

**CITY COUNCIL MEETING
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October 5, 2021**

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City of Dundee
City Council Meeting Minutes
October 5, 2021

Call to Order

Mayor David Russ called the meeting to order at 7:01 P.M.

Council and Staff Attendance

Attendance: Mayor David Russ; Councilors Tim Weaver, David Ford, Patrick Kelly, and Ted Crawford. Attendance Via Zoom: Councilors Storr Nelson and Jeannette Adlong. Staff Attendance: Rob Daykin, City Administrator. Staff Attendance Via Zoom: Matthew Kahl, City Attorney and Melissa Lemen, Administrative Assistant.

Public Attendance

Tom Schaad, 610 SW Alder Street; David Hinson, 226 NW Carmel Circle; Don Olson, owner, Torii Mor Winery. Attendance Via ZOOM: Jamie Davis, 175 SW Hemlock Street.

Agenda Changes

None.

Public Comment

Tom Schaad, 610 SW Alder, introduced himself to City Council and stated that he is opposed to the proposed Second Amendment Sanctuary Ordinance for the City of Dundee. He discussed his belief that the City Council does not have constitutional legislative powers; the court system determines what is and is not constitutional. Schaad also discussed his belief that while this ordinance is targeted at a specific State law, it also will target any future State laws and opening up a series of unknown future unintended consequences. Discussion ensued and Schaad shared his viewpoint that the Council does a poor job of managing taxpayer money and suggested they abandon this proposed ordinance.

David Hinson, 226 NW Carmel Circle, approached Council and discussed that the State of Oregon is now suing Yamhill County over its Second Amendment Sanctuary Ordinance. He discussed that since the proposed Dundee ordinance is based on the Yamhill County ordinance it is reasonable to assume that a similar action would be taken against Dundee if the ordinance is passed; future costs defending this ordinance could be avoided by rejecting the proposed Second Amendment Sanctuary Ordinance.

Don Olson, owner, Torii Mor Winery, approached Council and explained that he is trying to provide a tasting room for their spirits. He discussed that following his attendance at a recent City Council meeting, he felt that all of the problems had been solved and only had to complete a beautification program as he was completing no structural changes. Olson explained that he was contacted the following day and asked to complete an engineering program and cease and desist all activity that he was working on; this could not be resumed until at which time he had his plans cleared by the City Planner. He noted that he requested the City Planner to make an in-person visit to his business though was told that this is not an option due to COVID. Olson explained that he plans to submit his documents to City Hall tomorrow, though requested clarification about the process moving forward.

Jamie Davis, 175 SW Hemlock Street, introduced himself to Council and expressed his opposition to the proposed Second Amendment Sanctuary Ordinance and inquired about their

motivation for proposing an ordinance of this nature. He discussed his opinion that it is not the job of the City Council to address their perceived infringement of Second Amendment rights; that is the job of the courts. Davis stated that it is the job of the City Council to run the City. Secondly, Davis stated that it is regrettable that the City has stopped the mailing of the City newsletters and urged them to reconsider. He acknowledged that cost of providing the newsletter, though pointed out that it is a valuable communication tool which allows many residents to stay in touch with City issues.

Consent Agenda

A **motion** was made and seconded to approve Consent Agenda Item 4.1 City Council Minutes, September 21, 2021 and Item 4.2 Financial Report Ending August 31, 2021. **The motion** passed unanimously.

Old Business

Dundee Landing Interchange Analysis, ODOT

Andrew Walker, ODOT, provided a visual presentation as also provided in the meeting agenda packet. John Huestis, ODOT Area 3 Manager, was unable to attend the meeting tonight. Walker provided background information on the proposed Dundee Landing Interchange option. He discussed that this is a high-level planning exercise to get a good idea of what a two lane build of the bypass would cost to connect the existing bypass to Dayton and end at Highway 99W, so that they can seek funding to build it in the future. Walker pointed out that many changes are possible and likely once the actual design process begins. The entire bypass corridor was reviewed on page 44; they are presently working on Phase 2 which is outlined in green. Walker explained that though they do have some construction money for that phase, they don't have enough to build the whole phase so are building it in sections. He discussed that since they last met with the City, they have conducted a more detailed and up-to-date traffic analysis which shows that traffic has grown more than was anticipated when the bypass was originally designed; discussion ensued and updated information on page 45 was reviewed. Walker explained that it was determined that Phase 3 could potentially be divided into two phases: Phase 3A and 3B. Discussion ensued regarding the phase options presented on pages 46-49. It was noted that building in phases allows ODOT to seek funding on an incremental basis. The option proposed by M. Russ, the Dundee Landing Interchange, was discussed in detail. Walker explained that one of the hurdles identified with this option is that it would require access control. This option was not selected as a preferred alternative for a number of reasons which were reviewed in the memo from John Huestis beginning on page 35. Walker discussed that ODOT's preferred alternative at present is the East Dundee Interchange (Phase 3B, Option 1), which is also outlined in the discussed memo.

M. Russ inquired about the access control areas as identified by dotted black lines on page 50. Detailed discussion ensued and Walker was unable to provide answers to the detailed questions presented this evening; he offered to follow up and provide answers to specific questions at a future time regarding the access control areas and policies.

C. Ford discussed ODOT's preferred proposal option, the East Dundee Interchange. He expressed concern about recent land development in the identified area and the challenges involved in securing the right-of-way. C. Ford expressed concern about the costs associated with the interchange at 99W given the fairly significant development which has been being constructed over the last several years; the South Dundee Interchange seems more realistic given the costs and the issues around right-of-way for the East Dundee Interchange. Walker explained that the right-of-way costs were estimated to \$19.3 million by Parametrix, the consultant who did the planning. C. Ford discussed that the East Dundee Interchange seems to be the most complex and challenging option from a cost standpoint, as well as acquiring right-of-way. He pointed out

that it would seem to make more sense in his viewpoint to add on to infrastructure already present at the south end of Dundee. Walker explained that none of the options have been removed from the table at this time; discussion ensued.

C. Nelson pointed out that the East Dundee Interchange goes back to the original design of the bypass. He explained that the fishhook was post-design of the bypass and shared his belief that not a lot of people were in favor of that. C. Nelson discussed that the East Dundee Interchange was located to draw people from Dundee to gain access to the bypass and to draw people from western Newberg. He explained that the original bypass was not going to have a starting point at the airport and a stopping point at the fishhook. C. Nelson voiced that he is still very much in favor of this original design which has been on the table for over fifteen years; there was a lot of thought and traffic analysis/design put into this option. He pointed out that though there has been some development occurring in the area (of the East Dundee Interchange option), the information about this portion of the bypass potentially being built at some point in the future is known.

C. Crawford discussed that he has been involved in the process since 2008; the East Dundee option was part of a focus group and was selected over a 2-3 year process. He pointed out that the businesses are aware of where this would cross over Highway 99W as an interchange in this location; it has been in the plans for a long time. Council discussion ensued.

C. Adlong recalled her surprise when the Dundee Landing Interchange option was first introduced to the Council last year because it has never been an option that had ever been at any public meetings or had any discussion or input from the community. She recalled that the other options had been heavily discussed in multiple public meetings and the community understood them. C. Adlong pointed out that the local traffic concerns provided in the report for the Dundee Landing Interchange option would have a significant negative impact on the community and for the residents in that area of town; discussion ensued. She discussed concerns pertaining to increased noise as a result of increased traffic (and the impacts that would have on a potential new school in the area), utilizing that available land for this purpose and obstructing the river and access in that location. C. Adlong voiced a strong opposition for the Dundee Landing Interchange and voiced appreciation for the efforts working towards a solution which is not quite so costly. She felt that logically the South Dundee Interchange would be best because all of the interchange area would be located in the same location; she felt this option would have the least amount of impact on the local community.

C. Kelly concurred with C. Adlong regarding the Dundee Landing Interchange and felt it would utilize a large portion of available land near the river access. He also felt that Option 2 for the South Dundee Interchange made more sense as a less expensive option.

Discussion ensued and additional questions addressed by Walker. It was noted that if the Dundee Landing or East Dundee Interchange options were selected, the fishhook would be decommissioned. Walker also commented that costs aren't a consideration in making the decision pertaining to the bypass interchange.

M. Russ discussed the Dundee Landing Interchange option that he originally suggested. He explained that his whole perspective on this option is what's best for the City, and what is the best investment for the City and its residents. M. Russ pointed out that the Riverside District has been sitting for 20 years and not developed; it is his belief that this is because the biggest hurdle for development is infrastructure. He discussed the complexities involved in developing the infrastructure and the potential impacts to residents and the city streets to build it all. M. Russ explained that when the Riverside District does build out, there are plans for light industrial and commercial development in that area; delivery trucks and other additional traffic would therefore

be impacting local streets if the Dundee Landing Option is not selected. M. Russ pointed out that in his opinion the Dundee Landing Option would make access to a potential regional park at the Riverside District very convenient and increase tourism in Dundee; it would also increase access to the businesses and for the residents living in this area of Dundee. M. Russ also noted that building out of the Riverside District would potentially provide tax dollars which are much needed for the city. Discussion ensued.

C. Nelson discussed his belief that the Dundee Landing Interchange at that location is the right answer for the Riverside portion of Dundee. He voiced that he doesn't believe the development of the Riverside District is being held back because of access off of the bypass; he felt development is being held up by the two owners. C. Nelson voiced support of a destination feel of the development in that area rather than an exit off of a freeway feel to it; and, therefore, he is not in favor of an access point at that location though he is in favor of doing things that help Dundee.

C. Crawford recalled that when potential routes for the bypass were discussed previously, many citizens voiced that they did not want to see the bypass as much as possible; there was even a strong emphasis to place it below grade, which was not an option ODOT would consider. C. Crawford pointed out that the citizens did not want to see the bypass run right through the middle of town, and he felt that there would be a lot of pushback from the local residents to see a major interchange in the heart of the undeveloped area of the city – even if it does promote development.

Walker thanked Council for providing feedback and allowing him the opportunity to present; he encouraged them to reach out to him via email or phone with any additional questions or comments.

C. Ford referenced the comment made by Walker indicating that costs were noted to not be a consideration for ODOT (with regard to the presented options). He discussed that costs are likely an important factor to the taxpayers in Dundee. C. Ford discussed that he has been a member of the Parkway Committee for approximately 3 years and recently the Dundee City Council and emphasized his belief that cost is an important consideration which he is hopeful ODOT will be mindful of as the discussed options are developed further.

Ordinance No. 574-2021, Second Amendment Sanctuary Ordinance

A **motion** was made and seconded to adopt Ordinance 574-2021, an ordinance declaring a second amendment sanctuary in the City of Dundee. C. Ford expressed concern about the information presented to Council today pertaining to the ordinance and requested additional clarification. C. Atty Kahl explained that the memo was provided as a result of them learning of this new lawsuit yesterday, though it was filed last Friday. He explained that in the previous discussions they had been looking at the Columbia County validation petition that was filed; at that time that was the only legal action which had been pending in any jurisdiction. C. Atty Kahl discussed that in that particular county, the ordinance that was drafted and adopted there followed two initiative measures that were voted upon by the citizens of that county. During the process of that ordinance being adopted, Yamhill County then adopted their own very similar version as Ordinance 913 in April 2021. C. Atty Kahl explained that just this Friday, the Attorney General at the Dept. of Justice, filed this lawsuit seeking to invalidate the ordinance as a whole. He explained that the Yamhill County ordinance is different than the ordinance that is before Council tonight and referenced previous discussion with C. Atty Trompke at a previous Council meeting. Discussion ensued. C. Atty Kahl explained that the case before the Yamhill County Circuit Court addresses not only the Private Right of Action (which is not included in Dundee's draft ordinance) but also the Extraterritorial Acts and prohibitions and explains how SB 554 would be the initial item of legislation that would be deemed to be an extraterritorial act. He explained that because of ORS 166.170 the Atty General in their petition states that this expressly preempts

counties/cities from enacting civil or criminal ordinances that would relate to the regulation of firearms or components of firearms. C. Atty Kahl explained that the Atty General seeks to have Yamhill County's entire ordinance deemed void and invalid in its entirety as well as other certain provisions based upon SB 554 OR Tort Claims Act, which is applicable to that. The main one is the preemptive argument. C. Atty Kahl discussed that there are two cases – the first one is the State of OR vs. Yamhill Co., and a second case was also filed against Harney County Ordinance 2021-01, and the Atty General office released a press release at the same time announcing these lawsuits and said that they are aware of other similar ordinances in other jurisdictions/counties and that they may take further action against them. C. Atty Kahl noted that there are other ordinances throughout the State as well as resolutions throughout the State that deal with the Second Amendment; they are not all the same ordinance and some simply have language that they resolve that they abide by the Second Amendment and believe in the Second Amendment and the right to bear arms.

C. Ford discussed his belief that the proposed ordinance does not regulate firearms or components of firearms or invalidate anything in SB 554; the ordinance directs the local law enforcement to prioritize other things above doing enforcement related to SB 554 provisions. C. Atty Kahl discussed that the language of the proposed ordinance for 574-2021 contains basically the same language in it as the Yamhill County pertaining to the extraterritorial acts; discussion ensued and portions of the language included in the Yamhill Co. ordinance and the proposed Dundee ordinance were reviewed, including recent changes that were made.

C. Atty Kahl clarified that their recommendation would be to wait until the outcome of the Yamhill County case before moving forward. He pointed out that if there were a case that's brought up against the City in the future, it would be in Yamhill County before the same court (and possibly the same Judge). Detailed discussion ensued about scenarios which could potentially play out depending on whether the proposed ordinance were passed tonight or not. C. Ford shared his viewpoint that it would be prudent to wait to pass this ordinance until the outcome of the Yamhill County case is known. **The motion** was rescinded by C. Weaver and seconded by C. Kelly.

New Business

Ordinance No. 576-2021, Building Codes

C.A. Daykin explained that Building Official Brooks Bateman is present and available to answer questions. C.A. Daykin provided background information as outlined in his agenda report on page 57. Brief discussion ensued with Building Official Brooks Bateman and Council members. **A motion** was made and seconded to adopt Ordinance No. 576-2021, an ordinance relating to building codes and amending the Dundee Municipal Code. **The motion** passed unanimously.

Building Permit Fees

C.A. Daykin reviewed background information as provided in his agenda report on page 73. He discussed similar and contrasting information between Dundee and Newberg with regarding to the building permit fee structure. Building Official Brooks Bateman addressed questions regarding the State evaluation process. C.A. Daykin explained that under State law, the fees collected can only be used for the purposes of administering the building codes and inspections, etc. M. Russ expressed concern about this being a time of inflation right now. Bateman described the differences between how the collected building permit fees can be utilized at the City of Newberg versus the City of Dundee; Dundee is in a fortunate position to be able to receive building permit fees and utilize them within the organization. Bateman also explained that every year the City of Newberg raises their building permit fees per the CIP Index, unless they started to receive too much money (which would be unlikely) and then they would opt not to

raise it. He explained that raising the fees annually prevents there being a large percentage increase all at once. M. Russ suggested that an increase every two years might be a better option for Dundee.

C.A. Daykin discussed that while Staff recommends keeping the in-house over-the-counter fee growth more reasonable, determining where the City can make up the difference to make sure that Newberg has sufficient money to operate the City's program should be considered. C.A. Daykin suggested that if part of the costs that we're not covering is plan review, a number of different cities collect more than 65% (though this amount has been a traditional amount for many smaller cities) of the building permit fee for plan review. In the case at Newberg, they collect 85% of the building permit fee for plan check. Fees in other communities in the metro area range from 75% down to 70%. C.A. Daykin pointed out that this is a way of providing more funds into the Newberg system to ensure their costs is covered when they review Code compliance for permits issued in Dundee. It was noted that at this time Newberg feels they are not receiving adequate fee revenue to support the Dundee program. M. Russ voiced support of moving forward with an adequate fee structure. C.A. Daykin explained that they will bring back to the next Council meeting to provide a more equitable fee structure. He offered that he could include information in the resolution suggesting that the building permit fee schedule should be reviewed every other year.

Seasonal Street Light Decorations Quote

C.A. Daykin discussed that most of the highway construction project work being completed by Kerr should be completed by the end of October; they may go past this date a bit but there are no concerns at this point about known delivery delays regarding the streetlight poles.

C. Crawford explained that the Tourism Committee has been discussing doing some kind of celebration on November 20, 2021. He noted that he spoke with Cathy Martin, who is on the Board for the Dundee Wine Growers Association, who indicated that they would like to do an event which coincides with their Deck the Hills promotion they do every holiday season. C. Crawford discussed that Martin had suggested that it would be nice if the City of Dundee were more involved since the highway project will be complete and there will also be a new park as well. Discussion ensued regarding thoughts and ideas for a potential event schedule. C. Adlong, C. Nelson and C. Ford volunteered to assist with an event as needed.

A motion was made and seconded to authorize the purchase of 24 snowflake lights from Display Sales in the amount of \$9,992. **The motion** passed unanimously.

C.A. Daykin provided an update on the highway project and indicated that the paving is almost complete. He discussed that landscaping is not yet complete; the structures next to the curb are water quality facilities which will contain a certain type of bedding material and plants, and there will also be traditional type landscape areas, both of which will be maintained by the City. C.A. Daykin noted that the City Public Works crew is installing the irrigation equipment though the contractor is installing the plants and the material.

Council Concerns and Committee Reports

None.

Mayor's Report

M. Russ discussed that there was a concern expressed about the bypass completion. He discussed that for years the City has been putting in funding for consultants and lobbyists (which he indicated has netted many millions of dollars towards the bypass). C.A. Daykin explained that David Haugeberg had contacted him regarding these funds to which he explained that \$2500 was

budgeted again this year from the Tourism Fund. C. Crawford supported that Lafayette and Dayton should have been asked to contribute lobbyist funds as well. M. Russ noted that this year the Parkway Committee came in right at budget or slightly under for lobbyist expenses; in previous years it has been short and private entities were asked to contribute funds. M. Russ pointed out that the Parkway Committee is lobbying for a local match to complete these projects and obtain Federal funds. Discussion ensued and M. Russ explained that ODOT is estimating that approximately \$190 million is needed to complete Phase 2, though they have an approximate 40-50% contingency in their budget.

C.A. Daykin discussed that the City of McMinnville City Manager made it clear to the group that from his perspective McMinnville would not want to give up their ARPA funds for that purpose, but did suggest the idea of a County-wide motor vehicle registration fee though it was recognized as a politically challenging task. It was noted that if it were voted on and there was a good rationale for it, this method would provide that distribution throughout the County so that everyone is paying a proportionate share to this overall project. Discussion ensued. C.A. Daykin reviewed that the four entities (the County, Newberg, Dundee & McMinnville) previously took out loans to support the local match in Phase 1. He explained one idea was to continue the same level of debt service by restructuring that loan to continue with additional phases on that same proportionality basis. M. Russ added that this was one portion of it though they weren't sure whether they would receive enough for the full amount of the match needed by simply restructuring that loan, keep the payments the same, and extending it out.

City Administrator's Report

C.A. Daykin informed that the new Newberg Assistant Planner, Adam Moore, has resigned from his position after only one month. He explained that the City of Dundee is back to using an interim City Planner again. C.A. Daykin discussed the challenging nature of this given that there is a backlog of work that the City would like to accomplish though it is difficult to make progress. C.A. Daykin explained that one of the projects he discussed recently with Jim Jacks is the desire to move ahead with the Alder Street Park Project. He reviewed that the \$100,000 tourism grant was received to complete some park improvements on the water utility property located on Alder Street; and there was some discussion of showing a more refined plan for a full build out. C.A. Daykin discussed that they will be working with the Dundee Parks Advisory Committee on getting a fee and scope of work from the architect that completed that first phase of work to see what it would take to complete a full site plan, one that would also be compliant with the City's land use regulation, and then bring that forward through the land use process for formal approval of the City Council. Another project C.A. Daykin felt would be important to complete and could likely be done fairly quickly is to identify all city properties and zone the city properties to "P" public zone. Discussion ensued and C.A. Daykin noted his belief that this would be a fairly efficient legislative process. Discussion ensued and the consensus of Council was to move forward with the completion of this zoning process.

C.A. Daykin discussed that the City is in the process of hiring a new fire fighter; fire fighter Tint tendered her resignation and Staff completed an exit interview with her last Friday.

C.A. Daykin discussed that Staff did request a quote from H&H Paving to take a look at various additional paving improvements on Seventh Street and also sidewalk installation on that north side next to the vacant lot. He explained that the paving prices came in a little too high and Staff was not comfortable recommending proceeding with that project. However, another bid was received from CG Contractors, the contractor doing the park project at Alder Street, and Staff will be bringing that back to the Dundee Parks Advisory Committee; that work includes modest improvements to the First Street property that the City acquired. Discussion ensued and C.A.

Daykin noted that the sidewalk work from CG Contractors Construction came in better than the one received from H&H Construction, and explained that they may be interested in constructing the sidewalk and ADA ramp improvement on Seventh Street to improve pedestrian safety. He explained that the idea would be for the City to upfront the costs and have urban renewal pay back the City for that improvement. The cost for this project is anticipated to be in the \$10,000 range. M. Russ inquired about the striping for Seventh and Ninth Streets to which C.A. Daykin explained that the contractor is experiencing a supply issue with paint presently. The consensus of Council was to move forward getting bids for the described project.

C. Ford requested a status update on Don Olson's project for the Torii Mor Tasting Room. C.A. Daykin reviewed that Don Olson had not provided the City with a complete application for the land use purposes; former Planner Moore had sent him an email requesting the additional materials that were stated on the application form. C.A. Daykin noted that a sign has also been installed without a permit. He also discussed his belief that a suggestion was made that Olson get a consultant or an engineer to assist with the development of a scaled site plan that meets the requirements; the main issue is parking layout with that particular property.

Public Comment

None.

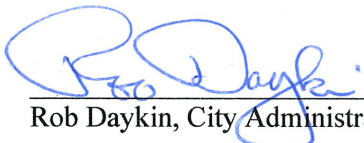
Executive Session

The City Council entered into Executive Session at 8:51 P.M. in accordance with ORS 192.660 (2) (a) to consider the employment of a public officer, employee, staff member or individual agent. Executive Session ended at 10:09 P.M. and Council did not reconvene.



David Russ, Mayor

Attest:



Rob Daykin, City Administrator/Recorder