

**AGENDA FOR THE REGULAR MEETING
ASHLAND CITY COUNCIL
August 2, 2016
Council Chambers
1175 E. Main Street**

CALL TO ORDER

Mayor Stromberg called the meeting to order at 7:02 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 Conservation, Forest Lands, Historic, Housing and Human Services, Public Arts, Tree, and Wildfire Mitigation Commissions.

APPROVAL OF MINUTES

The minutes of the Goals Update of July 18, 2016 and the Business Meeting of July 19, 2016 were approved as presented.

SPECIAL PRESENTATIONS & AWARDS

The Mayor's proclamation of August 6, 2016 as Hiroshima Day and August 9, 2016 as Nagasaki Day was read aloud.

PUBLIC FORUM

Richard Elmore/458 Beach Street/Spoke regarding the ruptured sewage system that flooded his ex-wife's home at 288 Morton Street.

Christine Ducey/539 Walnut Street/Explained residents of Walnut Street wanted Council to authorize funds to chip and seal Walnut Street if voters approved using Food and Beverage Tax for street maintenance.

Public Works Director Mike Faught explained there were several miles of roads in Ashland not paved. There were valid dust concerns and staff had submitted a grant application to pave the roads. Grant money was the only potential funds the City had to pave the roads. Typically, neighbors formed a local improvement district (LID) to cover costs of paving roads.

Luther Lymon/321 Clay Street/Spoke on the need to repair the tennis court at Hunter Park.

Huelz Gutcheon/2253 Hwy 99/Spoke on the use of electricity in the future due to climate change.

Joseph Kauth/482 Walker Street/ Shared his observations on several topics regarding changes in Ashland and the climate.

Diane M Werich/563 Walnut Street/Wanted funds to chip and seal Walnut Street if voters approved using part of the Food and Beverage Tax for street maintenance and repair.

Richard Werich/563 Walnut Street/Read from a document submitted into the record and supported the use of Food and Beverage Tax to chip and seal Walnut Street.

CONSENT AGENDA

- 1. Appointment of Risa Buck to the Conservation Commission**
- 2. Appointment of Tracy Peddicord to the Wildfire Mitigation Commission**
- 3. Approval of a resolution titled, "A resolution exercising the power of eminent domain"**
- 4. Approval of a liquor license application for Amrik Bagri dba South Town Market & Deli**
- 5. Approval of a liquor license application for Koongsun Lee dba Little Tokyo**
- 6. Purchase of real property totaling 45.79 acres in the City of Ashland and Jackson County, including taxlots 391E08DB200 and 391 E08600**
- 7. Consideration of the sale of an access easement on Parks property at Nutley Street**
- 8. 4th Quarterly Financial Report of the 2015-2017 Biennium**
- 9. Approval of a public contract exceeding \$100,000 for a heavy duty cab and chassis**

Councilor Voisin pulled Consent Agenda item #6 for discussion. Parks and Recreation Director Michael Black addressed the property purchase and the Hitt Road trail and explained the appraised value occurred in 2015 at \$320,000. Another document from the seller indicated they would list the property at approximately \$400,000. The Parks and Recreation Department negotiated \$360,000 because the owner would not go lower than that amount. The Parks and Recreation Department will maintain the park with their forestry and trails crew. Initially costs will not increase. Over time, they will slate hours, days, and weeks of volunteer time for the trails as well as the forestry crew and Fire Department to clear fire fuels. The Parks Commission did not want an easement on the property and wanted to purchase the land to protect it from development. Parks Commissioner Rick Landt added the land created a continuous city owned property. Owning the land would allow the City to maintain a higher level of fire reduction and expand trails, things the City could not do with an easement.

Councilor Voisin/Marsh 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 amending the citizen participation and involvement chapter of the Ashland Comprehensive Plan to establish the Ashland Planning Commission as the Committee for Citizen Involvement"**

Community Development Director Bill Molnar explained the ordinance made several minor text amendments to the Comprehensive Plan, specifically Chapters 2 and 3. The amendments would recognize the Planning Commission as the committee for citizen involvement (CCI) and highlighted the Planning Commission's responsibility assisting the Council with promoting and enhancing citizen involvement in the land use planning process. Council approved an ordinance in April that adopted changes to Ashland Municipal Code (AMC) Chapter 2 identifying the Planning Commission as the CCI. Amending the Comprehensive Plan made it consistent with the AMC. The Citizen Planning Advisory Committee (CPAC) was informally disbanded in 1992 as the City created standing commissions and short-term ad hoc committees. The Planning Commission held a public hearing in July and unanimously recommended approval. Statewide Planning Goals, Goal 1 allowed a Planning Commission to take on CCI functions. Staff will send a letter to the State Citizen Planning Advisory Commission outlining the change.

Public Hearing Open: 8:44 p.m.

Public Hearing Closed: 8:44 p.m.

Councilor Seffinger/Morris m/s approval on first reading by title only of an ordinance amending the Comprehensive Plan Citizen Participation and Involvement Element to designate the Planning Commission as the Committee for Citizen Involvement and moving the ordinance to second reading. DISCUSSION: Councilor Seffinger thought this was more efficient. Councilor Morris thought this was a start to many updates to the Comprehensive Plan.

Councilor Marsh/Rosenthal m/s to amend the motion and place a sixth policy in the ordinance that read, “The Mayor and City Council may appoint short-term citizen committees to address specific planning assignments as needed.” DISCUSSION: Councilor Marsh explained there might be times where the Council wanted to expand the commission or bring in outside experts for specific assignments. Councilor Rosenthal agreed. **Roll Call Vote: Councilor Marsh, Rosenthal, Voisin, Morris, Seffinger, and Lemhouse, YES. Motion passed.**

Roll Call Vote on amended main motion: Councilor Voisin, Morris, Marsh, Seffinger, Rosenthal, and Lemhouse, YES. Motion passed.

UNFINISHED BUSINESS

1. Continuation of Grandview Drive discussion

Councilor Rosenthal/Voisin m/s to suspend Council Rules for the purpose of asking questions of staff. Voice Vote: all AYES. Motion passed.

Public Works Director Mike Faught explained shared roads worked well in areas where the road was not wide enough. A shared road would provide an 18-foot wide drive path of 9-foot lanes with a minimum of a 3-foot refuge on each side of the road. Refuge areas were not designed to carry pedestrians and bike traffic full time. They allowed pedestrians and bicyclists to step out of traffic if needed. Both ends of the road will have shared road signs and a sign posting the speed limit at 15 miles per hour (mph). The Oregon Department of Transportation (ODOT) allowed cities to post 15 mph for shared roads without their approval. Staff would determine sufficient lighting and if needed and drainage.

Posting the speed at 15 mph without amending the environment would not encourage drivers to slow down. Reducing the speed limit without designating the road as a shared street required an application to ODOT, and a traffic study that ODOT had the power to reject. Alternately, staff doubted the traffic engineer would approve and stamp the plans. The shared road designation allowed the City to set the speed at 15 mph without approval due to the environmental amenities that accompanied shared road status.

Engineering Services Manager Scott Fleury explained staff had developed an interim solution as Phase 1 that effected the upper section adjacent to the guardrail. Staff was currently working on the topographic survey data for Phase 2 and then would begin work on the engineering design. Phase 1 would create a 3-foot refuge on the guardrail side with a 4-inch fog stripe at the edge of the pavement. There would be an 18-foot paved section with another 4-inch white fog stripe and a 3-foot refuge on the uphill side. This interim could also be the long-term solution for the entire roadway down to Scenic Drive as well. It would minimize the amount of earthwork and the retaining wall on the uphill side. The traffic engineer concluded the 3-foot refuge would work instead of the 5-foot refuge discussed early. Mr. Faught commented they may not need the retaining wall and that made the project less expensive.

Mr. Fleury explained the traffic engineer was recommending a four-way stop at the Skycrest Drive and Grandview Drive intersection. Staff also discussed signage at the Ditch Road access as well as a shared road sign with appropriate trail signage on Grandview Drive.

Mr. Faught explained the traffic engineer had stated they would have required a guardrail where it was currently and they would evaluate the need for additional guardrails as the study progressed. City Attorney Dave Lohman did not think the Americans with Disabilities Act (ADA) regulated guardrails. Mr. Lohman went on to explain the subcontractor should have gotten the encroachment permit prior to installation. There were penalties for encroaching without a permit and Council had to determine what they wanted done once they knew what should occur. At that time, Public Works would ask the property owner to

submit a permit application and the City would deal with potential penalties then.

Staff confirmed the Phase 1 interim plan would have enough visual cues to designate the road as shared and implement the 15 mph speed limit. Mr. Faught verified it was illegal for vehicles to cross fog lines. He went on to explain staff would delay the A Street project, preferably after the downtown plans developed and would use the balance of the slurry seal project to cover the \$240,000 cost to convert Grandview Drive to a shared road. It would be less expensive if Council determined that Phase 1 would work for the long-term. City Administrator Dave Kanner further explained the Capital Improvement Plan (CIP) was not a legally binding document.

If Council supported Phase 1 of the project, staff would move ahead and come back to Council regarding Phase 2.

Councilor Morris/Marsh m/s to reinstate the Council rules. Voice Vote: all AYES. Motion passed.

Councilor Marsh/Morris m/s to ask staff to move forward with the further development and then implementation of the interim plan as presented tonight with the inclusion of the four-way stop, signage, and the centerline going away. DISCUSSION: Councilor Marsh was encouraged by the interim design and was reluctant to approve a \$250,000 project without knowing what the rest of the road would look like. She hoped the interim became the solution for the whole road and thought the homeowner should apply for the guardrail permit. It was important they followed the rules. Councilor Morris commented it would make a good interim that could possibly be used other places. He thought the installer of the guardrail could pay for some of the engineering costs to evaluate whether it was done correctly. He also wanted to see the system development charges (SDC) for the Strawberry development. This could fit into that area.

Councilor Lemhouse thought staff did what they were supposed to do as well as the traffic engineer. He questioned whether this was the right way to deal with the situation. Everyone had to follow the policies and rules. He did not blame the homeowners or the developer. It was the subcontractor's responsibility. He would not support the motion and thought the guardrail should be removed, have the City focus on higher priority issues and come back to Grandview when it was scheduled. Councilor Rosenthal shared Councilor Lemhouse's concern regarding the public process, the priorities, and what precedent Council may set. He was uncomfortable voting on something that was not in the council packet and just came before Council. It felt rushed and he would not support the motion. Councilor Voisin added there was not enough detail in the interim plan. She would not vote for the project. She wanted a plan for the entire street, input from engineering, public input, and the Grandview project to go into the CIP queue for 2018-2019. She expressed concerns on setting a precedent. Councilor Seffinger had compassion for the homeowner but was concerned about setting a precedent. She would vote against the motion.

Mr. Lohman explained if someone was injured as a result of the guardrail being removed, the injured party could name the City as a defendant and a jury would decide whether it was reasonable or not. Alternately, if someone were injured due to the guardrail, the City would not be liable because it followed the traffic engineer's recommendations.

Kim Parducci from Southern Oregon Transportation Engineering further explained when they inspected the guardrail to determine removing or leaving it, they included all users, pedestrians, bikes, vehicles, all modes of travel and determined it was safe. Any crash involving a pedestrian and vehicle was severe. It was safer to have the guardrail in place. The guardrail reduced the severity of the crash, it did not matter if there were previous crashes or not. They looked into a broad sweep of crashes and collisions, pedestrians, vehicles and vehicles, vehicles with pedestrians, heart attacks, weather, drunk driving, etc. Mr. Lohman added another a lawsuit could happen if an accident occurred due to the speed limit and Council had allowed

a higher rate of speed that made it unsafe. Designating Grandview Drive as a shared street would allow Council to lower the speed otherwise, they could not adjust speed limits.

Councilor Marsh motioned to amend the motion and direct staff to come back to Council with developed plans for the interim option and a budget. Councilor Lemhouse raised a point of clarification regarding the amendment passing and the motion failing.

Councilor Marsh withdrew her motion.

Councilor Marsh/Morris m/s to ask the staff to come back with detailed plans and a budget for the interim option, with the inclusion of the four way stop, the signage, and no centerline.

DISCUSSION: Councilor Marsh recognized Council's concerns regarding public input and budget information. Councilor Morris thought delaying action to develop a plan perpetuated a dangerous situation. Here was an interim plan that seemed safer and more economical, and Council was postponing further. He would support the motion, but did not like the delay. Councilor Lemhouse commented the situation was "hoisted" on Council by the actions of others and the City and Council were trying to work at a resolution. He was willing to compromise and let the other proposal come back although his objections stood overall. Councilor Morris noted the engineer's job was making sure a project met the rules and regulations. Having the City requiring the removal of non-permitted items created another kind of precedent. Councilor Seffinger wanted public input on the interim.

Roll Call Vote: Councilor Marsh, Morris, Seffinger, Lemhouse, Rosenthal, and Voisin, YES. Motion passed.

NEW AND MISCELLANEOUS BUSINESS - None

ORDINANCES, RESOLUTIONS AND CONTRACTS

- 1. Second reading by title only of an ordinance titled, "An ordinance amending Ashland Municipal Code Chapter 10.110 Fair Housing"**

Councilor Lemhouse/Seffinger m/s to approve Ordinance #3131. DISCUSSION: Councilor Seffinger thought the ordinance brought greater safety to young people looking for housing.

Roll Call Vote: Councilor Morris, Seffinger, Lemhouse, Rosenthal, and Marsh, YES. Motion passed with a vote of four. Councilor Voisin was out of the room.

- 2. First reading by title only of an ordinance titled, "An ordinance amending AMC Chapter 4.34, Food and Beverage Tax, and referring the ordinance to the voters of Ashland in the November 8, 2016 General Election"**

City Administrator Dave Kanner explained the Food and Beverage Tax was growing at a faster rate and if Council approved the proposed changes, it would allow the Parks and Recreation Department's allocation to increase from 20% to 25% and provide funding for street pavement management. He recommended redirecting Food and Beverage (F&B) tax revenue from one Public Works purpose, wastewater treatment to a different Public Works purpose that was street maintenance. He provided history on the F&B tax for parklands acquisition and noted the next logical step was providing funding for repair and rehabilitation of purchased parks.

He addressed questions on lowering the F&B tax or lowering wastewater rates due to the increase in tax revenue. The F&B tax was restricted to paying wastewater debt only not wastewater operations. Since 2012, approximately \$1,500,000 had gone into the wastewater fund more than what was required to pay the debt. Fund balance projections showed it growing over time. At this time, staff did not think it was necessary to raise rates at the previously projected level because future debt was built into the rates. He noted Section 4.34.020 Tax Imposed (C)(3) indicated a fixed amount for the wastewater treatment plant

debt and wastewater capital improvement projects (CIP) versus a percentage. The F&B tax grew more than 5% in 2016 and eliminated the need to contribute another \$2,000,000 in 2017 as planned. For second reading, Mr. Kanner would propose a lower number in the wastewater fund to start building up the street fund in fiscal year 2017.

Reducing the F&B tax from 5% to 4% was more of a symbolic change that would for the most part be unnoticeable. The street maintenance-funding crisis was real and immediate. If projections did not grow as projected, they could still increase the Parks and Recreation share, fund the wastewater debt, and pavement management program over 7-8 years instead of a five-year program.

Mr. Kanner proposed new language in 4.34.020 Tax Imposed (C)(5) of the ordinance that Parks and Recreation continued to get their share of the F&B tax, and the Council must appropriate whatever is necessary to pay debt service from the F&B tax. Any remaining amounts would be appropriated via a council ordinance and submitted to the voters for approval.

He recommended repairing the streets close to failure first and addressing the worst streets as revenue grew in the fund. He went on to clarify Council would have to decide on improvements to unpaved roads. Unpaved streets were not included in the pavement management program. If the city paved a few blocks on Walnut Street fairness would dictate paving all unpaved streets. Neighbors typically paid to pave their unpaved roads through a local improvement district. It ended up being a fairness issue.

Administrative Services and Finance Director Lee Tuneberg addressed the 2% F&B tax collection in Section 4.34.020 Tax Imposed (C)(5c). This money was used to administer the tax that included multiple staff managing collections, auditing returns, and all administration work done by himself, legal costs, and collection agency costs.

Parks Commissioner Rick Landt, and Parks and Recreation Director Michael Black provided history on the F&B tax for Parks acquisition. The 5% increase would help maintain the current infrastructure and provide funds for deferred maintenance.

Councilor Seffinger/Lemhouse m/s approval on first reading by title only of an ordinance amending AMC 4.34 and referring said ordinance to the voters of Ashland in the November 8, 2016 general election, and moving the ordinance to second reading at the City Council meeting of August 16, 2016. DISCUSSION: Councilor Seffinger noted the importance of working on infrastructure. The Parks and Recreation Department had assumed a number of different roles in the last years and this will ensure they are able to continue. Councilor Lemhouse supported the motion and thanked Mr. Kanner and Mr. Lohman for their role and efforts in bringing this forward. Council could do this without voter approval but it was important to be transparent. The tax was intended to have visitors help pay for infrastructure that allowed them to visit. He appreciated Mr. Kanner adding language that future changes to the F&B tax needed to go out for a vote. Councilor Rosenthal added there was a problem with the streets and this was a reasonable approach. If the voters do not agree, there will still be the problem of having to address street maintenance. This was the best approach to the issue. Councilor Voisin thought it was important to take care of the streets and potholes. It was part of the infrastructure and effected cars, and the safety of people riding bikes or walking.

Mr. Kanner clarified streets requiring reconstruction were not the first on the list. Streets close to failure would be first. Streets requiring reconstruction were next in line. Doing an overlay on a street close to failure was \$285,000 a mile where reconstruction cost \$1,400,000 a mile. Councilor Rosenthal thought there should be a formula that would address repairing streets close to failure and at the same time, a parallel process to allocate funding to start reconstructing failed streets. Councilor Marsh responded the

City would develop a process so citizens would understand the decisions made regarding street repair and reconstruction.

Mr. Kanner thought repair work would begin summer 2017. He suggested borrowing money in the spring, making the first debt service payment fall 2017 and having staff start work on plans now for next summer. Initially the City will borrow as much as they can support from the F&B tax revenues, use that money to do as much street work as possible then borrow more and increase the amount of street work. A third borrowing will get the City to the full \$10,500,000. By that point, the City will be able to cover the debt service on the pavement management program. The City would hire contractors for street repair and staff would continue with the regular street maintenance.

Mayor Stromberg commented the street maintenance was critical and using F&B tax for repair was responsible. He explained due diligence would deal with three things, first, the revenue source itself, how vulnerable it might be and consequences, like wild fire and smoke affecting F&B tax revenues. Second, during the recent goals update Council considered several projects that required money beyond what was normally expected going into the next biennium. There was a context that Council was making decisions and ignoring other important needs requiring funding sources. There was the overall financial impact to the citizenry to consider as well. Third, these discussions were helpful for the next budget cycle. He wanted the public to enter into the dialogue. By 2020, he wanted the city to have the credibility and the public to understand the F&B tax was something that could help other needs in the community. Council needed to look at the questions they had not addressed yet.

Mr. Lohman noted a community needed to take into account all its needs as it took on a revenue source. He referred to his experience on the board for the Oregon Transportation Commission and described cities in the state plowing up their streets because they were unable to maintain them and turning them into dirt to save on maintenance costs. Other cities have had to increase property or gas taxes to pay for repair. Street maintenance was a very important issue.

Councilor Marsh thought government was a balance between doing due diligence and making a decision. She recognized the need to have the conversation the Mayor outlined and parts should happen. Street repair was an immediate concern and streets were fundamental to infrastructure. Transportation was at a crisis level throughout the state. Using F&B tax to repair streets was an opportunity the voters would decide.

Councilor Rosenthal/Voisin m/s to call for the question. Roll Call Vote: Councilor Marsh, Seffinger, Rosenthal, Voisin, Morris, and Lemhouse, YES. Motion passed.

Roll Call on main motion: Councilor Lemhouse, Morris, Voisin, Rosenthal, Seffinger, and Marsh, YES. Motion passed.

Mayor Stromberg wanted to be clear to the public that Council had a question on how much can the community afford to do that will require Council to prioritize between streets, parks, the seismic safety of City Hall, necessary water improvements, public safety staffing issues and may not be able to afford them all. By passing the motion, Council made a decision without an evaluation. He wanted Council to start looking at the tradeoffs.

3. Approval of a resolution titled, "A resolution of the City of Ashland to submit ballot title to City Elections Officer of election on a measure to amend 4.34, Food and Beverage Tax at the November 8, 2016, General Election"

City Administrator Dave Kanner distributed a Frequently Asked Questions document for Council to use as needed.

Councilor Lemhouse/Rosenthal m/s approval of a Resolution #2016-20.

DISCUSSION: Councilor Lemhouse disagreed with Mayor Stromberg's presumption that Council had not evaluated where the money should go or was ignoring some of the issues he mentioned. Over the 8 years he served on Council, he was fully aware of issues requiring funding and committed to finding ways to fund them. This was an opportunity to solve a funding issue. The F&B tax will not cover everything. He had evaluated the other issues. This was the best use of the F&B tax for this project. Councilor Rosenthal thought it was a matter of practical public policy. This was a funding source currently dedicated to parks and public works purposes. Council was asking voters to approve another public works application for this funding. Suggesting alternatives beyond that was a trickier question than what Council was directing voters to consider this November. **Roll Call Vote: Councilor Voisin, Lemhouse, Morris, Rosenthal, Marsh, and Seffinger, YES. Motion passed.**

OTHER BUSINESS FROM COUNCIL MEMBERS/REPORTS FROM COUNCIL LIAISONS

Councilor Lemhouse explained he and Councilor Morris were on the subcommittee for the potential creation of a special fire district. The latest discussion involved a request for proposal (RFP) for an individual or firm to do a feasibility study. He went on to note the passing of Mark Burns, a Firefighter for the City of Medford. Mr. Burns had responded to the Oak Knoll fire and recently died from injuries resulting from that fire. Councilor Lemhouse honored Mr. Burns.

Councilor Marsh announced the Food Bank would host the Medical Teams International Dental van and provide free dental services to members of the community. This service happened quarterly. Appointments were available.

Councilor Voisin announced a free veterinarian clinic at the United Methodist Church, Tuesday, September 13, 2016 from 3:00 p.m. to 5:00 p.m.

ADJOURNMENT OF BUSINESS MEETING

Meeting adjourned at 9:55 p.m.

Dana Smith, Assistant to the City Recorder

John Stromberg, Mayor