

**CITY COUNCIL MEETING
TABLE OF CONTENTS FOR MINUTES
February 16, 2021**

Call to Order2
Council and Staff Attendance2
Public Attendance2
Agenda Changes2
Public Hearing2
Public Comment.....3
Consent Agenda.....3
Old Business.....3
 Noise Variance – Highway Improvements Project3
 Highway Improvements Project Update4
 TMDL Implementation Plan Update.....5
New Business5
 Budget Committee Appointments5
 WWTP Disinfection Equipment Maintenance Proposal5
 WWTP Status Update5
Council Concerns and Committee Reports.....6
Mayor’s Report.....6
City Administrator’s Report6
Public Comment.....7

City of Dundee
City Council Meeting Minutes
February 16, 2021

Call to Order

Mayor David Russ called the meeting to order at 7:00 P.M. over ZOOM teleconferencing meeting platform.

Council and Staff Attendance

Attendance Via ZOOM: Mayor David Russ; Councilors Storr Nelson, Jeannette Adlong, Tim Weaver, Ted Crawford, David Ford and Patrick Kelly (8:12 PM). Staff Attendance via Zoom: Rob Daykin, City Administrator; Matthew Kahl, City Attorney; Greg Reid, City Engineer; Chuck Simpson, Public Works Superintendent; and Melissa Lemen, Administrative Assistant.

Public Attendance

Attendance Via ZOOM: Mark Shipman, Attorney at Law, Saalfeld Griggs PC, 250 Church Street, Suite 200, Salem, OR 97302; Judy Parker, J.A. Parker Law Firm, LLC, The Winemakers' Lawyer; Sam Kennedy, Kerr Contractors; Noah Minnick, Kerr Contractors; Vidal Frances, Resident Engineer, Oregon Department of Transportation (ODOT); Astrid Potter; Polly Stuckey; and two additional attendees identified only by their phone numbers.

Agenda Changes

None.

Public Hearing

M. Russ opened the public hearing at 7:01 PM to consider the adoption of Ordinance No. 573-2021, an ordinance approving a statutory development agreement with SOFAR, LLC and Wine Country Legacy Partners, LLC for the property located at 459 SW 9th Street.

Staff Report

C.A. Daykin reviewed the contents of his agenda report on page 1 of the meeting agenda packet.

Developer Presentation

Attorney Mark Shipman introduced himself and explained that he is present on behalf of Wine Country Legacy Partners, LLC as a co-applicant with SOFAR, LLC. He indicated that they concur with Staff and what C. Atty Kahl prepared with respect to the ordinance, and urged that Council approve the ordinance and go with Staff recommendation.

Public Testimony

None.

Developer Rebuttal

None.

Final Staff Comments

C.A. Daykin briefly reviewed the potential processes moving forward.

Council Deliberation

M. Russ inquired about whether there are onsite improvements required for the developer that are outside of what would be considered LID items. C.A. Daykin discussed that all of the

improvements in the development agreement are on private property. He explained that these types of improvements would not normally be required for their use of the building because they don't intend on expanding the footprint of the building, but two of them are related specifically to the partition process: 1. Dedication of an additional 10 feet of right-of-way (ROW) along Alder Street and 2. Additional dedication of ROW at the intersection of Alder and 9th Street to provide for a better turning radius for vehicles. Regarding the private property, C.A. Daykin explained that the City has asked the property owner to abide by the parking and loading requirements for the Dundee Development Code, landscaping requirements, compliance with exterior lighting regulation, compliance with design & construction of storm detention and treatment facilities, as well as compliance to the extent possible to the building design standards for industrial buildings. C.A. Daykin provided clarification that the property owner would be required to take out permits within 255 days to proceed with development and then complete development within one year of execution of this agreement. It was noted street and other public improvements along the frontage of the property will be part of a future local improvement district.

A motion was made and seconded to adopt Ordinance No. 573-2021, an ordinance approving a statutory development agreement with Sofar, LLC and Wine Country Legacy Partners, LLC for the property located at 459 SW 9th Street; adopt findings; and authorize execution of the agreement. **The motion** passed unanimously.

Public Comment

Public Comment Via Zoom: None.

Consent Agenda

A motion was made and seconded to approve Consent Agenda Item 5.1 City Council Minutes, February 2, 2021; Item 5.2 2021-2022 Budge Calendar; and Item 5.3 OLCC Liquor License Application, Dundee Hills Wine Library, LLC. **The motion** passed unanimously.

Old Business

Noise Variance – Highway Improvements Project

Sam Kennedy, Kerr Contractors, introduced himself and discussed their need for a noise variance for the highway project. C. Nelson voiced support of the noise variance and explained that ODOT oftentimes requires work to be done at night; he supported that work needs to be done at night to maintain some traffic flow during the day. C. Weaver voiced support of the noise variance and making sure safety requirements are also being met. C. Nelson pointed out that the more restrictions provided to the contractor the longer the project will take to complete. C. Adlong voiced concern about the potential length of construction and inquired about whether there would be defined periods of time when louder work would be completed. Kennedy explained that the nature of their work is loud and noisy; there really are not quiet days during road construction or demolition. Vidal Frances, Resident Engineer, ODOT, introduced himself and explained that he has been working with Kerr Contractors and trying to get the project moving forward as quickly as possible. He acknowledged that there have been some noise complaints and explained that he has had conversations with Kennedy and his team about potential mitigations that can be put in place to try to minimize or lessen that impact for the residents; reducing noise is very challenging and complex in this type of work. Discussion ensued. Frances explained that though the project is scheduled out until March 2022, they are trying to complete the bulk of the work during summer 2021. He explained that they will take all complaints seriously and do what they can to try to offset or mitigate the concern in some fashion. Council voiced appreciation of receiving this information and C. Ford voiced appreciation of anything that can be done during the process to be strategic to minimize noise when possible. Regarding the construction back-up alarms, Frances explained that in order for those to be

disabled, additional personnel would need to be on site to complete the spotting required which would present a challenge. The importance of following safety guidelines was discussed. Frances offered to provide progress updates for Council throughout the construction process. A **motion** was made and seconded to grant the noise variance to Kerr Contractors. **The motion** passed unanimously.

Highway Improvements Project Update

City Water Relocations: C.E. Reid reviewed that things are almost complete with this project. He discussed that a water line at Trellis restaurant, 110 N. Highway 99W, needed to be relocated and was added to the work performed by Pacific Underground. He explained that initially it was thought that their waterline was under the sidewalk and deep enough to avoid conflict; but the ODOT design was changed and resulted in conflicts with new storm facilities. Upon further investigation it was found most of the line was only under a small section of the sidewalk near the driveway exit to the highway that they were unaware of previously and resolving the conflict should be relatively easy.

ODOT Hwy Construction: C.E. Reid discussed an issue with ODOT's bid for the construction work with Kerr with respect to some of the undergrounding work and the electrical work. He explained that from what he's been able to work out with the contractor, it sounds like the City may have some of their items double bid in the project which drove the electrical work to be approximately \$60,000 over what he estimated. C.E. Reid explained that Kerr really hasn't had a chance to look at it and respond to the issue because their project manager was on vacation last week; he will need to allow a little time for them to address the concerns. He clarified that overall, the project was overbid by only \$40,000 with respect to what had been approved by Council because some of the items came in under his estimated budget.

C. Crawford inquired about the costs of completing the boring portion of work now versus completing the conduit work later. C.E. Reid favored the work being done now though explained that if it is done later the costs may not change significantly and noted that some of those costs could be absorbed through the electrical work. Discussion ensued. C. Crawford inquired about why boring is necessary when the road base is open. C.E. Reid explained that he feels that there was some confusion during the bid process which is why the franchise work got placed in two different areas of the bid package. He discussed the complexity of the project and the fact that he must work through the ODOT system to address these issues, as well as find out where Kerr stands on the issues. C.E. Reid reviewed that his belief is that some of the franchise work that was double bid approximately \$30,000 in the lump sum amount for the electrical work. He discussed potential strategies to sort out these issues.

Astrid Potter, Assistant Project Manager, ODOT, introduced herself and discussed that the issue is that the contract was written correctly and the bid was accepted; if there were a double bidding on an item there is no contractual recourse. She explained that the double bidding cannot just be reduced out of the lump sum; they have no contractual recourse. C.A. Daykin discussed that if the City cannot negotiate a reduction in the lump sum, the City could just withdraw the work. Potter noted that this is the direction that she views this moving at this point in time. C. Nelson voiced support of C.E. Reid and C.A. Daykin moving forward with necessary negotiations. C.A. Daykin explained that the work being discussed pertains to the electrical conduit crossings for PGE. He reviewed a previous conversation with C.E. Reid and explained that if it the City did pull it out in its entirety the City would only perform the work on an as needed basis. Discussion ensued and C.A. Daykin explained that another aspect of the forced undergrounding is that the City could require PGE to take on the costs and perform the undergrounding work on their own independent of the City as their own project, though they could recover those costs through the

rates. The consensus of Council was to move forward and proceed with the change order following an acceptable reduction in costs negotiated by C.E. Reid and C.A. Daykin.

TMDL Implementation Plan Update

C.E. Reid discussed that at this time he is working on getting the next five-year plan approved by DEQ. Discussion ensued; he referenced information from his report on page 55 as well as reviewed comments from DEQ as shown beginning on page 57. C.E. Reid explained that the Riparian Habitat ordinance that needs to be brought forward has been delayed partly because of the changes in the City Planner position; he has recently engaged Planner Davenport with that issue which will hopefully begin moving things forward in that regard. Discussion ensued and C.E. Reid noted that once finalized, he will bring the five-year plan to Council for their approval.

C.E. Reid discussed that City staff will soon be requesting the purchase of stormwater monitoring software so that data can be more easily collected in the field. He explained that this will allow reports to more easily be created for DEQ as well as allow City staff to manage things in the stormwater system (and potentially the sewer system in the future). C.E. Reid explained that the software will also allow City staff to locate facilities in the field by GPS and bring them right into a GPS system on a computer which is a step in the right direction.

New Business

Budget Committee Appointments

A motion was made and seconded to appoint Dennis Phelan and Marcus Harris to the Budget Committee with terms ending December 31, 2023. **The motion** passed unanimously.

WWTP Disinfection Equipment Maintenance Proposal

C.A. Daykin discussed that this is a budgeted maintenance item and explained that only the vendor can provide the specific parts for replacement as well as maintenance since the UV disinfection system is proprietary. He discussed that when the system was first installed, the vendor recommended annual maintenance, but because of budget constraints it has only been done every other year; the maintenance really needs to be completed at this time. C.A. Daykin explained that typically the technician is flown here, the City pays for their boarding and their time & materials to complete his onsite maintenance every other year. Chuck Simpson, Public Works Superintendent, was present and explained that the records they have don't show which unit was maintained last time and he suspects that perhaps both were done, so the decision was made to complete work for both in consecutive years. C. Ford inquired about whether it might make more sense to have both units done at the same time to avoid having to pay a technician to come out specifically to do it each year. Simpson discussed the budgetary constraints impacting this decision. C.A. Daykin pointed out that the service/repair proposal is only an estimated amount; it could cost more or less depending on parts replaced. **A motion** was made and seconded to accept the proposal from Evoqua Water Technologies, LLC in the amount of \$10,478.71 as an estimate for parts and travel for preventative maintenance for UV #3. **The motion** passed unanimously.

WWTP Status Update

Simpson explained that he had hoped to ask Jared Nunley, WWTP Supervisor, to join the meeting tonight though at this time he does not have power, internet or phone service following the recent winter storm. M. Russ inquired about the condition of the MBRs. Simpson discussed that they are getting better though there was a shock this weekend when the power went out. He explained that this event scrambled the plant and shut it down sometime early Saturday morning; Staff was not alerted to this and did not receive a page for some reason until 5:00 AM, which resulted in another small overflow event. Simpson discussed that there were generator and power

issues and Staff remained onsite for 24 hours; PGE's power went out completely to the plant which left it solely on generator power. Simpson explained that the plant has recovered since then though it is not functioning at 100%. He reviewed detailed information about the WWTP as provided in a chart he presented to Council over Zoom; a copy was added to the meeting agenda materials. Simpson explained that at present the plant is diverting approximately 300 gal/minute which is slowly getting turned down. Simpson discussed that their most immediate need is a manual cleaning of the MBRs; hopefully, this would extend their life another couple of years. Simpson pointed out that high flow events recur; it would be nice to have more options other than diverting, which then becomes a storage issue. Detailed discussion ensued. Simpson addressed questions from Council and shared his thoughts about the recent high flow event as well as his thoughts moving forward. M. Russ expressed concern about the I&I issue; Simpson voiced concern about this as well and confirmed that another impactful leak was fixed last Friday. He explained that PW has been busy working on the Highway water line project and has been trying to fit in manhole inspections when they can.

Council Concerns and Committee Reports

C. Crawford noted that the Tourism Committee has not yet heard the results of the Destination Ready grant they applied for the signs and banners, though the results should have been announced on February 11, 2021.

C. Crawford inquired about whether very many City street trees were lost during the recent ice storm. Simpson discussed that he has not observed much damage from the recent storm. C.A. Daykin noted that though he has seen some large limbs down in the park from trees, he has not seen anything in the street. C. Crawford noted that there are several branches from the trees on Ninth Street which are hanging pretty low and will need addressed. Simpson noted that PW crews will evaluate the concern.

Mayor's Report

None.

City Administrator's Report

C.A. Daykin discussed that Andy Wilder filed a lawsuit against the City for \$24,000+ for his damages, which is being handled by CIS. C.A. Daykin explained that he and C.E. Reid met with CIS representatives today; CIS indicated that they plan on going through arbitration process and hope to have everything settled through that process and before any kind of deposition or further process moving forward. C.A. Daykin provided additional background information at the request of C. Ford.

C.A. Daykin informed that the City was not included on the award list for the State Parks grant for the Third Street project. He explained that he received an email from a State Official who welcomed those who were not awarded to have a conversation but hold off until they complete all of the awarded projects and getting contracts out. C.A. Daykin discussed the process moving forward and indicated that evaluation will need to be done on whether they will strengthen their application and resubmit or perhaps make a new plan. C.A. Daykin will report back to Council when more information is known.

C.A. Daykin discussed that Staff has been meeting with BRIC Architects, the architectural firm for the Newberg School District (NSD); they met last week and have a scheduled meeting for this Friday. He explained that they are exploring alternate school sites for the new Dundee Elementary school specifically in the Riverside area; they are trying to identify what their infrastructure costs might be if they were to locate in that part of town. C.A. Daykin discussed that they are also exploring placing the school on the ball fields though they did advise them to

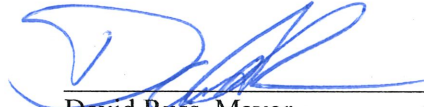
seek out the information regarding the federal grant that paid for the park improvements. He explained that the NSD was looking at the two subareas on the Riverside part of the bypass owned by Lindquist, and now they are looking at Subarea C, the Lindquist property located between the bypass and Edwards Road which is approximately 12 acres. C.A. Daykin discussed that City Staff are meeting with BRIC again on Friday to discuss the infrastructure requirements for that location, which he felt would be a lot easier for them to develop if they chose to go there as opposed to the other areas. Discussion ensued and C.A. Daykin reviewed the potential process moving forward if the NSD elected to build in the Riverside District, including asking the City Council to amend the Riverside District Master Plan. C. Adlong voiced concern about the potential changes and loss of available property to address the housing needs; the urban growth boundary may need to be expanded sooner. Conversation ensued and additional thoughts and ideas were shared. It was noted that the NSD is considering potentially utilizing the present school site as an option as well.

C.A. Daykin reminded Council about the Special Joint meeting this Thursday, February 18, 2021 at 7:00 pm with ESCI for the fire district review.

Public Comment

None.

The meeting was adjourned at 8:20 P.M.



David Russ, Mayor

Attest:



Rob Daykin, City Administrator/Recorder