

**CITY COUNCIL MEETING
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June 1, 2021**

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City of Dundee
City Council Meeting Minutes
June 1, 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 Tim Weaver, Storr Nelson, Patrick Kelly, Ted Crawford, Jeannette Adlong and David Ford (7:04 P.M.). Staff Attendance via Zoom: Rob Daykin, City Administrator; Tim Ramis, City Attorney; Greg Reid, City Engineer; and Melissa Lemen, Administrative Assistant.

Public Attendance

John Bridges, Attorney at Law, Brown, Tarlow, Bridges & Palmer, P.C., Attorneys at Law, 515 E. 1st Street, Newberg, OR 97132; Matt Straite, MIG; Casey Banks; and two unidentifiable attendees via Zoom.

Agenda Changes

Consent Agenda Item 5.3 OLCC Liquor License Application, Domaine Serene was added.

Public Hearing: Budget for Fiscal Year 2021-2022

Mayor Russ called the hearing to order at 7:01 P.M. to consider the budget for the fiscal year 2021-2022.

Staff Report:

C.A. Daykin explained that the budget presented represents the budget which was approved by the Budget Committee. He explained that since the last time the Committee met, they adopted a budget with a number of different changes to the budget that was prepared by Staff, which includes allocations, appropriations to the State Shared Revenue Fund, and included adjusting expenditures in the Parks Fund to reduce the amount for the First Street Mini Park by \$4,000 and apply that instead to Parks & Trail Maintenance. He explained that the proposed budget also recognizes the grant that the City received from Travel Oregon in the amount of \$100,000 to be applied to a special project to develop opportunities for outdoor dining, seating and gathering at the Alder Street lots. C.A. Daykin discussed that since that time, the City Council has decided to finance the purchase of the water tender. He suggested following the hearing to add one more change that the City Council could initiate to the final budget to be adopted that would recognize the U.S. Bank loan principle & interest amount for the next fiscal year and reducing by the same amount the capitol outlay in the equipment reserve fund.

Public Testimony:

None.

Additional Staff Comments:

None.

Questions from the Council:

None.

Mayor Russ closed the hearing at 7:04 P.M.

A motion was made and seconded to direct the city administrator to prepare the resolution adopting the budget for fiscal year as approved by the Budget Committee with the following changes: recognize the US Bank loan principal & interest amount for the fiscal year and reducing by the same amount the capital outlay in the equipment reserve fund. **The motion** passed unanimously.

Public Hearing: LURA #20-16, Short Term Vacation Rentals

Mayor Russ called the hearing to order at 7:07 P.M. to consider Development Code amendments to incorporate new standards for short term vacation rentals. File #: LURA 20-16.

Call for Declarations of Conflict or Bias by any members of this body: None.

Objections to jurisdiction by any members of this body: None.

Staff Report: Planner Matt Straite read the Staff Report into record and provided a short visual presentation. He read into record a letter received today from Deborah Groff, a copy of which was added to the meeting agenda packet materials. Planner Straite also reviewed comments received in a letter from Elizabeth Sundeen. He provided a visual presentation of a map of Dundee which showed the location of short-term rentals currently in the City. A copy of the map was also provided for the record.

M. Russ discussed that his interpretation of Ms. Sundeen's statement pertaining to the limitation on occupancy to be more of a limitation on the maximum number of guests and not necessarily a limitation on the number of bedrooms. M. Ford voiced agreement with M. Russ' interpretation of what Ms. Sundeen had included in her letter. He asked a clarifying question pertaining to the sentence reading "Any rental in a non-residential zone or the Agriculture (A) zone is a hotel or motel" on page 10 under 17.501 Definitions. Planner Straite acknowledged the concern and will correct the typo to reflect "any rental outside residential zones or agricultural zones is considered a hotel or motel."

Public Testimony

Attorney John Bridges provided public testimony. He explained that he represents someone who is interested in doing a short-term rental in the agricultural zone. Atty Bridges discussed that he had proposed, at the suggestion of Staff, that change through the Planning Commission which they had approved. He explained that he is present tonight to support the Planning Commission's recommendation and is available to answer any questions regarding what his client has in mind.

Deliberations

Regarding Deborah Groff's letter, C. Weaver expressed concern about whether homeowners are encouraged to contact the police when disturbances are occurring at vacation rentals. C.A. Daykin discussed that he has not heard complaints voiced from this specific person though indicated that when he is contacted about such a concern he does advise them to contact the police; they do need to respond to be able to begin tracking on these types of nuisances in order to take effective action.

C. Adlong discussed that one concern she has is that there is no requirement to notify if it is the infrequent rental; though she doesn't see any reason why an infrequent rental couldn't potentially have the same noise issues. She also pointed out that if it is not known whether a neighbor is a rental, there would perhaps be reluctance to call the police. C. Adlong explained that her belief is that every single short-term rental should have initial notification requirements. Planner Straite

explained that part of the way this is written is that anyone who has a short-term rental has to obtain a business license, and when this is obtained there is a new requirement which provides that the neighbors must be notified every single time they renew their business license. He explained that the only thing that the proposed does not require a notice on is the initial acquisition of the permit itself; discussion ensued. M. Russ pointed out that that for the infrequent renter, this may be a hassle for both the property owner and the City to have to go through; though he did acknowledge that there does in fact need to be some sort of specific line between that something more actively rented like a business. Discussion ensued regarding potential thoughts and ideas on this topic. M. Russ suggested that perhaps allowing three rental periods of no more than 45 days total may be reasonable. C. Adlong discussed her personal experience of living near a local bed & breakfast and expressed concern that neighbors should be empowered to understand what is going on in their neighborhood.

C.A. Daykin reviewed the Current Rentals map in detail. C. Adlong inquired about what percentage of STR's there are presently in Dundee. C.A. Daykin reviewed that there are approximately 1,048 single family homes in Dundee (not including the two manufactured home parks). He explained that 5% of this number would allow for a maximum of 51 STR's, which C. Adlong pointed out is roughly four times as many as there are now, plus the infrequent rentals and bed & breakfasts. M. Russ voiced his belief that bed & breakfasts should be included in the 5% amount, though C.A. Daykin explained that they are regulated under a different part of the Code. C. Adlong voiced agreement with M. Russ and supported including bed & breakfasts in some kind of a grand total which could be capped between the two. C.A. Daykin suggested that the percentage of STR's could be reduced. It was noted that at present there is no limitation on bed & breakfasts. M. Russ asked C.A. Daykin to note that the matter of bed & breakfasts should be brought to conversation at City Council.

M. Russ referenced page 32, F. Business License and Transient Room Tax, item 3, which states that "An STR permit holder must generate at least \$500 in taxes annually in order to renew the STR business license." He pointed out that an infrequent rental would be very unlikely to generate that amount of tax revenue. Planner Straite discussed the strategy behind the requirement and suggested that this number could be changed. Discussion ensued. C. Ford provided additional discussion and noted that he doesn't view the \$500 tax requirement as an unreasonable marker.

C. Ford voiced support of limiting the number of occupants in STR's. He felt that limiting the number of people occupying an STR at any given time does not seem unreasonable given potential parking and noise issues. C. Weaver suggested capping the number of occupants to 10 unless filing for a permit, which Council members voiced support of as well.

C. Nelson discussed that those purchasing STRs may be setting them up as an LLC and inquired about how this would be regulated in the event that one person was operating multiple STRs all under a different LLC for tax purposes. Planner Straite explained that this was discussed at the Planning Commission level, though there is only so much which can be regulated; this would violate the intent of the ordinance though the letter of the ordinance would leave that door open. Brief discussion ensued. C. Nelson inquired about whether the City would be allowed to limit a person who may be attempting to operate STRs under multiple LLCs. C. Atty Ramis discussed that he does not believe that the current language provides for that though offered that he could compose verbiage which states that majority membership in an LLC counts as one. The consensus of Council was to ask C. Atty Ramis to add similar verbiage of this nature to the Code.

C. Adlong inquired about how Staff will become aware of and track whether an infrequent STR grows into a more frequent rental. Planner Straite discussed his belief that this would not be

specifically tracked, and property owners would be on the honor system. He explained that if property owners went beyond their 30 days then they've violated the ordinance by crossing over into a different classification of STR which they didn't get a permit to do; it would become a land use enforcement issue at that point. M. Russ pointed out that tax revenue paid would also reveal this information to the City. M. Russ suggested that nearby neighbors would also likely be aware of the increased amount of renting and should be encouraged to participate and help with enforcement. C. Ford voiced that it is difficult to write ordinances (laws) to stop all of the possible abuses and supported that it is important for residents to be involved in their own neighborhoods. He inquired about how many STRs are present operating in Dundee now which are unlicensed. Discussion ensued about browsing the rental sites for possible listings.

Neighbors wouldn't necessarily need notice for the land use approval of the infrequent but would be provided annual contact information in the event of unruly activity. C. Ford voiced support of a notice requirement for initial business licenses; every business license renewal should also require them to provide the information annually. Planner Straite discussed that if infrequent STRs were made a Type II (a Type II is really soliciting comments on the land use approval), though an annual notice that goes out with the business license is intended to be an update to the neighbors with no real opportunity for a neighbor to provide feedback; discussion ensued. Planner Straite pointed out that if Council desired to require a notice for infrequent rentals, they would be bumped up to a Type II. He noted that approval of a business license is not a land use action so there's no need for any kind of input from the public. C. Ford inquired about whether Type 1 could be required to be noticed at the time when the permit is approved/issued or the original business license completed (without going to the Type II feedback level). Planner Straite affirmed this and discussed that clarifying language could be added to reflect notification requirements to also include the first business license issuance (page 32, F. Business License and Transient Room Tax, Item 4-B.). C. Ford discussed the importance of residents receiving an initial notification along with the annual notifications as well.

C. Adlong discussed a point of clarification on page 33, J. Standards, Item 1., and suggested that the text shown as "All overnight and visiting guests (not overnight guests) must park in designated parking areas (as shown on the site plan) should be changed to: "All overnight and visiting guests must park in designated parking areas (as shown on the site plan)." Planner Straite indicated that he will make this revision.

A motion was made and seconded to adopt Ordinance 572-2021 amending the Development Code to incorporate new standards for short term vacation rentals as amended. C. Adlong discussed that given the important changes which are important to the outcome of the ordinance and how its administered, she would like to first see those changes reflected in writing before voting to avoid inadvertent errors. C. Crawford voiced support of reviewing the new verbiage added by C. Atty Ramis pertaining to ownership (LLCs) prior to voting as well. C. Weaver **rescinded his previous motion.** **A motion** was made and seconded to continue the public hearing until the City Council meeting on June 15, 2021. **The motion** passed unanimously.

Public Comment

None.

Consent Agenda

A motion was made and seconded to approve Consent Agenda Item 5.1 City Council Minutes, May 18, 2021; Item 5.2 Financial Report Ending April 30, 2021; and Item 5.3 OLCC Liquor License Application, Domaine Serene. **The motion** passed unanimously.

Old Business

Myrtle Street Paving Project

C.E. Reid discussed seven bids were received for the project with K&E Paving, Inc. dba H&H Paving being the low bidder at a cost of \$134,194. C. Nelson inquired about whether he has any complaints about H&H Paving improvements done last time. C.E. Reid could recall no problems other than an issue he addressed with them (which they corrected) during construction work performed on a steep street; discussion ensued.

C.E. Reid discussed that there are two residences at the intersection of Niederberger who has expanded their driveways without actually changing their approaches (they are driving over the curb and sidewalk areas to use the gravel area). Discussion ensued and it was noted that there are multiple properties in Dundee where a similar action has been undertaken to add gravel driveway space without going through proper permitting process. C.E. Reid explained that he will address this topic further with Council at a future meeting to determine how these situations should be addressed. Regarding the two residences at the intersection of Niederberger, he noted that the access and entry to the driveways is really close to the intersection which is creating an unsafe situation. C.E. Reid discussed that his recommendation is that these activities should be curtailed, and proper permits obtained. C. Nelson expressed concern about the close proximity to an intersection. M. Russ discussed how these types of driveway expansions can become a nuisance or a hazard in urban areas. C. Ford inquired about whether there would be any implications (liability issues) for the City if Staff were to enforce the rules on this issue for those who have already completed work or have indicated they wish to do so. C. Atty Ramis discussed that the short answer is no; when it comes to enforcement, the City has complete discretion to enforce or not, which he explained is a part of the City budget authority. Discussion ensued and C. Atty Ramis explained that the fact that someone has benefitted from violating a rule for a number of years doesn't provide a defense to that person. He explained that the City is completely within their discretion to, if desired, begin enforcement on these points. C. Nelson discussed that with signs and dark skies there was a ten-year period to become compliant; a similar approach with a possibly a different timeframe may something to consider. C. Adlong requested examples (specific addresses) of properties in the community who have made these alterations to their driveway space. C.E. Reid indicated that he would like to take photos and put together a list for an upcoming City Council meeting. M. Russ requested cost information on how these issues could be remedied on the public and private side.

A motion was made and seconded to award the project to K&E Paving, Inc. dba H&H Paving for the overall contract price of \$145,553. **The motion** passed unanimously.

Slurry Seal Bids

C.E. Reid briefly discussed the results of the bidding process. **A motion** was made and seconded to award the project to Paving Northwest, Inc. for the contract price of \$48,255.87. **The motion** passed unanimously.

Council Meeting Protocols

C.A. Daykin reviewed his meeting agenda report. C. Kelly voiced that he is uncomfortable with City Staff requesting proof of vaccination or requiring masks for those who are or are not vaccinated. Additionally, he voiced concern about those who may have already had COVID and have natural immunity, and whether those people would also be required to mask. C. Weaver supported reviewing this potential option periodically (perhaps monthly) and once our local area has reached low risk revisiting the option. He expressed concern that this would be a lot of extra work for City Staff, especially during the summer months when there could be additional challenges presented as Staff may be taking vacation time. C. Weaver suggested moving forward

continuing with ZOOM meetings for the time being. M. Russ voiced the importance of following the law with regard public attendance and participation at meetings, though he stressed that he will not participate in tyranny or demanding those who wish to attend an in-person meeting show proof of vaccination. He shared that he does not favor having ZOOM meetings as it may discourage people from participating in some way and, therefore, violates the Oregon statute as far as he is concerned. C. Ford voiced that shares the same perspective as C. Weaver at this time. He voiced agreeance that Staff already has an abundance of work to do and suggested that evaluating the option monthly would be his preference, though he is hopeful that meetings will move back to normal in-person by the end of summer. C. Adlong voiced that she shares the same viewpoint as C. Weaver and C. Ford and is hopeful there will be an opportunity for regular meetings within the next few months. C. Crawford pointed out that the County is expected to move to low risk at the end of next week. M. Russ voiced that he would support in-person meetings only when things can open up in a typical normal fashion again. C. Weaver voiced frustration with the idea of bouncing back and forth between being able to have regular meetings, and then moving back to ZOOM meetings; this would be a difficult for Staff to accommodate.

New Business

Resolution No. 2021-06, State Shared Revenues

A **motion** was made and seconded to pass Resolution No. 2021-06, a resolution declaring the City's election to receive State Revenues. **The motion** passed unanimously.

Resolution No. 2021-07, Salary Schedule

C.A. Daykin noted that the City is still in the process of negotiating the first collective bargaining agreement with the fire department employees, and the expectation is that discussions will begin on economic matters in the next week or so, which may impact what the City actually pays the firefighters. A **motion** was made and seconded to pass Resolution No. 2021-08, a resolution establishing employee compensation ranges and the HRA VEBA contribution amount for fiscal year 2021-22. **The motion** passed unanimously.

Council Concerns and Committee Reports

C. Adlong discussed that the Parks Advisory Committee is going to be meeting tomorrow onsite at the Alder Street Park (the site where the grant funds will be used to develop the park next to the hotel). She explained that they will hear preliminary feedback to the designer and landscape architect who drew a preliminary plan. It was noted that the meeting will begin at 7:00 P.M.

C. Ford shared that he would like to have a discussion at the June 15, 2021, City Council meeting about a plan (or developing a plan) to address the declining reserve situation for the City with regard to the budget moving forward. C. Adlong voiced support of a discussion of this nature as well. M. Russ requested C.A. Daykin to bring back the previously presented budget suggestions for Council review.

C. Crawford inquired about whether C.A. Daykin heard by from the coordinator of the Fueled by Fine Wine event. C.A. Daykin explained that the last time he spoke with the gentleman he was still trying to work out details and arrangements with CPRD on the use of Billick Park. He noted that he had also reminded him about what he needs in terms of some approvals from the City Council in terms of street closures and any kind of variance to the noise regulation. C. Crawford voiced that he was provided with an email indicating that registration is now open for the event. Brief discussion ensued.

C. Ford inquired about how the local farmer's market has been doing. C.A. Daykin noted that he has not received any official comments pertaining to the event though he has attended the market once. He discussed that people seemed to be enjoying themselves. M. Russ discussed that he attended last week and was pretty impressed with the number of vendors present and the number of attendees.

Mayor's Report

M. Russ inquired about whether C.A. Daykin has yet checked into the Every Door Direct Mail program about sending a postcard teaser regarding the City Newsletter. C.A. Daykin noted that he did ask City Staff to look into that option; he will check the status.

M. Russ suggested that adding an article in the newsletter encouraging residents to assist the City with enforcing vacation rentals could be helpful.


City Administrator's Report

C.A. Daykin reviewed that today's Special City Council meeting was canceled; the Committee is still reviewing candidates and background information and weren't prepared to make a recommendation today. He explained that Interim Fire Chief VanKeulen feels that he would be prepared for a meeting next Tuesday, June 8, 2021, to meet in Special Session. The meeting will be held at 6:30 P.M. on June 8, 2021.

C.A. Daykin explained that Scott Dadson, Executive Director, Mid-Willamette Valley Council of Governments, called and indicated that he would like to attend a Council meeting to discuss beginning the process for recruitment of the City Administrator position. He explained that the first step is to have a conversation with City Council to set up the profile for the ideal candidate. He will plan to attend the June 15, 2021, to meeting in a workshop setting beginning at 6:30 P.M.

C.A. Daykin discussed that there has been a second resignation from the Planning Commission, which leaves two vacancies. He encouraged City Council to consider recommending people to make application to fill these vacancies.

The meeting was adjourned at 8:50 P.M.



David Russ, Mayor

Attest:



Rob Daykin, City Administrator/Recorder