FOREST GROVE OREGON

A place where families and businesses thrive.

Monday, January 25, 2021

City Council Regular Meeting Minutes **7:00 p.m., Webex Community Auditorium**

Minutes are unofficial until approved by Council.
Council approved minutes as presented February 22, 2021.

1. **CALLED TO ORDER AND ROLL CALL:**
Mayor Peter Truax called the regular City Council meeting to order at 7:00 p.m. via Webex Video Conference.

COVID-19: Due to the emergency declaration resulting from COVID-19 (Coronavirus disease) and protocols, the City Council limited in-person contact and social distancing. **The City Council conducted the Council meeting remotely by video conferencing.** The meeting was televised live by Tualatin Valley Community Television (TVCTV) Government Access Programming LIVE Channel 30. The public was allowed to attend and observe in the Community Auditorium as space allowed. The Council accepted written comments on items not on the agenda submitted by 3:00 p.m. the day of the meeting.

ROLL CALL: COUNCIL PRESENT ATTENDED BY WEBEX REMOTELY: Donna Gustafson; Kristy Kottkey; Timothy Rippe; Elena Uhing; Mariana Valenzuela; Malynda Wenzl, Council President; and Mayor Peter Truax.

STAFF PRESENT ATTENDED BY WEBEX REMOTELY: Jesse VanderZanden, City Manager; Ashley Driscoll, City Attorney; Paul Downey, Administrative Services Director; Gregory Robertson, Public Works Director; Derek Robbins, Project Engineer; Anna Ruggles, City Recorder (in the Community Auditorium).

2. **CITIZEN COMMUNICATIONS**:
The following written e-mail correspondence was received by 3:00 p.m. and was distributed to Council in the Council Packet. An addendum was added to the Council Packet as outlined below.

Name:	Subject:	Date:
1. Tammi McLaughlin	Please Work Together on Your Rules	01/18/2021
2. Jon Madsen	Highway 47	01/18/2021
ADDENDUM:		
3. Dalton Payfer-Lockling	Democracy	01/20/2021
4. Hayley Guay	Emergency Preparedness Resources	01/21/2021
5. Skip Buhler	Traffic Speed Limit on Elm Street	01/22/2021

6. Jordan Hara	Forest Management Budget	01/22/2021

3. <u>CONSENT AGENDA</u>:

Items under the Consent Agenda are considered routine and are adopted with a single motion, without separate discussion. Council members who wish to remove an item from the Consent Agenda may do so prior to the motion to approve the item(s). Any item(s) removed from the Consent Agenda will be discussed and acted upon following the approval of the remaining Consent Agenda item(s).

A. Approve City Council Work Session (Council Rules) Meeting Minutes of January 11, 2021.
B. Approve City Council Regular Meeting Minutes of January 11, 2021.
C. Endorse New Liquor License Application (Full On-Premises/Off-Premises Sales) for Bella Donna's Bistro & Patisserie, 2007 21st Avenue (Applicant: Donna Gustafson). *ITEM REMOVED*
D. **<u>RESOLUTION NO. 2021-05 AMENDING CITY OF FOREST GROVE'S DECLARATION OF STATE OF EMERGENCY, EFFECTIVE MARCH 14, 2020, AT 1:00 P.M., TO BE EXTENDED AND REMAIN IN EFFECT UNTIL 8:00 P.M. ON FEBRUARY 8, 2021, UNLESS SUPERSEDED SOONER; AMENDING RESOLUTION NO. 2021-02</u>.**

<u>MOTION</u>: Councilor Rippe moved, seconded by Council President Wenzl, to approve the Consent Agenda as amended. <u>VOICE VOTE</u>: AYES: Councilors Gustafson, Kottkey, Rippe, Uhing, Valenzuela, Wenzl, and Mayor Truax. NOES: None. MOTION CARRIED 7-0.

3. C. <u>Endorse New Liquor License Application (Full On-Premises/Off-Premises Sales) for Bella Donna's Bistro & Patisserie, 2007 21st Avenue (Applicant: Donna Gustafson)</u>

Gustafson asked to remove the above-noted item from the Consent Agenda, noting she is the business owner and she is declaring a conflict of interest.

Hearing no concerns from the Council, Mayor Truax asked for a motion.

<u>MOTION</u>: Council President Wenzl moved, seconded by Councilor Rippe, to approve Consent Agenda Item 3. C. as presented. <u>VOICE VOTE</u>: AYES: Councilors Kottkey, Rippe, Uhing, Valenzuela, Wenzl, and Mayor Truax. NOES: None. ABSTAINED: Councilor Gustafson. MOTION CARRIED 6-0 with 1 Abstention.

4. <u>ADDITIONS/DELETIONS</u>:

Kottkey asked to add a Council Work Session on February 8, 2021, to discuss homelessness. Kottkey suggested inviting city staff, Metro, county and non-profits agencies to make presentations to Council so there would be a level of understanding and knowledge-base on how Forest Grove is addressing homelessness, to which VanderZanden advised he planned on updating Council on the City's role and responsibility in addressing homelessness and providing the framework for the upcoming Council Retreat scheduled on February 20, 2021. Mayor Truax advised the City needs to play a role, but he sees a series of work sessions occurring. Uhing added she would rather wait until the framework was thoughtfully laid out in a work plan. After roundtable discussion, the following motion was made.

MOTION: Councilor Kottkey moved, seconded by Councilor Rippe, to direct the City Manager to schedule a Council Work Session on February 8, 2021, on Homelessness. VOICE VOTE: AYES: Councilors Gustafson, Kottkey, Rippe, Valenzuela, Wenzl, and Mayor Truax. NOES: Councilor Uhing. MOTION CARRIED 6-1.

5. **PRESENTATIONS:** None.

6. **INFORMATIONAL PUBLIC HEARING AND RESOLUTION NO. 2021-06 FORMATION OF PROPOSED REIMBURSEMENT DISTRICT PURSUANT TO CITY CODE SECTIONS 151.110 TO 151.124, "WAUNA CREDIT UNION PUBLIC IMPROVEMENT REIMBURSEMENT DISTRICT"**

Staff Report:
Robbins and Robertson presented the above-proposed resolution for Council consideration, noting as required in Code Section 151.113, the proposed resolution contains the finalized Engineer's Report (Exhibit A) on the proposed formation of Wauna Credit Union (WCU) Public Improvement Reimbursement District, located at 3532 Pacific Avenue. Robertson reported the Engineers Draft Report was pulled from the Council meeting agenda on August 10, 2020, Resolution No. 2020-85, because staff requested additional time to address issues concerning the methodology used for allocating costs among benefiting parcels within the proposed Reimbursement District. The WCU is seeking to recover a portion of the costs associated with the Poplar Street Storm Pipe Extension and Poplar Street Sewer Pipe Extension costs and submitted an application requesting the City establish a Reimbursement District. At the City's request, WCU re-allocated costs among parcels within the proposed District as being equally split between property area and frontage length along the utility improvement. The WCU redistributed from potentially benefitting 12 property tax lots to benefitting 17 property tax lots as shown in the Engineer's Report Table 4. For the sewer only two parcels will be benefiting from the improvement. The proposed District includes properties south of the WCU on either side of Poplar Street. The Engineer's Report contained the Distribution of Improvement Costs and Amount to be Paid to WCU through the City from the District when the benefiting properties develop

and/or connect to the public improvements as outlined below:

- Poplar Street Storm Pipe Extension Reimbursement District (900 feet) total project cost of $262,865. WCU's share is $51,580 and the remaining share is equally weighted and split between property area and frontage along improvement, and
- Poplar Street Sewer Pipe Extension Reimbursement District (250 feet and required hydrant replacement and relocation of existing water and gas main) total project cost of $108,340. WCU's share is $38,248 and Fernhill Wetlands Apartments share is $70,092.

Code Section 151.115(A) requires holding an Informational Hearing in which persons impacted by the creation of the Reimbursement District have an opportunity to comment thereon. Staff gave notice as required in Code Section 151.115(B) to all owners of property within the proposed District. In conclusion of the above-noted staff report, Robertson advised staff is recommending Council consider adopting the proposed resolution and accept the proposed Engineer's Report, noting the Council may approve, reject or modify the recommendations contained in the Engineer's Report. The Council has sole discretion to decide whether a Reimbursement District is formed. If the Council accepts the Engineer's Report and approves formation of the Reimbursement District, the City Recorder shall record the existence of the Public Improvement Reimbursement District with Washington County in order to cause notice to potential purchasers of properties within the District. The formation of a District does not result in an assessment or lien against real property. Pursuant to Code Section 151.122(F), the right to reimburse shall not exceed 10 years from the District's formation date. Upon application for an extension, the Council has sole discretion to authorize up to 10 additional years for a total reimbursement period not to exceed 20 years.

Before proceeding with the Informational Public Hearing and Council discussion, Mayor Truax asked for a motion to adopt Resolution No. 2021-06.

VanderZanden read Resolution No. 2021-06 by title.

<u>MOTION</u>: Councilor Uhing moved, seconded by Councilor Rippe, to adopt Resolution No. 2021-06 Formation of Proposed Reimbursement District Pursuant to City Code Sections 151.110 to 151.124, "Wauna Credit Union Public Improvement Reimbursement District".

<u>Informational Public Hearing Opened</u>:
Mayor Truax opened the Informational Public Hearing and explained the hearing procedures.

<u>Written Testimony Received</u>:

Debi Smiley, Chief Marketing Officer, Wauna Credit Union, applicant, submitted written testimony dated January 21, 2021.

No other written testimony was received.

Proponents:
Debi Smiley, Chief Marketing Officer, Wauna Credit Union, Forest Grove, applicant, submitted written testimony dated January 21, 2021, and testified in full support of the Engineer's Report findings with regards to the proposed Public Improvement Reimbursement District, noting the construction contributed to further development of storm and sewer utilities on Poplar Street and Pacific Avenue.

Jared Rickenbach, Astoria, representing the applicant, testified in support with regards to the methodology used for allocating costs contained in the Engineer's Report, noting the City asked that WCU distribute the costs based on frontage for the tax lots directly abutting the extended public improvements, which resulted in recalculating the costs. Rickenbach reported WCU did a better job allocating the costs and amounts to be paid to WCU from the Public Improvement Reimbursement District in a fair and equitable method. Rickenbach attributed the higher improvement costs due to having to upsize, upgrade and extend public improvement lines to meet the City's required code specifications. Rickenbach added they also held a work session with all property owners.

No one else testified and no written comments were received.

Opponents:
Jesse Nemec, JT Smith Companies, Lake Oswego (Fernhill Apartments, 14 property lots within the Reimbursement District), testified in opposition of the Engineer's Report findings, voicing concerns the map was misleading and disputing the methodology used for re-allocating the public improvement extension costs and amounts requested to be paid to WCU from the Public Improvement Reimbursement District. Nemec voiced concerns the sewer extension costs were unreasonable and unjustified and were three times more than the market rate industry norm. Nemec briefed Council on his development plans, noting his development intends to connect downstream and will not benefit from and does not need to use the full extent of the public improvements constructed by WCU. In addition, Nemec questioned whether the submittal date of the WCU reimbursement application exceeded the 180-day requirement for the acceptance of the improvements for which reimbursement is sought. Nemec noted he has emails requesting copies and voicing concerns with the city's engineer regarding the proposed Public Improvement Reimbursement District. In response to various Council inquiries regarding Nemec's development plans and reimbursement costs, Nemec indicated he would not have been required to extend utilities if he had developed first and, if he had, his infrastructure costs would have

cost much less.

Michael Robinson, attorney representing J. T. Smith Companies, referenced City Code Section 151.112(E), noting they are simply asking if WCU submitted their application within the specified time period of 180 days from the acceptance of the improvement for which reimbursement is sought.

No one else testified and no written comments were received.

Others:
No one testified and no written comments were received.

Questions of Staff and Council Discussion:
In response to various Council inquiries and concerns pertaining to the Engineer's Report, Robertson briefed Council on the details pertaining to the methodology used for allocating the improvement costs and amounts to be paid to WCU from the Reimbursement District as outlined in the Engineer's Report, Table 4. Robbins noted no city monies were allocated for any of infrastructure. Robbins confirmed WCU complied with 180-day requirement. Robbins added he has had no communication with Nemec. In addition, Robbins provided justification as to the reasons the public improvements had to be extended to Poplar Street, noting Nemec's development would have been required to extend utilities through their property if they had developed first and most of the project costs would have been on his development pursuant to Clean Water Services and City Code. In addition, Robertson advised staff has made a good faith effort and while the costs are high, the costs were incurred by WCU and were justified. After further review, Robertson asked Council to postpone taking action on the proposed resolution, Exhibit A, Engineer's Report, noting it is clear there is still disagreement regarding the reimbursement costs that need to be addressed.

Hearing no further concerns from the Council, the following motion was made.

MOTION TO TABLE: Councilor Rippe moved, seconded by Councilor Uhing, to TABLE DISCUSSION, Resolution No. 2021-06 Formation of Proposed Reimbursement District Pursuant to City Code Sections 151.110 to 151.124, "Wauna Credit Union Public Improvement Reimbursement District".

Hearing no further discussion from the Council, Mayor Truax asked for a roll call vote on the above motion to TABLE.

ROLL CALL VOTE: AYES: Councilors Gustafson, Kottkey, Rippe, Uhing, Valenzuela, Wenzl, and Mayor Truax. NOES: None. MOTION CARRIED 7-0.

7. <u>PUBLIC HEARING AND RESOLUTION NO. 2021-07 OF THE LOCAL CONTRACT REVIEW BOARD ADOPTING FINDINGS TO SUPPORT AN EXEMPTION FROM COMPETITIVE BIDDING REQUIREMENTS FOR THE DEVELOPMENT SERVICES ANNEX AND CITY HALL RENOVATION, DECLARING SUCH EXEMPTION, AND AUTHORIZING A PROCESS TO AWARD A CONSTRUCTION MANAGER/GENERAL CONTRACTOR (CM/GC) CONTRACT</u>

<u>Staff Report</u>:
Downey presented the above-noted proposed resolution for Council consideration, noting the proposed resolution allows the Council, acting as the Local Contract Review Board, to adopt Findings to Support an Exemption from Competitive Bidding Requirements for the Development Services Annex (DSA) and City Hall Renovation Project and authorizes a process to award a Construction Manager/General Contractor (CM/GC), as outlined in Exhibit A. Downey reported staff held a Council work session on January 11, 2021, to present draft findings and issues as to why the City should use a competitive process to hire a CM/GC, noting the City is currently in the preliminary design phase for the construction of the replacement building for the Engineering Office constructed in 1890 and the renovation of City Hall constructed in 1937. The project consists principally of replacing the current one-story 3,600 square-foot Engineering Office with a two-story 7,200 square-foot new building, which would co-locate Engineering Office and Community Development/Planning and Building functions to the new DSA, and remodeling the interior of the 7,000 square-foot City Hall to include improvements to staff work areas, lighting and carpeting improvements, restroom remodeling, and HVAC system changes required for the project. The funding of $350,000 for design and engineering services was included in this year's current adopted budget. No funding has been approved for construction. In conclusion of the above-noted staff report, Downey advised staff is recommending Council consider adopting the proposed resolution as outlined in Exhibit A, noting pursuant to ORS297C.335(5), the City is required to hold a Public Hearing of the Local Contract Review Board to allow comments on the City's draft findings.

Before proceeding with Public Hearing and Council discussion, Mayor Truax asked for a motion to adopt Resolution No. 2021-07.

VanderZanden read Resolution No. 2021-07 by title.

<u>MOTION</u>: Councilor Rippe moved, seconded by Council President Wenzl, to adopt Resolution No. 2021-07 of the Local Contract Review Board Adopting Findings to Support an Exemption from Competitive Bidding Requirements for the Development Services Annex and City Hall Renovation, Declaring Such Exemption, and Authorizing a Process to Award a Construction Manager/General Contractor (CM/GC) Contract.

Public Hearing Opened:
Mayor Truax opened the Public Hearing and explained hearing procedures.

Written Testimony Received:
No written testimony was received.

Proponents:
No one testified and no written comments were received.

Opponents:
No one testified and no written comments were received.

Others:
No one testified and no written comments were received.

Public Hearing Closed:
Mayor Truax closed the Public Hearing.

Council Discussion:
Hearing no concerns from the Council, Mayor Truax asked for a roll call vote on the above motion.

ROLL CALL VOTE: AYES: Councilors Gustafson, Kottkey, Rippe, Uhing, Valenzuela, Wenzl, and Mayor Truax. NOES: None. MOTION CARRIED 7-0.

8. RESOLUTION NO. 2021-08 AUTHORIZING CITY MANAGER TO ENDORSE AN INTERGOVERNMENTAL AGREEMENT (IGA) BETWEEN CITY OF FOREST GROVE AND CLEAN WATER SERVICES (CWS) FOR ALLOCATION OF SANITARY SEWER SYSTEM DEVELOPMENT CHARGES (SDC)

Staff Report:
Robertson and Downey presented the above-proposed resolution for Council consideration, noting the resolution is authorizing the City Manager to endorse an Intergovernmental Agreement (IGA) between the City and Clean Water Services (CWS) for allocation of Sanitary Sewer System Development Charges (SDC). Downey reported the City agreed to participate 50/50 on the construction of 19th Avenue and Maple Street Inflow and Infiltration (I&I) Rehabilitation Project No. 6962 if the City could pay back its share of the costs over a 10-year period. Downey advised CWS is allowing the City to continue to retain 20 percent (Local Portion) and CWS retain 80 percent of the Sewer SDC collected, and the City is responsible for funding sewer line projects under 24 inches in diameter. In conclusion of the above-noted staff report, Downey advised staff is recommending Council adopt the attached resolution as outlined in Exhibit A, noting the 20/80 split of Sewer SDC collected will remain

unchanged and the IGA amends the termination date from June 30, 2023, to June 30, 2031.

Before proceeding with Council discussion, Mayor Truax asked for a motion to adopt Resolution No. 2021-08.

VanderZanden read Resolution No. 2021-08 by title.

MOTION: Councilor Rippe moved, seconded by Council President Wenzl, to approve Resolution No. 2021-08 Authorizing the City Manager to Endorse an Intergovernmental Agreement (IGA) between the City and Clean Water Services (CWS) for Allocation of Sanitary Sewer System Development Charges (SDC).

Council Discussion:
Hearing no concerns from the Council, Mayor Truax asked for a roll call vote on the above motion.

ROLL CALL VOTE: AYES: Councilors Gustafson, Kottkey, Rippe, Uhing, Valenzuela, Wenzl, and Mayor Truax. NOES: None. MOTION CARRIED 7-0.

9. RESOLUTION NO. 2021-09 AMENDING COUNCIL RULES SECTIONS 5.1, 5.2 AND ADDING COUNCIL RULE SECTIONS 5.5, AND 5.6 PERTAINING TO DECORUM, ORDER, ETHICS, AND STATEMENTS TO MEDIA AND OTHER ORGANIZATION

Staff Report:
VanderZanden presented the above-noted proposed resolution for Council consideration, noting the resolution is amending Council Rules Sections 5.1, Presiding Officer, and 5.2 Councilmembers, and adding new Sections 5.5 Ethics; and 5.6 Statements to Media and Other Organizations. VanderZanden reported Council met in work session on November 23, 2020, and reached consensus in work session on January 11, 2021, noting staff is taking a systemic and incremental approach to discussing each proposed rule revisions. In conclusion of the above-noted staff report, VanderZanden advised staff is recommending Council consider approving the proposed resolution as outlined in Exhibit A

Before proceeding with Council discussion, Mayor Truax asked for a motion to adopt Resolution No. 2021-09.

VanderZanden read Resolution No. 2021-09 by title.

MOTION: Council President Wenzl moved, seconded by Councilor Valenzuela, to approve Resolution No. 2021-09 Amending Council Rules Sections 5.1, 5.2

and Adding Council Rule Sections 5.5, and 5.6 Pertaining to Decorum, Order, Ethics, and Statements to Media and Other Organization.

<u>Council Discussion</u>:
Uhing indicated she could not support the proposed language (Section 5. 6) unless the language included social media due to citizenry perception and transparency, to which VanderZanden advised Council will be reviewing Section 3.8 which addressed serial communications in work session at a later date. Driscoll explained the intent of section is when councilors are not authorized to represent the city and give statements expressing their own personal opinions and not that of the city.

Council President Wenzl concurred, noting the intent is for statements made and adding social media will not change the intent. Wenzl added Councilors get to have opinions and councilors owe it to the citizenry to ask questions in good faith on social media and/or other platforms.

Gustafson concurred, noting councilors should be able have opinions and speak as individuals or residents and not be micromanaged or fearful of taking actions.

Hearing no further concerns from the Council, Mayor Truax asked for a roll call vote on the above motion.

<u>ROLL CALL VOTE</u>: AYES: Councilors Gustafson, Kottkey, Rippe, Valenzuela, Wenzl, and Mayor Truax. NOES: Councilor Uhing. MOTION CARRIED 6-1.

10. A. <u>COUNCIL COMMUNICATIONS</u>:
Gustafson reported attending Washington County Public Safety Coordinating Council meeting.

Kottkey presented a PowerPoint highlighting updates on her neighborhood Focus Group, which was shared with Council. Kottkey reported attending Community Forestry Commission (CFC) meeting, noting CFC discussed its Arbor Day 2021 Celebration. In addition Kottkey reported attending Community Policing Advisory Commission (CPAC) meeting, noting CPAC discussed its membership, team building and meeting dates.

Rippe reported on attending Westside Economic Alliance and Forest Grove/Cornelius Chamber of Commerce meetings.

Uhing reported attending Homeless Plan Advisory Council meeting.

Valenzuela reported attending Public Arts Commission (PAC) meeting, noting PAC discussed the draft mural policy and mural festival plans.

Council President Wenzl recapped the 2021 Annual Town Meeting (ATM) Agenda, noting the ATM will be an online platform webinar via Zoom on January 30, 2021, and registration is required to attend with full interactive capabilities at: http://bit.ly/2021townhallmeeting. Wenzl reported attending Parks and Recreation Commission (P&R) meeting, noting P&R appointed its officers and discussed various park-related projects.

10. B. City Manager's Report:
VanderZanden reported on various upcoming meetings and updates on department-related activities and projects.

10. C. MAYOR'S REPORT:
Mayor Truax reported on various legislative-related issues and Washington County-related matters of interest. In addition, Mayor Truax provided updates on the Oregon Health Authority's COVID-19 vaccination plan, noting Phase 1A is currently underway.

11. ADJOURNMENT:
Mayor Truax adjourned the regular Council meeting at 9:22 p.m.

Respectfully submitted,

Anna D. Ruggles

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Anna D. Ruggles, CMC, City Recorder