A. Daykin indicated that he was not present at that first initial meeting. C.A. Daykin explained that he discussed the continuance with the City Planner and as best as he can recall it was decided that since the slope information was lacking which is a factor for lot size, it would be best to wait until the full and complete application was received and to conduct the testimony at that time. Brief discussion ensued regarding public meeting rules. The consensus of the Council was to move forward hiring a third party to fact find and gather information which they can provide to Council. C.A. Daykin discussed that he will reach out to the COG to see if they are able to provide this service at no cost. The consensus of Council was to authorize an amount up to \$1,000 to be spent on a third party service, if necessary.

C. Adlong voiced her appreciation to those in attendance at the meeting, and thanked them for attending and providing the information tonight. She noted that she does not attend Planning Commission meetings due to concerns about ex parte contact though noted she had no ideas as to the depths of the concerns expressed.

### **Mayor's Report**

M. Russ noted that he has received complaints from residents regarding sandwich signs at various locations blocking sidewalks and views up and down the street; signs potentially not being placed within the Code or removed nightly as in the Code as well. Specific sign location information was provided to C.A. Daykin and it was noted that this has been an ongoing problem. Discussion ensued and C.A. Daykin reviewed that within the Code it does allow the sandwich sign in the right-of-way provided that a five foot passage is allowed on a sidewalk; the sign would need to be removed when the business is not operating.

M. Russ inquired as to whether or not there is any new information from ODOT with regard to the street lights. C.A. Daykin reviewed that he has received no new information at this time. Regarding a separate ODOT issue, he did affirm that the City received the executed amendment #2, and it was noted that the process of going through final inspections so that he can request the \$240,000 that is owed to the City. C.A. Daykin discussed that the City Engineer is not happy with the condition of some of the repairs that were made to the sidewalk, specifically in front of the Argyle property. Detailed explanation was provided and conversation ensued regarding the issue.

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

C. Crawford inquired as to how many candidates there are running for City Council to which C.A. Daykin informed that Mayor David Russ is running for re-election, Storr Nelson and Ted Crawford are running for re-election to Council, and Patrick Kelly is running for the third Council position.

C. Weaver praised C.A. Daykin and M. Russ for their work regarding the Fire Department repair project. C.A. Daykin reviewed that the contracts have all now been signed, and that last week some investigative work began. He discussed that unfortunately it was discovered that the damage at the fire station roof was more pervasive in certain areas than anticipated following start of repairs. He explained that a lot of the damage was going to be covered under the base bid though now they are looking at some additional work; a preliminary estimate at this point was noted to be \$5,000-\$15,000 which goes beyond the work described in the base bid and is additional money that they City would have to pay. M. Russ inquired about whether or not the consultant who evaluated the project has any liability. Discussion ensued and C.A. Daykin noted that he will raise this point with attorney Jacob Zahniser. Details pertaining to the bid process were reviewed. C. Crawford pointed out that there was a well written article published in the Newberg Graphic last week pertaining to the fire station roof.

C. Svicarovich informed Council that she won't be in attendance at the next Council meeting on September 18, 2018.

C. Crawford inquired as to what the status is with regard to the proposed cell tower. C.A. Daykin briefly reviewed that at the July Planning Commission it was felt that certain information was lacking and their questions weren't being answered, and thus Verizon representative requested a continuance to provide that information. It is his belief that a continuation of the public hearing has been scheduled for October though he will confirm this information.

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

C.A. Daykin informed that the City was informed that they received a \$38,000 grant from State Parks for improvements to the Viewmont Greenway Park. He explained that they are in the process of preparing a grant agreement for execution and once that is signed and returned then money will be able to be spent for that purpose. C.A. Daykin discussed input from the Parks Advisory Committee will be used for the first phase of the project, a redesign of the nature play area and selection of equipment.

### **Public Comment**

Don Lowe approached the Council for a second time. He thanked the Council for allowing the time for his concerns to be brought to their attention, and give serious thought and consideration to the concerns presented. He indicated that he was pleased to see that the allegations appear to be taken seriously and moving forward to trying to find a quick resolution. He discussed that in addition to the comments provided tonight; several neighbors have also submitted written formal complaints.

Andrew Estroff approached the Council for a second time asked for clarification with regard to when the appeal hearing will be scheduled. C.A. Daykin responded he has not seen the announcement, as the Planner was to arrange this with the Planning Secretary; it is his belief that the meeting will be held at the first City Council meeting in October though he will confirm this information. Estroff referenced his recently submitted records request and expressed concern about the timeframe to receive and review the information prior to the appeal. Estroff explained that they will plan to use that information as part of the presentation for the appeal.

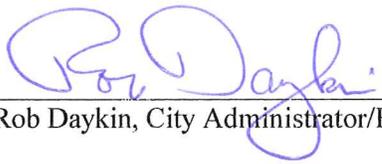
C.A. Monahan discussed that as a land use application it has 120 days; once the application is deemed complete, then the process needs to be completed within 120 days unless the applicant grants a continuance (which includes the appeals as well). Additional detailed discussion ensued regarding the process and C.A. Monahan noted the importance of being mindful of the 120 day clock as information is gathered to determine when the hearing should be held. He also noted

that the record will show whether or not the applicant granted a continuance that is open ended, or granted a specific date. Once this information is known a decision can be made on when to hold the hearing and whether or not the applicant will need to be asked for another continuance.

The meeting was adjourned at 8:33 P.M.

  
\_\_\_\_\_  
David Russ, Mayor

Attest:

  
\_\_\_\_\_  
Rob Daykin, City Administrator/Recorder