

**CITY COUNCIL MEETING  
TABLE OF CONTENTS FOR MINUTES  
September 18, 2018**

Call to Order .....	2
Council and Staff Attendance .....	2
Public Attendance .....	2
Agenda Changes .....	2
Public Comment.....	2
Consent Agenda.....	2
Old Business .....	2
Auto Sales Home Occupation .....	2
Planning Commission Complaints.....	3
New Business .....	5
Accessory Dwelling Unit Fees .....	5
Mayor’s Report.....	5
Council Concerns and Committee Reports.....	5
City Administrator’s Report .....	5
Public Comment.....	6
Executive Session .....	6

**City of Dundee  
City Council Meeting Minutes  
September 18, 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; Councilors Storr Nelson, Jeannette Adlong, Doug Pugsley, Ted Crawford, and Tim Weaver. Absent: Council President Kristen Svicarovich. Staff members: Rob Daykin, City Administrator; and Tim Ramis, City Attorney.

**Public Attendance**

Terry Newhouse; Debbie Newhouse; Don Lowe; Mike Dorostkar, owner, Unique Auto, Inc.; Roshanck Dorostkar; Shannon Howland, Planning Commission Chair; Don Howland; Kim Doades; Mary Jane Bachmeier; Beth Staats; and Brian Staats.

**Agenda Changes**

None.

**Public Comment**

Don Lowe, 959 SW 7<sup>th</sup> Street, introduced himself and informed Council that water was flowing in the vicinity of 7<sup>th</sup> Street and View Crest Drive, which was the result of overflow of a reservoir into the storm drain system. He noted it is unknown how long this condition lasted, noted there is a cost to the waste of water, and inquired if the City has telemetry. C.A. Daykin stated he has not heard of the incident and noted there is telemetry on the water system. However, the City certainly appreciates notifications of possible problems from citizens to expedite investigation and corrections. Mr. Lowe also requested the removal of the word “threatened” from the draft minutes that was referring to his action in the August 15 Planning Commission meeting during the Public Comment phase of the meeting. He stated the use of that word in the draft minutes reflects the bias of staff. Mr. Lowe was advised to provide a written request to the City Administrator for the Planning Commission.

**Consent Agenda**

**The motion** was made and seconded to approve Consent Agenda Item 5.1 City Council Minutes, September 4, 2018. **The motion** passed unanimously.

**Old Business**

**Auto Sales Home Occupation**

Council reviewed the memorandum from the City Attorney regarding the background to the issuance of a home occupation permit to Majid (Mike) Dorostkar for auto sales at 309 N. Highway 99W, standards and conditions imposed on the home occupation, and a range of enforcement actions that may be considered in response to noncompliance of the standards and conditions of the home occupation. Mayor Russ inquired whether the parking of cars on gravel meets the requirement of the home occupation, i.e. in areas that are “appropriately designed and surfaced for that purpose”. C.A. Daykin responded that the parking requirements for residential uses and non-residential uses have different standards, but is of the opinion that placing gravel for a parking area is not meeting that requirement. Daykin explained the existing home on the

commercially-zoned property is a legal non-conforming use, and has always been used as a residence.

C. Crawford stated the For Sale signs placed on vehicles and the banner sign “Unique Auto Sales” appear to be contrary to the requirement that “sales conducted on the premises shall be by appointment only, and shall not be oriented toward, or attract, off-the-street customer or client traffic”. C.A. Daykin noted the home occupation standards also provide that signs are subject to the Development Code chapter on signs, and content of signs is not regulated. City Attorney Ramis explained the distinction between the sign regulation and the intent of the signs to attract customers that would be in violation of the home occupation standard.

Mike Dorostkar acknowledged that when he approached the City initially for a car sales business at that location, the site improvements were unaffordable for him for an interim use of the property. He accepted the home occupation option as a means to have a limited business without the large investment required for a fully developed business on the site. Mr. Dorostkar explained his operation and stated that the vehicles are primarily transported by him to save on cost. Currently there are a total of five vehicles on site that are for sale, but only two of them are visible from the highway. He noted that He added that he owns three vehicles that are not for sale. Mr. Dorostkar stated he primarily advertises his vehicles over the internet and meets prospective purchasers at the site. He shared he has recently been tracking vehicles that park just off the highway in the graveled area next to his property and noted these vehicles were not stopped to view or access his vehicles for sale. He explained the state regulations and costs he incurred for the Dealer Certificate, which expires in 2020. Annual expenses include bond, insurance and fees to DMV, which will be due May 2019.

Council discussed the issues of non-compliance, including the number of vehicles for sale located on the site, location and parking of the vehicles, and signing. Mayor Russ noted that he favors supporting new businesses, although the standards may not be waived. C. Pugsley suggested deferring strict enforcement until May 1, 2019, to allow the owner to amortized incurred expense. Discussion ensued on the number of cars and signing.

**A motion** was made and seconded to defer further enforcement until May 1, 2019, provided no more than two cars for sale are visible from the highway and signing is not attracting off-the-street customers. **The motion** passed unanimously.

### **Planning Commission Complaints**

C.A. Daykin reported he made inquiries of various persons to conduct a fact-finding investigation of the complaints received at the September 4 council meeting against Planning Commission Vice-Chair Dustin Swenson. He was not able to find a person that would be willing to do the work within the \$1,000 amount authorized by the Council and based on his conversation with an investigator, estimated the cost at \$3,500 based on 20 hours of work assuming interviews of the principal persons conducted over the phone and review of meeting recordings. One of the questions asked by Executive Director Sean O’Day of the Mid-Willamette Valley Council of Governments is what the end result expectations of Council are. If the facts are essentially not in dispute, and if requiring additional training and counseling is the direction Council is expected to take, then it may make more sense to devote the resources for training that otherwise be expended on investigation. Daykin added that other than the alleged use of the expletive “dammit” by the Vice-Chair at the May 16 meeting not being confirmed from the recordings, the other two specific allegations at the August 15 meeting are not in dispute. They include the Vice-Chair suggesting Mr. Lowe may leave the meeting after affirming he was not leaving and making reference to Mr. Lowe as “old man river” when describing possibility of amendments to the

Development Code that may have been enacted in the past that may have resulted in alternate criteria in reviewing the subdivision application than what are in place currently. Daykin noted that the Vice-Chair to express on multiple occasions when addressing these types of applications that the members must set aside their own personal biases and base their decision on the criteria in the Development Code. Councilors Adlong and Nelson each stated they listened to the tapes and felt there were inappropriate comments from the Vice-Chair that counseling and training should be provided. C. Nelson added that perception is just as important as intent in these types of proceedings.

Mary Jane Bachmeier, 1002 SW 7<sup>th</sup> Street, Debbie Newhouse, 826 SW View Crest Drive, and Terry Newhouse, 826 SW View Crest Drive, express support for the Chair's handling of the hearings, but felt the Vice-Chair's language and tone was intimidating and will have a detrimental effect on others that wish to participate in future hearings.

Shannon Howland, Planning Commission Chair, stated she is speaking for herself and not on behalf of the Planning Commission and noted she was not aware that Council was considering her removal from the Planning Commission until she was contacted by a reporter. She stated she did not request police presence at the hearings as reported, but did request attendance of the city attorney. Ms. Howland stated she reviewed the Oregon Public Meetings Laws and did not find where the hearing process conflicted with those requirements and noted that the Planning Commission has not adopted "Robert's Rules of Order". She also noted that additional training was discussed with the Planning Commission and she felt that would be a good idea.

C.A. Daykin informed Council that the Planning Commission Secretary requested the police to attend the hearings, which has been a past practice when a large attendance is expected with a contentious issue. C. Weaver expressed his support of police presence at public meetings, including the Planning Commission public hearing, which was also the consensus of the Council.

Don Lowe, 959 SW 7<sup>th</sup> Street, stated he had informed the Chair Howland at the August 15 Planning Commission meeting of his intent to bring the matter of removal of the Chair and Vice-Chair to the next City Council meeting if they would not resign. Mr. Lowe stated he feels Chair Howland is capable of continuing on the Planning Commission, however, she should be replaced as Chair. He affirmed his view that Council should conduct a hearing for the removal of Vice-Chair Dustin Swenson from the Planning Commission. Mr. Lowe stated that use of inappropriate language and name-calling by the Vice-Chair is inexcusable and that training is not an acceptable solution. City Attorney Ramis advised that discussion of the details of alleged bias by members of the Planning Commission will be ex-parte communication and should be more appropriately brought up at the hearing for the appeal.

Attorney confirmed the positions of Chair and Vice-Chair are determined by the members of the Planning Commission.

Council consensus was to not expend resources on investigation of the complaints brought against the Vice-Chair and instead direct the City Administrator to provide training to the Planning Commission regarding planning procedures and conduct with the public. Council also express interest in the offer from former Planning Commission Chair and George Fox University professor Ron Mock to offer mediation services between the residents and Vice-Chair.

## **New Business**

### **Accessory Dwelling Unit Fees**

Council reviewed the report prepared by C.A. Daykin regarding the collection of System Development Charge (SDC) fees and monthly utility service fees for accessory dwelling units (ADUs). Council agreed that unless a new meter is requested, there would not be a water system SDC fee for an ADU. Council also agreed that since an ADU is an independent dwelling unit about the same size as a small apartment, the sewer system SDC should be based on the multi-family residential rate whether it is a separate building or incorporated into the primary residence. Council agreed that the stormwater system SDC should be based on the impervious surface areas of a new building or expansion of the existing residence to accommodate an ADU, and possibly the impervious surface areas related to new parking that is developed for the ADU. Daykin stated this will be addressed more specifically in the update to the stormwater SDC methodology following adoption of the update stormwater master plan. Resolutions adopting the ADU fee policies will be brought back to Council at a future meeting.

### **Mayor's Report**

M. Russ inquired whether the banner signs placed on the small building just south of the fire station are too large. Also, asked if any enforcement took place on the A-frame style signs located on the sidewalk after business hours. C.A. Daykin affirmed he noted the increased number of signs, but has not followed up with the respective businesses yet.

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

C. Adlong reported the Parks Advisory Committee reviewed the final draft of the survey regarding park needs in Dundee and development of the Jan Sander property acquired by CPRD. She expressed concerns with the continued lack of responsiveness by CPRD with Dundee concerns, including the lack of a lease between CPRD and the Newberg School District for use of school owned property used as Billick Park and their intent to install their paddle launch program at Roger's Landing, a motorized boat launch facility, in lieu of re-opening the paddle launch next to Ash Island in Dundee.

C. Adlong also noted the micro bursts of heavy rains that occurred last week resulted in significant erosion to the drainage ditches near her residence and that much of water was from the storm pipe serving a large house on Viewmont Drive.

C. Crawford asked about the status of the abandoned vehicles at the ODOT property and on Ninth Street. C.A. Daykin stated ODOT has restarted the process to remove the abandoned vehicle from their property since they were unable to find a towing business to remove the vehicle at no charge. Daykin noted the RV on Ninth Street appears to be parked partially in the right of way (over the pedestrian way) and on the adjoining private property. He is following up with the Newberg-Dundee Police Department on that vehicle, which may result in cost to the City.

C. Crawford reported the article he and other community members interviewed for the Oregon Business Magazine was recently published regarding the opening of the Bypass and potential business growth in Dundee and Newberg.

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

C.A. Daykin stated last week's storm events also resulted in the flooding of three driveways where the City completed street paving earlier this summer on First Street and Canyon Place. It appears the lifts for those three downhill driveways were virtually eliminated with the paving. The City Engineer has contacted the contractor to visit on site to investigate and correct the problem.

C.A. Daykin informed Council that the field work for the annual audit started yesterday and the City will be following up with requests for additional information over the next few days. He noted that he expects the auditor to have a finding of non-compliance on one of the provisions in the DEQ loan for the construction of the WWTP. It involves the measurement of debt coverage, which requires net sewer system revenue to exceed the annual debt service by 105%. Due to the extraordinary expense of sludge removal, which only occurs every four years or so, the ratio dropped to 1.024% for FY 2017-18. This is not curable since the City is on a cash basis accounting system, unless the City was willing to raise rates dramatically in the year sludge removal takes place, and then lower them back to "normal" in the subsequent year.

C.A. Daykin reported that the City of Newberg is considering termination of their franchise agreement with Waste Management. Both the City of Dundee and City of Dundee collaborated on preparation of the franchise agreement after Waste Management bought out Newberg Garbage in 2010, and both agreements have a seven year rolling term. One difference is Newberg's term year starts October 1 and Dundee's starts January 1. Newberg has received complaints of fees from commercial customers and interest to complete from other haulers. He will continue to monitor this development and bring back to the Council for further discussion.

### **Public Comment**

None.

### **Executive Session**

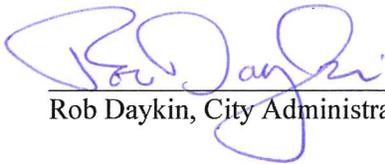
The City Council entered Executive Session at 9:36 P.M. for the purpose: To conduct deliberations with persons designated by the governing body to negotiate real property transactions. The executive session is held pursuant to ORS 192.660 (2)(a).

The meeting was adjourned at 9:44 P.M.



David Russ, Mayor

Attest:



Rob Daykin, City Administrator/Recorder