

**MINUTES FOR THE REGULAR MEETING
ASHLAND CITY COUNCIL
July 21, 2015
Council Chambers
1175 E. Main Street**

CALL TO ORDER

Mayor Stromberg called the meeting to order at 7:00 p.m. in the Civic Center Council Chambers.

ROLL CALL

Councilor Voisin, Morris, Lemhouse, Seffinger, Rosenthal, and Marsh were present.

MAYOR'S ANNOUNCEMENTS

Mayor Stromberg announced vacancies on the following Commissions: Airport, Forest Lands, Housing & Human Services, Transportation, and Wildfire Mitigation.

He went on to announce he would host a community conversation on aggressive deer. City Administration would extend warning signs on Gresham Street to other areas in town that had reported issues with aggressive deer. He asked residents to send report locations where fawns were born every year at John@Council.Ashland.or.us with the subject Aggressive Deer in the title.

APPROVAL OF MINUTES

The minutes of the Study Session of June 15, 2015, Business Meeting of June 16, 2015 and Special Meeting of June 30, 2015 were approved as presented.

SPECIAL PRESENTATIONS & AWARDS

The Mayor's proclamations of July 26 - August 1, 2015 as Pacific Rim Bowl Week and August 6, 2015 as Hiroshima Day and August 9, 2015 as Nagasaki Day were read aloud.

PUBLIC FORUM

Dr. Philip Lang/758 B Street/Submitted documents into the record and explained he was there to provide information and answer questions regarding a lawsuit against the City and the Oregon Shakespeare Festival (OSF) for violations against the Americans with Disabilities Act (ADA). There were twenty-four violations against OSF for not meeting ADA requirements.

Louise Shawkat/870 Cambridge Street/Encouraged everyone to watch a film titled The Future of Energy on the internet. Additionally, she had a copy she would loan to those unable to download the movie.

Ann Barton/361 Patterson Street/Shared her encounter with aggressive deer. When she contacted the City, she was not received with much sensitivity. People needed to be educated on handling aggressive deer and traumatized citizens. She suggested the City start a taskforce that would include the Oregon Department of Fish and Wildlife (ODFW). The taskforce could review what the City of Hastings in New York was doing with immunocontraception, and look into culling, possibly through ceremony using local Native American tribes or relocating the most aggressive deer to a sanctuary.

Claudia Law/762 B Street/Spoke on aggressive deer and described her experience being followed by a doe and two older fawns when walking her dog early one morning. It was traumatizing. She walked with a cane at times to defend herself. People on B Street were afraid of the aggressive does. The City needed to do something, the deer were dangerous, and citizens were very afraid.

Sandra Pastorius/697 Terrace Street/Shared her experience of being trampled by a deer on her property. She described her injuries and the long recovery. Any type of three-sided building provided a place for deer

to hide and a person could unintentionally interfere with their ability to flee.

Selene Aitken/446 Helman Street/Lived in Ashland since 1985 and challenged the saying “The deer were here first,” because they were rarely seen in Ashland from 1985-2000. She described an encounter with a buck in her backyard. She supported a taskforce and stressed the need to involve ODFW. Posting signs regarding aggressive deer did not make her feel the City was taking care of her rather they were protecting themselves from litigation. She wanted action from the City to protect the citizens.

Melissa Mitchell-Hoage/271 High Street/Thought it was becoming a dangerous situation for everyone in Ashland due to the deer. She shared personal experiences of encounters with aggressive deer.

CONSENT AGENDA

- 1. Minutes of boards, commissions, and committees**
- 2. Sole source procurement with the Ashland Chamber of Commerce for a Business Retention and Expansion survey**
- 3. Public contracts for Water and Wastewater Treatment Plant chemicals**
- 4. Intergovernmental agreement with Rogue Valley Council of Governments and the Cities of Ashland, Talent, and Phoenix**
- 5. Ratification of a collective bargaining agreement with the local union No. 659 International Brotherhood of Electrical Workers (Clerical/ Technical)**
- 6. Authority to continue a contract between the Ashland Police Department and the Medford Police Department for after-hours records services**
- 7. Approval of a contract-specific procurement with William Olsen Designs for the creation of a Japanese Garden Torii gateway in Lithia Park**
- 8. Liquor license application for Rachele Canady dba Home State BBQ**
- 9. Liquor license application for Morgan George dba Northwest Pizza**
- 10. Approval of recommendation from the Public Art Commission to accept the sculpture *Pacific Fischer***
- 11. Special procurement for the purchase of Itron electric meters and Itron meter reading equipment**
- 12. TGM grant application letter of support for the Downtown Parking and Multi-Modal Transportation study**

Councilor Marsh and Rosenthal pulled Consent Agenda item #10, and Councilor Voisin pulled #2, #4, #11, and #12 for discussion.

Management Analyst Adam Hanks addressed Consent Agenda item #2 and explained the benefits the Business Retention and Expansion survey provided the City. Similar surveys conducted through SOREDI and the City of Medford was helpful but not as in depth as the Business Retention and Expansion survey.

Public Works Director Mike Faught clarified Consent Agenda Item #4 and explained the City of Medford billed for one meter and Talent, Phoenix, and Ashland paid each of their meters. The City of Talent had previously billed each municipality but it became burdensome. The Rogue Valley Council of Governments (RVCOG) would now provide the accounting and financial management services. City staff would verify accuracy. The process was complex enough that it made sense to have RVCOG administer the process instead of City staff.

Councilor Marsh read a disclosure statement regarding Consent Agenda Item #10 noting her involvement in the creation of the sculpture and declared she had no financial interest in the activity. Management Analyst Ann Seltzer explained the Watershed Art Group was a community grass roots group that wanted to use art as means to educate people about the watershed. They approached the Public Arts Commission with an idea to create an art trail in the watershed to educate and inform trail users about the watershed. Over a twelve-month period, the group secured a grant and commissioned an artist. During that time, they met with the

Forestlands Commission, Public Arts Commission, and the Public Works Department. Art Commissioner Margaret Garrington added the Public Arts Commission supported the concept of an art trail and thought it could grow over time. The sculpture cost approximately \$2,500 and vandalism ranged from unlikely to rare based on location and the sturdiness of the sculpture itself. Councilor Seffinger also read a disclosure statement regarding her involvement in the creation of the sculpture and declared no financial interest in the activity.

Electric Director Mark Holden addressed Consent Agenda Item #11 and confirmed the procurement included both the radio frequency meters and non-radio frequency meters. Citizens could choose which meter they wanted for their homes. Alternately, the Opt Out Policy for the Automated Meter Reading was also available.

Public Works Director Mike Faught addressed Consent Agenda Item #12 clarified the City would pay for staff time on the Downtown Parking and Multi-Modal Transportation study as part of the 12% match requirement.

Councilor Marsh/Morris m/s to approve Consent Agenda items. Voice Vote: all AYES. Motion passed.

PUBLIC HEARINGS

- 1. Public hearing and first reading by title only of an ordinance titled, “An ordinance modifying the Verde Village Subdivision Development Agreement to allow partitioning of the property consistent with the approved phasing plan; adjusting the property lines for lots #3 - #9 and #15 - #17; modifying the approval with regard to the timing of the installation of landscaping, irrigation and open space improvements in Phase I; and modifying Exhibit E of the approved Development Agreement with amended language to condition #30 relating to the construction and timing of street improvements for Perozzi Street and Almeda Drive, and the addition of two new conditions”**

Mayor Stromberg read the procedure for a Public Hearing for Land Use Hearings and opened the hearing at 7:45 p.m.

ABSTENTIONS, CONFLICTS, EX PARTE CONTACTS – None

CHALLENGES – None

STAFF REPORT

Associate Planner Derek Severson described the site location. He confirmed a land exchange occurred initially when the City dedicated 2.78 acres adjacent to Ashland Creek for park purposes in exchange for 1.54 acres of the Dog Park and no further exchanges regarding the Dog Park would occur. The only change at this time was a slight alteration to the entrance of the Dog Park. He noted the development agreement with the City that governed development to completion with a specific timeline that had undergone several extensions.

The proposed modifications before Council at this time were:

- 1. Partition the property to be consistent with the approved phasing plan.**

Recommendation: The Planning Commission saw no significant issues with allowing the partitioning to separate the two phases to allow them to be sold and to obtain financing to move the originally approved development forward. Current final plan approval in place included conditions that Lot #25 remain part of Phase I and be included in the homeowners’ association, subject to the CC&R’s and all subdivision requirements.

- 2. Adjust the property lines for Lots #3 - #9 and #15 - #17 to allow for clearer delineation of public and private landscaping.**

3. Modify the approval with regard to the timing of the installation of landscaping, irrigation, and open space improvements in Phase I with the addition of two new conditions (#32 & #33)

Recommendation on #2 & #3: The Planning Commission saw no significant issues with allowing the requested adjustment of property lines for these units or the allowance for some flexibility in the timing of completion of landscaping and irrigation improvements to allow for the construction of adjacent units. Condition #32 allowed the applicant to request to delay final landscaping and irrigation installation up to 18 months if the construction of the adjacent unit would impact that landscaping, provided that approved security was provided.

The Commission found, however, that there needed to be a clearer correlation between the completion of the individual open space areas and the units surrounding them, and the Commission accordingly recommended that the applicants' proposal be modified somewhat to require that the open space areas and associated common improvements between units #1-3, units #4-13, and #14-20 be completed with the completion of each cluster of units. Language to this effect was reflected in recommended Condition #33 in the agenda packet.

The individual property owner would be responsible for care and upkeep of the private yard areas. The applicants would provide the City information from the landscape contractor illustrating the improvements, planting, irrigation, labor, and a bond or cash deposit.

4. Modify Exhibit E, Condition #30 of the approved Development Agreement as it relates to the construction and timing of street improvements for both Perozzi Street and Almeda Drive.

Recommendation on Exhibit E, Condition #30: The basis for the current Condition #30 was to insure both that city standard street improvements were installed as approved and that paved access to the Rice Park affordable housing and the Dog Park be provided so neither was in the position or relying on limited, temporary access measures should a second phase be delayed.

Given the potential length of time provided in the Development Agreement for completion of the project, drainage and maintenance issues, and the need to accommodate required on-street parking and circulation for the subdivision, park and surrounding neighborhood, the Planning Commission felt that Almeda Drive should be improved to the full paved width of the street, with curbs on both sides of Almeda Drive for its full extent (unless an alternative curb/gutter arrangement was acceptable to the Public Works Director), with sidewalks, park rows and street trees completed on the first phase side initially and on the other side with the second phase.

The Planning Commission found that the proposed paved driveway connection from the new installation of Almeda Drive to the current Dog Park access drive and the connection between this access and the Rice Park driveway to provide ingress, egress, and emergency vehicle access addressed the underlying intent of the original condition. However, the Municipal Code required a width of at least 20 feet for driveways serving seven or more spaces to accommodate the potential for two-way traffic as well as emergency vehicle access, and the Commission accordingly recommended that the paved width on the new portion be increased to a minimum of 20 feet in the condition.

APPLICANT'S PRESENTATION

Mark Knox/45 West Nevada Street/Introduced applicants Greg and Valerie Williams. Laz Ayala and Charlie Hamilton were purchasing Phase 1 from Mr. Williams and Ms. Williams who would retain Phase 2. The lot line adjustments would have fencing and present a traditional backyard for the occupant. They agreed with the Planning Commission regarding landscaping and timing. They met with the Public Works Director regarding the street improvements and agreed. The modifications were minor.

THOSE WISHING TO PROVIDE TESTIMONY – IN FAVOR/OPPOSED

Joseph Kauth/1 Corral Lane #13/Explained he had ridden his bicycle in town for ten years and through the proposed Verde Village development area as well. From riding his bike over the years, he had noticed temperature increases.

City Attorney Dave Lohman clarified Mr. Kauth could only provide public testimony on the proposed modifications and temperature changes were not part of that criteria.

Mr. Kauth went on to address irrigation and drainage noting both provided a cooling factor. The landscape in the development would also provide cooling and there were various techniques to help cool the area through landscape. An invasive noxious weed species existed close to the site and he hoped the landscape and drainage would not affect the growth of this weed but instead create a temporal dissonance through the valley that the drainage and landscape opportunities would provide. The units were small allowing for landscaping in areas instead of paving.

REBUTTAL BY THE APPLICANT

Mr. Knox addressed comments made by Mr. Kauth. The bike path in the Verge Village would create another link toward Immigrant Lake. The project had several sustainable components like solar reflective heat gain, bio swells in the park rows, street trees creating a canopied affect to decrease heat gain.

Public Hearing Closed: 8:24 p.m.

REQUESTS TO SUBMIT FINAL WRITTEN ARGUMENT - None

ADVICE FROM LEGAL COUNSEL AND STAFF

Mr. Lohman explained Council could only make a decision based on the criteria described at the outset and address only the issues proposed at this time. Council also could not discuss previous items in the development agreement during this meeting.

COUNCIL DELIBERATION AND DECISION

Councilor Marsh/Lemhouse m/s to approve First Reading by title only of the ordinance titled, “An Ordinance Modifying the Verde Village Subdivision’s Development Agreement to allow partitioning of the property consistent with the approved phasing plan; adjusting the property lines for lots #3-#9 and #15-#17; modifying the approval with regard to the timing of the installation of landscaping, irrigation and open space improvements in Phase I; and modifying Exhibit E of the approved Development Agreement with amended language to condition #30 related to the construction and timing of street improvements for Perozzi Street and Alameda Drive, and the addition of two new conditions,” and move it on to Second Reading. DISCUSSION: Councilor Marsh noted the proposed modifications were substantive in terms of the overall intent of the development agreement and acceptable. She congratulated everyone on his or her hard work moving the project forward. **Roll Call Vote: Councilor Voisin, Marsh, Morris, Rosenthal, Lemhouse, and Seffinger, YES. Motion approved.**

UNFINISHED BUSINESS (None)

NEW AND MISCELLANEOUS BUSINESS

1. City of Ashland Risk Management Update for FY 2013-15

Administrative Services Director Lee Tuneberg explained nothing had changed since the previous year’s report. The City increased the amount of coverage with Citycounty Insurance Services (CCIS) because the exposure was large and growing. City asset values were increasing and premiums rose due to property loss. The insurance fund was keeping pace with the 1993 study.

He addressed the recent flash flood the downtown experienced and explained there was a relationship regarding flooding but the City had no control over nature events and most of those types of events were covered in insurance policies. Unless it became a claim, it did not roll into the cost of premiums.

If the City wanted to self- insure, it would have to consider exposure, being able to cover a large claim, and

the cost of reinsurance. Currently, 96% of all local municipalities in Oregon belonged to CCIS with only a few large municipalities stepping outside that association.

Auto claims were a minor part of the insurance coverage and incurring 29 claims over the past five years was small considering how many vehicles the City used. The City had optional and mandatory driver training. Claims regarding sidewalks and streets were also at a reasonable level. The City did not have liability insurance for aggressive deer attacks.

Councilor Rosenthal/Lemhouse m/s to accept the staff report on the City of Ashland Risk Management Update for Fiscal Year 2013-15. DISCUSSION: Councilor Rosenthal complimented the staff involved and the process. Councilor Lemhouse added it showed good leadership and that every employee was a risk manager. Councilor Seffinger appreciated how well prepared the report was.

Voice Vote: all AYES. Motion approved.

2. Report on City of Ashland's Sweatfree Purchasing policy, program, and participation in the Sweatfree Purchasing Consortium

Administrative Services Director Lee Tuneberg explained the City joined the Sweatfree Purchasing Consortium in 2008. Ashland was small and the City did the best it could to ensure uniforms and protective clothing came from manufacturers that could guarantee the products came from a sweatfree work environment. However, the City purchased uniforms and protective clothing from a supplier and not the manufacturer. This made it difficult to ensure certified sweatfree procurement. The City routinely purchased from larger companies that posted sweatfree policy letters on their website but the City could not personally monitor legitimacy.

Councilor Rosenthal/Lemhouse m/s to delete from the Statement of Policy points 1 and 3 of the Administrative Policy #09-26-23. DISCUSSION: Councilor Rosenthal supported the policy. He had heard it was time consuming and frustrating for staff to adhere to the policy. He had also heard staff frequently incurred out of pocket costs to acquire aesthetically pleasing and comfortable workplace apparel in a timely manner because sweatfree procurement could take a long time. These were unnecessary out of pocket expenses and it circumvented the policy. Removing point 1 and 3 would make it less onerous for staff. Councilor Lemhouse also supported the policy. It undermined the policy if it was too arduous to operate effectively and created a work-around instead.

Councilor Voisin wanted to delay the item. Councilor Rosenthal had obtained information from staff the City Administrator did not have. She wanted the City Administrator to look into it so everyone was clear on what was happening. Councilor Marsh would oppose the motion. She appreciated Councilor Rosenthal's concern for the process but at this time there was not feedback on record as to how the policy operated. Senior managers had not received any feedback regarding the process from staff to confirm what Councilor Rosenthal had observed or heard. If the community knew the sweatfree policy was under debate she suspected many people would have attended the meeting. She was not prepared to evaluate what those impacts might be at this meeting.

Councilor Seffinger became aware of staff concerns regarding the quality of work clothes and shoes while she was a Commissioner with the Parks Commission. Employees actually purchased their own clothing and gear because the quality was not up to the standards needed for cold and the work they performed. She would support the motion.

Councilor Morris/Lemhouse m/s to amend the motion and reinstate item #3 and delete item #1.

DISCUSSION: Councilor Morris doubted item #1 was achievable and should be a requirement. He needed more information on Item #3 before making a decision. Councilor Lemhouse thought it might allow staff to attend a Study Session and address Councilor Rosenthal's concerns regarding item #3. He noted a potential procedural error due to the amendment countering the main motion and preferred the amendment instead of

the main motion.

City Attorney Dave Lohman clarified it would be simpler if Councilor Morris withdrew the amendment, Councilor Rosenthal withdrew the original motion and each Councilor made separate motions. City Recorder Barbara Christensen added Councilor Morris could remove the amendment and Council could vote on the main motion if the proposer did not want to withdraw.

Councilor Morris withdrew the amendment.

City Administrator Dave Kanner further clarified the maker of the amendment could move to split the motion.

Councilor Rosenthal withdrew the motion.

Councilor Rosenthal/Lemhouse m/s to delete Statement of Policy point #1 of Administrative Policy #09-26-23. Roll Call Vote: Councilor Morris, Lemhouse, Seffinger, and Rosenthal, YES; Councilor Voisin and Marsh, NO. Motion passed 4-2.

Councilor Rosenthal/Lemhouse m/s to continue participation in the Sweatfree Purchasing Consortium. Voice Vote: all AYES. Motion passed.

3. Discussion and direction to staff regarding retail sales of marijuana

City Administrator Dave Kanner explained the recent legislative session made several significant changes to state policy regarding the sale of recreational marijuana in Oregon. He did recommend the City do anything to prohibit the sale of recreational marijuana in Ashland. Senate Bill 460 would allow medical marijuana dispensaries to sell recreational marijuana starting October 1, 2015 unless the local jurisdiction adopted an ordinance and submitted it to the state prior to October 1, 2015 prohibiting the sale of recreational marijuana in medical marijuana dispensaries. Recreational marijuana would be subject to a 25% sales tax starting October 1, 2015. Local jurisdictions would share revenues from the tax using a population-based formula.

The sale of recreational marijuana through medical marijuana dispensaries would end when the Oregon Liquor Control Commission adopted its licensing regimen and began licensing recreational marijuana sales outlets. Those sales outlets would be subject to a 17% state sales tax and a local jurisdiction that had not prohibited the wholesaling, retailing, production, or processing of marijuana within its boundaries could impose a local sales tax of up to 3% on recreational marijuana. In order to do that the City would adopt an ordinance and refer it to the voters in the November 2016 election. Ashland was the first city in the state to adopt an ordinance taxing recreational marijuana before ballot measure 91 even passed. House Bill 3400 contained language that explicitly repealed the City's ordinance. He did not support enforcing the existing ordinance. The City could still tax medical marijuana since that portion of the ordinance was not affected.

The City could prohibit by ordinance licensed recreational marijuana cultivating, processing production, wholesaling, and retail sales. He did not recommend pursuing a prohibitive ordinance. It would prevent the jurisdiction from receiving any state shared revenue from marijuana taxes and the City could not impose a local tax. He explained the formula for shared revenue and noted that January 1, 2018 the per capita formula would end with distribution based on the number of retail licensees within each jurisdiction.

Currently the Planning Commission was discussing time, place, and manner restrictions on recreational marijuana. Time, place, and manner could regulate commercial cultivation as well. The Planning Commission looked at a draft ordinance that would place limitations on growing marijuana for personal use that was not licensed. The Planning Commission was also researching limiting the number of plants grown outdoors in residential zones and creating some separation from adjoining properties. City Attorney Dave Lohman added the City could require growing indoors only.

The way to maximize tax revenue from the state would be allowing as many marijuana retail outlets as possible.

Joseph Kauth/1 Corral Lane #13/Recreation was a broad term and he did not know what it meant. Cannabis stayed in the system for six months and he questioned what it did to people and the history. This was an amazing opportunity for the City of Ashland to do something unique. Cannabis was illegalized in the 1940s so companies could introduce polyester and other things. Recreational use went into industrial applications of cannabis and hemp. He questioned how the psychoactive properties affected the mind and body. This was an opportunity for the Council to educate consumers in their quest to discover what this product offered.

Council comments thought allowing medical marijuana dispensaries to sell recreational marijuana was helpful because the people running the dispensaries were knowledgeable on types of marijuana and needs. Other comments included an interest in putting a sale tax on the ballot and a concern with outdoor grows.

ORDINANCES, RESOLUTIONS AND CONTRACTS (None)

OTHER BUSINESS FROM COUNCIL MEMBERS/REPORTS FROM COUNCIL LIAISONS

Councilor Lemhouse noted the Pacific Rim Bowl contained the best Japanese football players recently graduated and noted upcoming events.

Councilor Seffinger shared her experience visiting the Ashland Airport and the airport's role in emergencies like staging for forest fires, and potential earthquakes.

Councilor Rosenthal thanked City Administrator Dave Kanner and Executive Secretary Diana Shiplet for hosting the Guanajuato Sister City breakfast and Mayor Stromberg for attending the event.

Councilor Marsh invited everyone to the Ashland Emergency Food Bank's second annual community pie social. This was an opportunity to thank the community for their support. She went on to share the invitation for the volunteer celebration that would happen August 30, 2015.

City Administrator Dave Kanner explained the transfer of \$500,000 out of the insurance fund and into the self-insurance fund a day early that went before Council at the June 30, 2015 Special Meeting was most likely not needed. The loss ratio was 52% for June and the City finished the year with an aggregate loss ratio of 74%.

ADJOURNMENT OF BUSINESS MEETING

Meeting adjourned at 9:21 p.m.

Barbara Christensen, City Recorder

John Stromberg, Mayor