

MINUTES

REGULAR COUNCIL MEETING
OF
JULY 28, 2014
5:30 P.M.

THE DALLES CITY HALL
313 COURT STREET
THE DALLES, OREGON

PRESIDING: Mayor Steve Lawrence

COUNCIL PRESENT: Bill Dick, Carolyn Wood, Dan Spatz, Tim McGlothlin, Linda Miller

COUNCIL ABSENT: None

STAFF PRESENT: City Manager Nolan Young, City Attorney Gene Parker, City Clerk Julie Krueger, Public Works Director Dave Anderson, Administrative Intern Rich Wachter, Finance Director Kate Mast, Police Chief Jay Waterbury, Planning Director Dick Gassman, Engineer Dale McCabe

CALL TO ORDER

Mayor Lawrence called the meeting to order at 5:30 p.m.

ROLL CALL

Roll call was conducted by City Clerk Krueger; all Councilors present.

PLEDGE OF ALLEGIANCE

Mayor Lawrence invited the audience to join in the Pledge of Allegiance.

APPROVAL OF AGENDA

Action Item 12, C was removed from the agenda. It was moved by Dick and seconded by Spatz to approve the agenda as amended. The motion carried unanimously.

PRESENTATIONS/PROCLAMATIONS

Certificate of Recognition to Doug and Melissa Kirchhofer and Nolan Hare for Fort Dalles Fourth Celebration

Mayor Lawrence read a Certificate in recognition of the leadership shown in creating a community celebration for Independence Day.

Presentation of Medal of Valor to Jamie Carrico

Police Chief Waterbury presented a Medal of Valor to Police Detective Jamie Carrico in recognition of an incident in which Carrico had been shot in the line of duty.

AUDIENCE PARTICIPATION

Columbia River Gorge Commissioner Dan Ericksen, 3240 Knob Hill Road, The Dalles, provided the Council with a paper outlining resource needs of the Commission, noting the immediate need for additional staff. He said the Commission would be presenting their budget to the Governor and Legislature and asked that the City provide a letter of support for their budget.

It was the consensus of the City Council to direct staff to prepare a letter of support for the Columbia River Gorge Commission's budget proposal to the Oregon Governor and Legislature.

Bill Lennox, 1005 Federal Street, The Dalles, commended the staff of the Water Department for their response to his concern about a water line issue in his neighborhood. He said they worked out a process to fix the problem and let him know when the project would be scheduled. Lennox said he appreciated the great attitudes of the staff.

Alex Hattenhauer, 122 West 17th Street, The Dalles, said there had been a 20% increase in fuel tax revenues for the City over the past four years. He said he had read articles in the newspaper recently about utility rates and said the City needed to make good decisions for the citizens. Hattenhauer said the City Manager was pushing the fuel tax increase but the City Council should be directing what they want to do and if it was placed on a future ballot, they should be able to explain the reasoning for it. He said people who had spoken at Council meetings were all in opposition of the proposal and that the Stat was working on a transportation package and moving it forward.

Brad Lynch, 1408 East Ninth Street, The Dalles, said he believed it was ridiculous to propose a fuel tax increase. He said the City was saying it needed a new sewer plant, but the previous upgrades to the plant were supposed to include future population growth. Lynch said the

prediction of a population of 30,000 by the year 2025 was not reasonable. He said the City was moving funds to purchase a lot of real estate such as the Sunshine Mill and proposed downtown hotel property. Lynch said the City had the highest water and sewer rates and taxes in the State and said he hoped the City didn't charge more money for docking fees than the other cities were charging. Lynch said there was no need to raise fees anymore.

Debbie Richelderfer, 2310 East 19th Street, The Dalles, addressed the Council regarding a requirement to install sidewalks along the property she was developing at 924 East 19th Street. She said the property could not be subdivided because it was also in the National Scenic Area and said she would like to place sidewalks only on the portion of the property where the home was being constructed. Richelderfer said the City had not implemented the requirements of the House Bill regarding residential development fees. She said she was also angry that the City had not made any repairs on Thompson Street. She provided photographs of it's poor condition and said the citizens who live there pay property taxes and should not have to participate in the cost of improvements to that street.

Dan Ericksen said the Gorge Commission was starting the process to look at overlapping boundary lines and sorting out which properties were in urban areas.

Ms. Richelderfer said she asked Wasco County Commission to correct the problem many ears ago and was told they were waiting for the City to implement an urban growth boundary plan.

CITY MANAGER REPORT

City Manager Young reported that the Chamber of Commerce had hired a person to fill the position of tourism coordinator.

Young reported that the Finance Department had been conducting some demonstrations from software vendors because the current software no longer met the needs of the City any longer. He said they may move to the next step and issue a Request for Proposals later this year, but if they proceeded, the cost would be amortized so as not to cost more money than was currently budgeted to continually update the current software.

City Manager Young said there had recently been some letters to the newspaper regarding water rates and subsidizing the General Fund with water rates. He provided the City Council with an updated budget issue paper, outlining the administrative transfers from the Water Fund to General Fund for services they receive. Young noted the information had also been provided to the Budget Committee and placed on the City's website as an information piece.

Young said there had been a letter recommending discontinuing use of the water treatment plant. He noted the wells did not have enough capacity to meet the maximum usage during the summer months and were used to supplement the water from the treatment plant.

CITY ATTORNEY REPORT

City Attorney Parker said he continued to work on the foreclosure process for nuisance properties. He noted five of the properties had already been foreclosed on so the City wouldn't be able to collect on those ones.

CITY COUNCIL REPORTS

Councilor Wood reported that the Mid-Columbia Council of Governments had hired a new Building Codes Director. She said there had been no Historic Landmarks Commission or QLife Agency meetings.

Councilor McGlothlin reported he had attended the Traffic Safety Commission meeting but had not attended the Airport Board meeting. He said the business park work had been completed and the flex space hangar project was moving forward.

Councilor Spatz said he had attended the Mid-Columbia Economic Development District and Regional Solutions Team meetings, noting the two groups had many issues in common. He said City Clerk Krueger would be serving as the City's point of contact for the Sister Cities Association.

Councilor Miller said she attended the Urban Renewal Advisory Committee meeting, where a project had been presented for the Elks Club Building. She said the proposal was for a neon and antique sign museum. Miller said a marketing study was requested and that would be reviewed by the Committee in August.

Mayor Lawrence said he had read a proclamation for the 24th anniversary of the Americans With Disabilities Act. He read the proclamation to the City Council.

CONSENT AGENDA

It was moved by Wood and seconded by Miller to approve the Consent Agenda as presented. The motion carried unanimously.

Items approved by Consent Agenda were: 1) approval of June 30, 2014 work session minutes; 2) approval of July 14, 2014 regular City Council meeting minutes; and 3) Resolution No. 14-023 concurring with the Mayor's appointments to various commissions.

PUBLIC HEARINGS

Public Hearing to Receive Testimony Regarding Appeal of Planning Commission Conditions of Approval for Minor Partition by Randy Hager

Mayor Lawrence reviewed the procedures to be followed for the hearing. No Councilors declared bias or conflict of interest. Lawrence asked if anyone in the audience wanted to challenge a Councilor's ability to hear the case. No challenges were declared.

The staff report was reviewed by Planning Director Gassman. He noted that a permit had been issued in 2011 for an accessory dwelling unit, which was not considered to be a single family dwelling, so no systems development charges (SDC) had been assessed and that an accessory dwelling did not trigger annexation. Gassman said the appellant had applied for a minor partition last year to have a single family dwelling on one portion and the accessory building on another portion of the property which would create a new single family dwelling, now subject to pay SDC's and be annexed, according to City policy.

Mayor Lawrence asked why the Planning Commission hadn't required annexation in the conditions of approval for the partition. City Attorney Parker said the Land Use Development Ordinance (LUDO) used the word "may", so they believed it was discretionary.

Councilor Miller asked if other properties in the area had been annexed. Planning Director Gassman said 10th Street and the properties on the other side of the street were annexed.

Councilor McGlothlin asked if the City Council had the authority to refund the appeal fee. City Attorney Parker said there was a separate process for requesting a refund. It was noted Mr. Hager had paid two separate fees, one to appeal the decision to the Planning Commission, and another fee to appeal their decision to the City Council.

Councilor McGlothlin said he was opposed to charging fees for appeals. City Attorney Parker said the issue could be discussed at another time. Planning Director Gassman said a specific process was set by LUDO for requesting refunds.

Mayor Lawrence questioned why that matter couldn't be considered at this meeting. Parker said it was a separate issue.

Testimony of Appellant

Appellant Randy Hager, 2804 East 10th Street, The Dalles, said his request was to rescind condition #6, to pay systems development charges. He said House Bill 3479 had been passed by the Legislature and he should no longer be required to pay SDC's according to the legislation. Hager said the City Council had directed staff to stop assessing SDC's, except when a building permit was issued, but that the Planning Director had told him he was not aware of that language. Hager said he did have an accessory building, less than 600 square feet, which he built to live in and that when it was approved he had been told by Public Works Department that extending the storm sewer to the area was not planned. Hager asked the Council to remove condition #6 and to direct staff not to put a condition of annexation on his property. He said the Planning Commission had decided annexation should not be required because his property was not contiguous to the city limits. Hager urged the Council to grant his appeal.

Councilor Wood asked which structure on the map was the accessory dwelling. Hager said it was the one described as carriage house on the map. He said he had not been aware he could have two access points, but now that he knew that, he planned to put in a second access.

Testimony in Support of Appeal

Jim Wilcox, 416 West 7th Street, The Dalles, spoke in favor of the appeal. He said when he was on the City Council, the Council agreed that the trigger for assessing SDC's was if someone got a building permit for a dwelling. Wilcox said he believed there were many other properties that could be partitioned and had more than one dwelling. He said it was more common than people may think and questioned whether the City would try to assess them as well. Wilcox recalled a work session of the Council and Planning Commission where it was agreed a building permit would be the trigger for SDC's. He said he was unhappy that a State law had to be passed to address the issue and said staff didn't seem to understand that law regarding annexation, Wilcox said the LUDO did contain discretionary language and urged the Council to support the decision of the Planning Commission and not require a consent to annexation. Wilcox said the minor partition had originally contained eight conditions and only two were appealed. He said the only condition being appealed at this hearing was the requirement to pay the SDC's.

Brad Lynch, 1408 East 9th Street, The Dalles, said to quote the City Attorney and Police Chief, ignorance of the law was no excuse.

Testimony in Opposition of the Appeal

None.

Mayor Lawrence asked if the City Council was prepared to deliberate to a decision.

Planning Director Gassman said there were not a lot of properties in the situation of having more than one dwelling on them, as stated by Mr. Wilcox. He said this situation was not one of a property having two single family dwellings, but that of one dwelling and one accessory dwelling. He said the partition would create a new single family dwelling which should be charged the SDC's.

Mayor Lawrence asked if the accessory dwelling was already connected to the utilities, and said if so, there would be no additional impact to the utility systems. Planning Director Gassman said there was potential, once the property was divided, to make it a larger dwelling, having a greater impact on the utility systems.

Councilor Miller said it was the same structure whether you called it an accessory dwelling or single family dwelling.

Councilor Dick said it was his understanding that if the house was added on to in the future, the building permit issuance would then trigger SDC's to be paid. He asked Mr. Hager is that was also his understanding. Mr. Hager said he would do what was required by the law.

Hearing no further testimony, the public hearing was closed.

Council Deliberation

Councilor Wood said she agreed that a minor partition would not trigger payment of SDC's.

Councilor McGlothlin agreed, saying a building permit was the mechanism for charging SDC's.

Councilor Dick said he continued to support the Council direction that a building permit was what would require an SDC. He said he respected the work of the Planning Commission but believed the condition for paying the SDC's should be removed. Dick said he did think the appeal fee was valid based on the amount of time to process the appeal and said he believed Mr. Hager did benefit from City services and supported annexation of the property.

Councilor McGlothlin said he supported granting the appeal and asking staff to bring back possible revisions to the current annexation policy.

Wood asked if the owner would be required to annex if his water or septic failed. Gassman said if sewer was available within 300 feet of the property, and the septic failed, he could be required to annex, but the water ordinance didn't specify reasons for annexation.

Councilor Spatz said he agreed with the comments made by Councilor Dick to grant the appeal of the SDC condition but to require the annexation.

It was moved by McGlothlin and seconded by Miller to grant the appeal for the purpose of deleting the condition requiring payment of the SDC's and direct staff to prepare a resolution setting forth the Council's decision based upon findings of fact and conclusions of law and further direct staff to bring back to the Council possible revisions of the current policy on annexation. The motion failed, Dick, Spatz and Wood voting no.

It was moved by Dick and seconded by Spatz to grant the appeal for the purpose of deleting the condition requiring payment of the SDC's and direct staff to prepare a resolution setting forth the Council's decision based upon findings of fact and conclusions of law and to reinstate the condition to sign a consent to annex.

Miller asked what the duration for a consent to annexation was. Planning Director Gassman said it was effective for one year. He said based on the current annexation policy, it would likely be annexed in January.

City Manager Young said staff could bring the current annexation policy as a discussion item for Council to consider.

The motion to grant the appeal for the purpose of deleting the condition requiring payment of the SDC's and direct staff to prepare a resolution setting forth the Council's decision based upon findings of fact and conclusions of law and to reinstate the condition to sign a consent to annex was voted on and carried, McGlothlin and Miller voting no.

Councilor Wood said she hoped the decision was in line with residential infill issues. City Manager Young said the Council had adopted a motion to implement the House Bill and staff did follow the Council's direction.

Mayor Lawrence said the process had been difficult for everyone and caused a lot of frustration. He said there needed to be a compromise to allow for non-punitive development.

Mayor Lawrence asked if the Council could now discuss the appeal fee of Mr. Hager. City Attorney Parker said the process needed to be followed and that issue would come before the Council at the next regular meeting.

ACTION ITEMS

Resolution No. 14-021 Calling for Engineer's Report for West 7th Street Local Improvement District

The staff report was reviewed by Engineer Dale McCabe.

It was moved by McGlothlin and seconded by Wood to adopt Resolution No. 14-021 calling for the Engineer's Report for West 7th Street Local Improvement District. The motion carried unanimously.

Resolution No. 14-022 Approving a Ballot Measure to Increase the Local Fuel Tax

The staff report was reviewed by City Manager Young.

It was moved by McGlothlin and seconded by Miller to take no action to place the fuel tax increase on the ballot.

Councilor Wood asked if Wasco County had made a decision regarding the proposed County Road District.

City Manager Young said the County had two more public hearings scheduled and would make a decision on August 13. In response to a question regarding having two tax measures on the same ballot, Young explained the electors within the city limits would only vote on the fuel tax because the City had opted out of the road district and the electors outside the city limits would only vote on the road district issue.

McGlothlin asked what the cost to the City would be for an election. Young said there was no cost to place a measure on the ballot for a primary or general election.

Wood asked if there was a strong push at the State level to implement a new transportation package. City Manager Young said he would request information on any proposals. Young said another option for the Council was to wait for the May election in order to have time to get more information.

Mayor Lawrence said he had heard at a Regional Solutions Team meeting that there may be a proposal to allow for State transportation funds to be used for repairs and new roads, which would give more flexibility in using State funds for street repairs.

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The motion to take no action to place the fuel tax increase on the ballot was voted on and failed; Wood, Spatz and Dick in opposition.

Councilor Wood said the City should wait and see what the County decided to do with a proposed road district before making a decision about the fuel tax ballot. She said if needed, the Council could hold a special meeting to make a decision. There was agreement to have a meeting on August 14 at 5:30 p.m.

DISCUSSION ITEMS

Discussion Regarding General Ordinance No. 14-1335 Amending Sections 2, 9, and 11 through 19 and Repealing Section 10 of General Ordinance No. 06-1266 Concerning Systems Development Charges

City Attorney Parker reviewed the staff report.

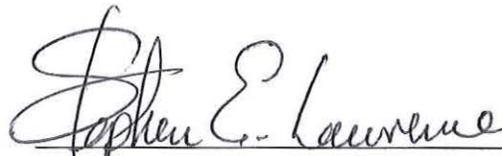
It was moved by Spatz and seconded by McGlothlin to support maintaining the job creation credit, specifying that only full-time jobs that pay at the county average or greater qualify toward the credit, with a cap of 25% and direct staff to include proposed revisions as summarized in the staff report bullet points in the ordinance. The motion carried unanimously.

ADJOURNMENT

Being no further business, the meeting adjourned at 8:20 p.m.

Submitted by/
Julie Krueger, MMC
City Clerk

SIGNED:



Stephen E. Lawrence, Mayor

ATTEST:



Julie Krueger, MMC, City Clerk