



A place where families and businesses thrive.

City Council Regular Meeting Minutes **Monday, June 13, 2016**
7:00 p.m., Community Auditorium

***Minutes are unofficial until approved by Council.
Council approved minutes as presented July 11, 2016.***

1. CALLED TO ORDER AND ROLL CALL:

Mayor Peter Truax called the regular City Council meeting to order at 7:01 p.m. and led the Pledge of Allegiance.

ROLL CALL: COUNCIL PRESENT: Thomas Johnston, Council President; Richard Kidd; Victoria Lowe; Ronald Thompson; Elena Uhing; Malynda Wenzl; and Mayor Peter Truax.

STAFF PRESENT: Jesse VanderZanden, City Manager; Paul Downey, Administrative Services Director; Rob Foster, Public Works Director; Jon Holan, Community Development Director; J. F. Schutz, Police Chief; Brandi Walstead, Program Coordinator; Matt Brown, Senior Management Analyst; and Anna Ruggles, City Recorder.

2. CITIZEN COMMUNICATIONS: None.

3. CONSENT AGENDA:

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 Special Meeting Minutes of April 28, 2016.
- B. Accept Committee for Citizen Involvement Meeting Minutes of October 6 and November 3, 2015, January 5, February 2, March 1 and April 5, 2016.
- C. Accept Community Forestry Commission Meeting Minutes of April 20, 2016.
- D. Accept Historic Landmarks Board Meeting Minutes of April 26, 2016.
- E. Accept Planning Commission Meeting Minutes of March 21 and May 2, 2016.
- F. Community Development Department Monthly Building Activity Informational Report for May 2016.
- G. Endorse Change of Ownership Liquor License Application (Full On-Premises Sales) for Ballard Town Billiards, 2036 Pacific Avenue (Applicant: Tony LaMar).
- H. Endorse Change of Ownership Liquor License Application (Full On-Premises Sales) for My Place, 1930 21st Avenue (Applicant: Thomas Lepschat).
- I. **ENDORSE LIQUOR LICENSE RENEWAL APPLICATION FOR YEAR 2016:**
 - 1. Pac Thai (Limited On-Premises Sales)

MOTION: Councilor Kidd moved, seconded by Council President Johnston, to approve the Consent Agenda as presented. MOTION CARRIED 7-0 by voice vote.

4. **ADDITIONS/DELETIONS:** None.

5. **PRESENTATIONS:**

5. A. **Family Justice Center of Washington County Introduction**

Police Chief Schutz introduced Patrick Lemmon, Family Justice Center of Washington County Project Manager, who presented a short video and PowerPoint presentation titled "The Path to Safety, Healing and Hope". Lemmon reported the Domestic Violence Resource Center has served victims for 40 years and is the only shelter in Washington County, but it needs more connection and collaboration. Lemmon added the Family Justice Center has been considering as early as 2003 pursuing opening a center that offers comprehensive, one-stop services under one roof to domestic-abuse victims and their families, including day care, food, housing, financial assistance, law enforcement, safety planning, counseling, legal assistance, court appearance, etc. Lemmon noted the Justice Center is raising funding to open a building near the max line and/or bus line, possibly in central Washington County-Beaverton/Aloha area, with a square footage of up to 25k to 30k to house domestic violence agency representatives under one roof, noting Washington County is long past due for a Family Justice Center and providers, law enforcement, city officials, legal teams and most importantly, survivors all agree. In conclusion of the above-noted presentation, Lemmon addressed various Council inquiries, noting Washington County law enforcement agencies responded to 5,998 domestic-related calls in 2014 and 6,130 in 2015 (Forest Grove responded to 323 domestic-related calls in 2015).

5. B. **Quarterly Financial Report for Period Ending March 31, 2016**

Downey and Brown presented a PowerPoint presentation outlining the quarterly financial report ending March 31, 2016, noting this is the third quarter of the City's fiscal year ending June 30, 2016. Downey reported the quarterly report compares the budget to the year-to-date revenues and expenditures, noting the first section contains a graphical presentation of the revenues and expenditures in the General Fund with expenditures by departments and other major operating funds; second section of the report contains the line item detail for all of the City's funds; and third section is actual revenues received or expenditures disbursed through the end of the quarter and are compared to the year-to-date quarterly budget allotments and expressed in the detail report as both a dollar variance and percent variance. In addition, Downey thanked Brown for his service to the city, noting Brown's tenure with the city is ending soon as Brown has accepted a job offer with another city. In conclusion of the presentation, Downey highlighted graphs pertaining to the General Fund, Building Services Fund,

Information Systems Fund, Light Fund, Street Fund, Sewer Fund, Water Fund, Surface Water Management Fund, Equipment Fund and other funds, noting the Beginning Fund Balance for FY 2015-16 is just over \$6.15 million, which is \$214,000 over what the five-year financial forecast estimated the balance would be during the budget preparation for FY 2015-16.

6. **CONTINUE PUBLIC HEARING FROM MAY 23, 2016: SECOND READING OF ORDINANCE NO. 2016-12 AMENDING FOREST GROVE CITY CODE CHAPTER 7 BY ADDING NEW CODE SECTIONS 7.900 TO 7.930 PROHIBITING THE USE OF SINGLE-USE PLASTIC CARRYOUT BAGS**

The first reading of Ordinance No. 2016-12 by title occurred at the Council meeting of May 23, 2016.

Staff Report:

Holan and Walstead presented the above-proposed ordinance for second reading and presented a PowerPoint presentation summarizing additional written public comments received as noted below and summarized amendments to the ordinance as proposed by Councilor Kidd, which are also noted below. In conclusion of the above-noted staff report, Holan advised staff is recommending Council take appropriate action on the proposed ordinance, noting Council may adopt the ordinance as proposed, as amended; as denied; or remand back to the Sustainability Commission with specific direction for reconsideration.

Public Hearing Continued:

Mayor Truax continued the Public Hearing from the meeting of May 23, 2016, and explained hearing procedures.

Written Testimony Received:

Jeff Haboush, Banks, submitted a letter dated May 23, 2016, in opposition of mandating five-cent pass through cost for paper bags.

Valerie Snyder, Forest Grove, submitted an e-mail dated May 24, 2016, urging Council to cut the flow of pollution into the ocean by banning disposal plastic bags.

Kee Her, Gresham, submitted an e-mail dated May 24, 2016, urging Council to cut the flow of pollution into the ocean by banning disposal plastic bags.

Allan Vanderzanden, Cornelius, submitted an e-mail dated May 26, 2016, in opposition of requiring use of paper bags, stating “whatever happened to “save the trees” and noted he would no longer shop in Forest Grove.

Todd Mabee, Forest Grove, submitted an e-mail dated May 27, 2016, in support of the proposed code amendments and imposing five-cent pass through cost for paper bags

as an incentive approach.

Charles Noll, Forest Grove, submitted an e-mail dated May 27, 2016, in opposition of proposed code amendments and five-cent pass through cost for paper bags, stating the ordinance is punitive to city's businesses, has limited to no benefit to the residents, and is questionable in its environmental benefit.

A. Wentz, Forest Grove, submitted an e-mail dated May 27, 2016, in support of the proposed code amendments and five-cent pass through cost for paper bags and providing some free reusable bags.

Susan Cooper, Forest Grove, submitted an email dated May 30, 2016, in support of the proposed code amendments and supporting \$0.50 rather than five-cent pass through cost for paper bags.

Hope Kramer, Forest Grove, submitted an e-mail dated June 2, 2016, in support of the proposed code amendments as proposed by the Sustainability Commission, stating businesses could always offset cost by offering a discount if consumers use their own bags.

No other written testimony was received prior to the published deadline of June 13, 2016, 7:00 p.m.

Proponents:

Elaine Cole, Sustainability Commission, addressed testimony heard and urged Council to keep the five-cent pass through cost for paper bags in the ordinance as proposed by the Sustainability Commission, noting the cost can be readdressed if necessary at a later date. In response to Councilor Thompson's inquiry, Cole reported that four businesses who said yes in the survey had more than 10 employees and pointed out the Chamber is not opposed to the ordinance.

John Hayes, Sustainability Commission, addressed testimony heard and urged Council to keep the five-cent pass through cost for paper bags in the ordinance as proposed by the Sustainability Commission, noting if Council finds there are too many complaints, the cost can be dropped at a later date.

No one else testified and no written comments were received.

Opponents:

Lisa Nakajima, Ace Hardware testified in opposition of the proposed ordinance requiring a mandatory five-cent pass through cost for paper bags, noting Ace Hardware has provided paper bags of a variety of sizes for over 30 years, questioning if businesses would be required to collect the same bag fee regardless of bag size. In

addition, Nakajima urged Council to ask the Sustainability Commission to remove the five-cent pass through cost for paper bags and instead revisit imposing a fee in a year.

No one else 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:

Kidd made a motion to amend the ordinance as noted below, noting he supports banning plastic bags but the ordinance should be fair to all businesses. Kidd proposed removing the requirement of “more than 10 full-time equivalent employees” and proposed allowing businesses the opportunity to offer a refund to customers who bring their own reusable bags.

MOTION TO AMEND: Councilor Kidd moved, seconded by Councilor Thompson, to amend Ordinance No. 2016-12, Exhibit A, as follows:

1. 7.900 (line 4) replace “~~requires~~ allows” and “~~at least up to~~”.
2. 7.915 (line 2) delete “~~with more than 10 full-time equivalent employees~~”.
3. 7.915 (line 4) replace “~~shall~~” “may”
4. 7.915 (line 5) replace “~~not less than up to~~”
5. 7.915 (paragraph (a) amend to read: “May reimburse the customer up to 5 cents per customer furnished reusable carry bag”
6. 7.915 paragraph (b) replace 7.920(~~db~~
7. 7.915 (line 11) replace “~~the any~~”
8. 7.920 paragraph (a) and (b) delete
9. 7.920 renumbering to coincide with amendments (a) through (d).

Council Discussion:

Thompson indicated he agrees with testimony heard that plastic bags are needed for persons with disabilities who frequently tie their grocery bags to their wheelchairs and agrees the ordinance impacts low-income persons and persons who have no vehicles or other means of transportation.

Uhing indicated she is in opposition of the paper bag portion of the ordinance as currently written. Uhing added though she supports the Sustainability Commission and agrees that plastic bags need be removed from the system, she does not feel the education process has been substantial enough to reach out to all the community.

Council President Johnston indicated he does not support the ordinance, noting a plastic bag ban should be by the vote of the people. Johnston added the City has not done enough education and has yet to get the reusable bags.

Wenzl stressed there has been a lot of public support, noting Forest Grove as a community can start making a stance.

Lowe questioned why more education was needed, when well thought out education has occurred for over two years. Lowe added the paper bag fee should in fact be set at \$0.50, noting she has used reusable bags for over 30 years. Lowe also referenced the Vision Statement and Council Goals, noting she agrees with the community and children who want changes made for their future and existence.

ROLL CALL VOTE ON MOTION TO AMEND: AYES: Councilors Kidd, Thompson, Uhing, and Wenzl. NOES: Council President Johnston, Councilor Lowe, and Mayor Truax. MOTION CARRIED 4-3.

Hearing no further discussion from the Council, Mayor Truax asked for a roll call vote on the motion made at the meeting of May 23, 2016, as amended.

VanderZanden read Ordinance No. 2016-12 by title for second reading as amended.

ROLL CALL VOTE: AYES: Councilors Kidd, Lowe, Thompson, Uhing, Wenzl, and Mayor Truax. NOES: Council President Johnston. MOTION CARRIED 6-1.

Recess: Mayor Truax called for a recess at 8:25 p.m. and Council reconvened at 8:35 p.m.

7. **CONTINUE PUBLIC HEARING FROM APRIL 11, 2016: RESOLUTION NO. 2016-36 FIXING SOLID WASTE RATES TO BE CHARGED BY FRANCHISE (WASTE MANAGEMENT) IN THE CITY OF FOREST GROVE, EFFECTIVE JULY 1, 2016, AND REPEALING RESOLUTION NO. 2013-72 (CANCELLING RESOLUTION NO. 2016-24)**

Staff Report:

Downey presented the above-proposed resolution for Council consideration, noting on April 5, 2016, Waste Management (WM) proposed a rate increase of 5.1 percent for all customer classes, noting at the Council meeting of April 11, 2016, staff reviewed the \$1.50 per month increase for food waste recycling program (Resolution No. 2016-24) and at the Council meeting of May 23, 2016, staff made recommendation to bring the WM proposed rate increase and the \$1.50 increase for food waste recycling program as one resolution for Council consideration (cancelling Resolution No. 2016-24) and setting the Public Hearing for this evening, June 13, 2016. Downey reported staff is

recommending a four percent (4%) rate increase across-the-board for all WM rates except 20 gallon and 35-gallon roll carts for which staff is recommending a 5.1 percent increase and a \$1.50 per month to cover the cost of processing food waste with yard debris as part of the City's new food waste recycling program. In conclusion of the above-noted staff report, Downey referenced Exhibit 1, which showed the effect of the proposed increase in residential rates and referenced Exhibit 2, which compared commercial container and drop-box rates in Forest Grove to other Washington County jurisdictions.

Before proceeding with Public Hearing and Council discussion, Mayor Truax asked for a new motion to adopt Resolution No. 2016-36, cancelling the motion on the floor from the Council meeting of April 11, 2016 (cancelling Resolution No. 2016-24).

VanderZanden read Resolution No. 2016-36 by title.

MOTION: Councilor Kidd moved, seconded by Councilor Wenzl, to adopt Resolution No. 2016-36 Fixing Solid Waste Rates to be Charged by Franchise (Waste Management) in the City of Forest Grove, Effective July 1, 2016, and Repealing Resolution No. 2013-72 (cancelling Resolution No. 2016-24).

Public Hearing Opened:

Mayor Truax opened the Public Hearing and explained hearing procedures.

Written Testimony Received:

No written testimony was received prior to the published deadline of June 13, 2016, 7:00 p.m.

Proponents:

Elaine Cole, Sustainability Commission, signed in to testify but when her name was called, she was not present.

John Hayes, Sustainability Commission, testified in support of the City's food waste recycling program, noting the City was recently mentioned at conference in regards to receiving a grant for its food waste recycling pails.

No one else 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:

In response to Uhing's concern pertaining to the rate increases, Downey explained the rate would increase from \$18.05 per month to \$20.50 (\$2.45 per month increase) for 20-gallon cart, which includes the food waste program.

In response to Council President Johnston's inquiry pertaining to if the bags for the food waste pails were biodegradable, Downey noted the pails the City is ordering do not require bags, but biodegradable bags may be purchased for such use.

Lowe suggested asking Recology, facility in North Plains who recycles residential food waste for WM, to donate garden compost to the community garden or school garden after year one of the City's food waste recycling program.

Mayor Truax added the Sustainability Commission has been working on this program well over a year, noting Council does not make rate increases lightly, but there is a cost of living in society.

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

ROLL CALL VOTE: AYES: Councilors Johnston, Kidd, Lowe, Thompson, Uhing, Wenzl, and Mayor Truax. NOES: None. MOTION CARRIED 7-0.

8. PUBLIC HEARING AND RESOLUTION NO. 2016-37 FIXING WATER RATES FOR THE CITY OF FOREST GROVE (4.25 PERCENT INCREASE), EFFECTIVE JULY 1, 2016, AND REPEALING RESOLUTION NO. 2015-39

Staff Report:

Downey presented the above-proposed resolution increasing water rates for all customer classes by 4.25 percent, effective July 1, 2016. Downey reported as part of the budget process for Fiscal Year 2016-17, staff explained the need to make changes to actuarial assumptions for the City's Defined Benefit Retirement Plan, which will increase the annual contribution costs for the Plan by \$1.2 million per year. The Water Fund's share of the increased costs is \$98,368 (\$32,790 annually), which will be implemented over the next three years, noting staff is recommending adding an additional rate increase of 0.75 percent to pay for the first year's increase, bringing the total water rate increase to 4.25 percent, effective July 1, 2016. In conclusion of the above-noted staff report, Downey outlined the significant changes to the water rates as noted in the staff report and proposed resolution (Exhibit A), noting for the average residential user, the proposed water rate increase would be approximately \$1.46 per

month.

Before proceeding with Public Hearing and Council discussion, Mayor Truax asked for a motion to adopt Resolution No. 2016-37.

VanderZanden read Resolution No. 2016-37 by title.

MOTION: Council President Johnston moved, seconded by Councilor Thompson, to adopt Resolution No. 2016-37 Fixing Water Rates for the City of Forest Grove (4.25 Percent Increase), Effective July 1, 2016, and Repealing Resolution No. 2015-39.

Public Hearing Opened:

Mayor Truax opened the Public Hearing and explained hearing procedures.

Written Testimony Received:

No written testimony was received prior to the published deadline of June 13, 2016, 7:00 p.m.

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 discussion from the Council, Mayor Truax asked for a roll call vote on the above motion.

ROLL CALL VOTE: AYES: Councilors Johnston, Kidd, Lowe, Thompson, Uhing, Wenzl, and Mayor Truax. NOES: None. MOTION CARRIED 7-0.

9. **RESOLUTION NO. 2016-38 APPROVING THE CITY OF FOREST GROVE TO SPONSOR AND ADMINISTER AN APPLICATION TO RE-DESIGNATE THE FOREST GROVE/CORNELIUS ENTERPRISE ZONE**

Staff Report:

King presented the above-proposed resolution requesting authorization to extend the Forest Grove/Cornelius Enterprise Zone for another 10-year period, noting the program was established in 2006 and is scheduled to sunset on June 30, 2016. King presented a PowerPoint presentation; provided background information; and referenced a map showing the Enterprise Zone, noting the zone includes industrial zones and hotel/motel within commercial zones. King reported the program has benefited six businesses and six business expansions for a total of 172 jobs created and \$21.86 million investment, noting the tax benefit is \$30,331 annually or estimated \$333,644 over 11 years. In conclusion of the above-noted staff report, King advised staff is recommending Council approve the proposed resolution authorizing Forest Grove to reapply with the State for renewing the Forest Grove/Cornelius Enterprise Zone for another 10-year period, effective July 1, 2016, noting Cornelius adopted its Council resolution for reauthorization of the program on May 2, 2016.

Before proceeding with Council discussion, Mayor Truax asked for a motion to adopt Resolution No. 2016-38.

VanderZanden read Resolution No. 2016-38 by title.

MOTION: Councilor Kidd moved, seconded by Councilor Uhing, to adopt Resolution No. 2016-38 Approving the City of Forest Grove to Sponsor and Administer an Application to Re-Designate the Forest Grove/Cornelius Enterprise Zone.

Council Discussion:

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

ROLL CALL VOTE: AYES: Councilors Johnston, Kidd, Thompson, Uhing, Wenzl, and Mayor Truax. NOES: Councilor Lowe. MOTION CARRIED 6-1.

10. RESOLUTION NO. 2016-39 ADOPTING REVISED PENSION FUNDING POLICY FOR THE CITY OF FOREST GROVE RETIREMENT PLAN

Staff Report:

Downey presented the above-proposed resolution requesting to approve the revised Pension Funding Policy for the City's Retirement Plan, noting the City adopted a Funding Policy for the City's Defined Benefit Retirement Plan on December 14, 2015, and since then, the City has changed some of the actuarial assumptions for the Plan resulting in a need to revise the Pension Funding Policy. Downey reported the actuary presented significant changes to the current actuarial assumptions in Council work session and at the Budget Committee meetings, noting there are two revisions proposed to the current Pension Funding Policy as noted below:

- When developing the amortization schedule for a given amortization base, payments will be assumed to increase at 2.50 percent per annum instead of the previous rate of 2.75 percent. This change is consistent with the new inflation assumption for the Plan.
- The other change adds the sections “Contributions under Temporary Phase-in Policy” that describes that the additional contributions resulting from the updated actuarial assumptions will be phased in over three years.

In conclusion of the above-noted staff report, Downey advised staff is recommending Council approve the revised Pension Funding Policy (attached as Exhibit A) for the City’s Retirement Plan, noting the City will need to add \$1.2 million in ongoing annual contributions to the City’s Defined Benefit Plan contributions. Downey noted this amount would be allocated over three years to the Funds that have employees in the Defined Benefit Plan.

Before proceeding with Council discussion, Mayor Truax asked for a motion to adopt Resolution No. 2016-39.

VanderZanden read Resolution No. 2016-39 by title.

MOTION: Councilor Uhing moved, seconded by Council President Johnston, to approve Resolution No. 2016-39 Adopting Revised Pension Funding Policy for the City of Forest Grove Retirement Plan.

Council Discussion:

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

ROLL CALL VOTE: AYES: Councilors Johnston, Kidd, Lowe, Thompson, Uhing, Wenzl, and Mayor Truax. NOES: None. MOTION CARRIED 7-0.

11. CITY COUNCIL COMMUNICATIONS:

Council President Johnston reported on Parks and Recreation Commission-related meeting and activities. In addition, Council President Johnston reported on other matters of interest and upcoming meetings he was planning to attend.

Kidd reported on Public Arts Commission-related meeting and activities. In addition, Kidd reported on other matters of interest and upcoming meetings he was planning to attend.

Lowe reported on Regional Water Providers Consortium-related meeting and activities, noting she was re-elected as Vice Chair. In addition, Lowe reported on other matters of

interest and upcoming meetings she was planning to attend.

Thompson reported on Community Forestry Commission-related meeting and activities. In addition, Thompson reported on other matters of interest and upcoming meetings he was planning to attend.

Uhing reported on Economic Development Commission (EDC)-related meeting and activities, noting EDC moved its next meeting to July 14, 2016. In addition, Uhing reported on other matters of interest and upcoming meetings she was planning to attend.

Wenzl reported on Library Commission and Fernhill Wetlands-related activities. In addition, Wenzl reported on other matters of interest and upcoming meetings she was planning to attend.

12. CITY MANAGER'S REPORT:

VanderZanden reported on upcoming meetings and events as noted in the Council calendar and City Manager's Report. In addition, VanderZanden referenced the City Manager's Report, which was emailed to Council in advance and outlined various upcoming Council-related meetings; upcoming Council-related agenda; updates on department-related activities and projects, including Administrative Services, Parks and Aquatics, Police, Library, Light and Power, Economic Development, Community Development, and Engineering and Public Works; and other upcoming citywide calendar events.

13. MAYOR'S REPORT:

Mayor Truax announced dates of various upcoming activities, events and meetings as noted in the Council Calendar. In addition, Mayor Truax referenced a written copy of his notes and reported on various local, regional, Metro, and Washington County-related matters of interest and meetings he attended, upcoming community-related events, and upcoming meetings he was planning to attend.

14. ADJOURNMENT:

Mayor Truax adjourned the regular meeting at 9:35 p.m.

Respectfully submitted,



Anna D. Ruggles, CMC, City Recorder



A place where families and businesses thrive.

Monday, June 13, 2016
5:30 p.m., Community Auditorium
Conference Room

City Council Executive Session Minutes

*Minutes are unofficial until approved by Council.
Council approved minutes as presented June 27, 2016.*

1. CALLED TO ORDER AND ROLL CALL:

Mayor Peter Truax called the Executive Session to order at 5:35 p.m.

ROLL CALL: COUNCIL PRESENT: Thomas Johnston, Council President; Richard Kidd; Victoria Lowe; Ronald Thompson; Elena Uhing; Malynda Wenzl; and Mayor Peter Truax.

STAFF PRESENT: Jesse VanderZanden, City Manager; Paul Downey, Administrative Services Director; Brenda Camilli, Human Resources Manager; and Anna Ruggles, City Recorder.

2. EXECUTIVE SESSION:

The City Council met in Executive Session in accordance with:

ORS 192.660(2)(D) to conduct deliberations with person designated by the governing body to carry on labor negotiations.

3. ADJOURNMENT

Mayor Truax adjourned the Executive Session at 6:14 p.m.

Respectfully submitted,

Anna D. Ruggles, CMC, City Recorder



A place where families and businesses thrive.

City Council Work Session Minutes
City Code Update

Monday, June 13, 2016
6:00 p.m., Conference Room

Minutes are unofficial until approved by Council.
Council approved minutes as presented July 11, 2016.

1. CALLED TO ORDER AND ROLL CALL:

Mayor Peter Truax called the Work Session to order at 6:16 p.m.

CALL: COUNCIL PRESENT: Thomas Johnston, Council President; Richard Kidd; Victoria Lowe; Ronald Thompson; Elena Uhing; Malynda Wenzl; and Mayor Peter Truax.

STAFF PRESENT: Jesse VanderZanden, City Manager; Paul Elsner, City Attorney; Paul Downey, Administrative Services Director; Tom Gamble, Parks and Recreation Director; J. F. Schutz, Police Chief; Kevin Ellingsburg, Police Captain; Sue Hudson-Rau, Municipal Court Supervisor; and Anna Ruggles, City Recorder.

Anne Newkirk Niven and Tim Rippe, Public Safety Advisory Commission (present in the audience).

2. WORK SESSION: CITY CODE UPDATES

Downey, staff noted above, and VanderZanden facilitated the work session, noting the purpose of the work session was to discuss and review the proposed amendments to City Code, Chapter 2, Government and Administration, and Chapter 5, Public Protection. Downey reported, with the advisement of the City Attorney, staff is seeking to make Chapter 5 consistent with Chapter 6, Vehicles and Traffic, by outlining the abatement process through Municipal Court instead of City Council, noting with this effort, new code language is necessary in Chapter 2 for the purposes of delegating jurisdiction to Municipal Court over code violations and certain offenses and authority to implement processes for conduct of hearings, ordering compliance of code provisions and imposing civil penalties on behalf of the City. Downey advised without the proposed amendments to the abatement procedures contained in Chapter 5, persons have no recourse of having abatement notices and matters heard in a court of jurisdiction. In addition, Downey reported staff is also proposing to enact new code provisions authorizing the City the ability to exclude an individual from city parks, city-owned or leased properties and/or city-sponsored events for a period of up to 90 days, if the individual is engaging in conduct made criminal or in violation of city code provisions or adopted rules of conduct. Downey advised the proposed exclusion authority is due to increased criminal activities and behaviors that disrupt or create a risk of harm to other users, particularly children and families, who are using city facilities, such as parks and recreational areas, and officers having no authority to exclude individuals who are engaging in such criminal

activities while on city-owned properties, noting the code provision allows individuals to appeal exclusion notices through Municipal Court, similar to other cities who have adopted similar ordinances. In addition, Downey and Hudson-Rau presented a PowerPoint presentation overview of the proposed code amendments as outlined in the staff report, noting Chapter 5 and Chapter 6 deal with nuisance violations and abatements. Downey and Hudson-Rau reported Chapter 6 was updated in 2013, which requires abatement of discarded vehicles to be abated through Municipal Court instead of City Council, noting staff is proposing to update only those pertinent sections in Chapter 5 that contain nuisance abatement procedures so the procedures are consistent with Chapter 6, noting Chapter 5 contains Nuisances Affecting Public Health, Safety or Welfare, i.e., accumulations of debris and rubbish, unsanitary conditions or premises, attractive nuisances, sidewalk nuisances, noxious vegetation, etc. Staff is also proposing to declare graffiti as a public nuisance, which would allow abating graffiti through Municipal Court. In conclusion of the above-noted staff report, Downey advised the Parks and Recreation Commission and Public Safety Advisory Commission reviewed and supported the proposed code amendments with an immediate implementation of the proposed code amendments and 90-day exclusion authority. In addition, Downey advised the City Attorney conducted a legal review and/or drafted language pertaining to the code amendments proposed in Chapter 2 and 5.

Council Discussion:

Mayor Truax opened the floor and roundtable discussion ensued pertaining to the procedural changes to City Code, Chapter 2, Government and Administration, and Chapter 5, Public Protection, pertaining to abatement procedures and other minor proposed amendments. Downey, staff and VanderZanden addressed various Council concerns, inquiries, and scenarios posed by Council pertaining to the 90-day exclusion authority and what types of criminal conduct and which rules of conduct would apply, noting the exclusion would only apply to individuals engaging in conduct made criminal as either a misdemeanor or felony under state law, in violation of City Code or in violation of an adopted rule of conduct, such as park regulations adopted in City Code, and if an individual violates a notice of exclusion that is in effect, the individual commits the crime of criminal trespass. Gamble addressed park regulations, noting city parks close at dusk pursuant to adopted regulations found in City Code. Captain Ellingsburg addressed city facility or property, which includes the watershed, noting officers can cite and/or arrest individuals for criminal acts, but officers currently do not have authority to exclude individuals who are engaging in criminal acts while on city-owned properties. City Attorney Elsner advised on case laws pertaining to exclusion authority, noting other cities are dealing with similar situations. Police Chief Schutz added the Police Department uses extreme discretion, and she entrusts police officers to do the right thing and understand when a person is down on their luck, noting exclusion authority is another tool officers can use for repeated criminal activities. In conclusion of the above-noted Council discussion, Downey advised staff is proposing to bring back an ordinance

adopting the procedural changes set forth in Chapter 2 and Chapter 5 and new code provisions relating to exclusion from city facility or property and staff is seeking Council consensus to consider adopting the proposed ordinance with an immediate effective date after second reading of the ordinance, so the nuisance abatement procedures can be administered in an efficient and effective manner consistent with Chapter 6 and the exclusion authority can be effective immediately due to it is increasingly difficult to enforce due to summer being underway and increased criminal activities occurring on city-owned properties and officers having no authority to exclude individuals who are engaging in such criminal activities, to which no objections were heard; however, a majority of the Councilors voiced concerns that the ordinance did not warrant an emergency clause. In addition, VanderZanden added staff is also pursuing, with the advisement of the City Attorney, to conduct a comprehensive legal review and recodification of the entire City Code, noting the City Code has not had legal review or technical codification since 1988.

Council took no formal action nor made any formal decisions during the above-noted work session.

3. ADJOURNMENT:

Mayor Truax adjourned the work session at 7:00 p.m.

Respectfully submitted,



Anna D. Ruggles, CMC, City Recorder