

**FOREST GROVE CITY COUNCIL REGULAR MEETING
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***Minutes are unofficial until approved by Council.
Council approved minutes as presented September 9, 2013.***

1. ROLL CALL:

Mayor Peter Truax called the regular City Council meeting to order at 7:03 p.m. and led the Pledge of Allegiance. **ROLL CALL: COUNCIL PRESENT:** Thomas Johnston, Council President; Richard Kidd; Victoria Lowe; Camille Miller; Ronald Thompson; Elena Uhing; and Mayor Peter Truax. **STAFF PRESENT:** Michael Sykes, City Manager; Paul Elsner, City Attorney; Paul Downey, Administrative Services Director; Susan Cole, Administrative Services Assistant Director; Rob Foster, Public Works Director; Jon Holan, Community Development Director; James Reitz, Senior Planner; George Cress, Light and Power Director; Janie Schutz, Police Chief (in the audience); and Anna Ruggles, City Recorder.

2. CITIZEN COMMUNICATIONS:

Due to a large number of attendees in the audience, Mayor Truax explained the rules for addressing Council under Citizen Communications.

Dream Girl Espresso, 19th Avenue and Elm Street, Forest Grove

Opponents:

The opponents noted below testified before Council, citing concerns with the Dream Girl Espresso, a bikini barista, located at the corner of 19th Avenue and Elm Street, voicing concerns employees are not wearing bikini tops and instead are wearing pasties, g-strings, skimpy attire and see-through garments. Testimony heard from the opponents were similarly-related concerns, including violations of state laws; public indecency; commercial speech for the intent of making a profit; acts of pornography; protection for minor children walking in the area or going to the market due to employees can be seen in plain view; safety concerns for employees working at the barista due to sex offenders residing in the area; public safety, crime and property depreciation in the neighborhoods; family and religious values; and objectification of women. The opponents similarly asked Council to revoke Dream Girl Espresso's business license for misrepresentation and/or rezone the business as an adult-type business and relocate it away from Rogers Park and away

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from residential neighborhoods, citing this is their community and they do not intend to give up.

Shannon Holscher, Forest Grove, signed in; however, when her name was called, she declined testimony.

Roxanne Meeuwsen, Gaston, signed-in voicing concerns in opposition of the business.

Bob Elkind, Gaston, lead speaker of a group of citizens present, signed-in voicing the groups' concerns in opposition of the business. Elkind stated the business is a public nuisance that will harm existing businesses by driving customers away and is a danger to the citizens of Forest Grove.

Bridget Cooke, Adelante Mujeres, signed-in voicing concerns in opposition of the business. Cooke stated the non-profit agency is located next door to the coffee stand and she worries about the message the business sends to women.

Cecile Doyle, property in Forest Grove, Rockaway, signed-in voicing concerns in opposition of the business.

Laura Hale, Forest Grove, signed-in voicing concerns in opposition of the business and displayed a poster board of photographs taken at the Forest Grove business location of a female employee wearing pasties and panties.

Kris Coca, Forest Grove, signed-in and read a letter from her daughter who wrote that she had interviewed to become a Dream Girl barista and felt uncomfortable with the skimpy attire and the questions that were asked during her job interview by the owner of the business.

Heather Boyd, property in Forest Grove, Hillsboro, signed-in voicing concerns in opposition of the business and submitted a copy of her written testimony, referencing laws pertaining to adult-type businesses and citing case law pertaining to commercial law versus freedom of speech as well as qualifications for denial, suspension, revocation, and removal of business licenses. Boyd indicated what the barista is doing is not an act of freedom of speech, stating she is very concerned for the legal issues that Forest Grove will have sitting on their desk by her

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attorney if the matter is not taken care of by the City.

Jennifer Bright, Forest Grove, signed-in voicing concerns in opposition of the business.

Approximately 10 other persons approached the stand; however, they did not sign-in prior to the meeting, voicing the same concerns in opposition of the business.

Proponents:

The proponents noted below testified before Council, citing freedom of speech and the lawful rights of the business owner. Testimony heard from the proponents were similarly-related in support of the business, including the business is not violating any laws, State or otherwise, nor are there any indications that they are violating laws and the business has every right to be located at its current location. The opponents similarly stated if citizens do not like the business, do not patronize the business, and to take parental responsibility of their children.

Lane Jensen, Hillsboro, signed-in voicing support of the business, stating he has patronized both business and has never witnessed any problems at the stand in Hillsboro or the new stand in Forest Grove.

Leah Sizemore, owner of Dream Girl Espresso, signed-on and testified on behalf of her business. Sizemore stated her business does not sell sex, they serve coffee, and her employees do not serve in the nude. Sizemore stated although serving coffee in pasties is legal, Sizemore advised Council that she has instructed her employees to wear bikinis at the Forest Grove location as a compromise to the community, to which opponents chanted in the audience to require Sizemore to submit her promise to the City in writing.

Victoria Walker, Forest Grove, signed-in voicing support of the business, stating she is employed at the barista and is comfortable with the attire and working at the business has allowed her to make a decent living. Walker stated some Forest Grove residents who drive through the coffee stand do not buy coffee but instead take her photograph and insult her, noting she feels harassed and does not appreciate being stereotyped as being involved in something sleazy.

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Approximately three other persons approached the stand; however, they did not sign-in prior to the meeting, voicing support of the business.

City Attorney Response:

In response to the above-noted testimony, Mayor Truax asked City Attorney Elsner to provide legal opinion, to which Elsner advised Council and audience members that based on his experience with State law, the bikini barista business is currently not in violation, and revoking its business license or regulating its location or marketing could potentially cause the City legal ramifications. Elsner further advised there is nothing within the City's legal purview that allows Council or staff to shut down or interfere with the business, citing expressive conduct is protected in Oregon, which does not distinguish between commercial speech. In response to chanting in the audience, Elsner cited case law pertaining to expressive conduct and responded that a strip club would be allowed in the same location as the coffee stand or in any commercial zone. Elsner also responded that there are no regulatory requirements in City Code for revoking a business license as the City's business licensing program is for revenue-related purposes.

In conclusion of the above-noted testimony, Mayor Truax thanked the community members who stepped up to testified on both sides of the issue, noting the situation is not an easy one for Council.

Council Meeting Recessed:

Mayor Truax recessed the Council meeting at 8:30 p.m. and reconvened the Council meeting at 8:40 p.m.

3. **CONSENT AGENDA:** Items under the Consent Agenda are considered routine and will be 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 Consent Agenda item(s).
 - A. Approve City Council Work Session (B&C Interview) Meeting Minutes of July 8, 2013.
 - B. Approve City Council Work Session (Council E-Packets) Meeting Minutes of July 8, 2013.
 - C. Approve City Council Regular Meeting Minutes of July 8,

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- 2013.
- D. Accept Community Forestry Commission Meeting Minutes of May 15, 2013.
 - E. Accept Historic Landmarks Board Meeting Minutes of June 25, 2013.
 - F. Accept Library Commission Meeting Minutes of June 11, 2013.
 - G. Accept Parks and Recreation Commission Meeting Minutes of June 19, 2013.
 - H. Accept Planning Commission Meeting Minutes of June 17, 2013.
 - I. Accept Public Arts Commission Meeting Minutes of June 13, 2013.
 - J. Accept Public Safety Advisory Commission Meeting Minutes of June 26, 2013.
 - K. Community Development Department Monthly Building Activity Informational Report for June and July 2013.
 - L. Library Department Monthly Circulation Statistics Report for July 2013.
 - M. Endorse Change of Liquor License Application (Greater Privilege, Limited On-Premises Sales to Full On-Premises Sales) for Tyson's Pub N Grub, 2104 Main Street.
 - N. **RESOLUTION NO. 2013-55 MAKING APPOINTMENT TO COMMITTEE FOR CITIZEN INVOLVEMENT (APPOINTING JORDAN KRONEN, TERM EXPIRING DECEMBER 31, 2014).**

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

- 4. **ADDITIONS/DELETIONS:** None.
- 5. **PRESENTATIONS:**

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Forest Grove Transit Update:

Representatives from Ride Connection, Julie Wilcke, Chief Operating Officer, Elaine Wells, Executive Director, and Elyse Brouhard, Transportation Coordinator, presented a PowerPoint presentation highlighting Forest Grove's new transit service "GroveLink", noting the new transit service will start on Monday, August 19, 2013. Wilcke reported there are two routes navigating the east and west ends of Forest Grove, going as far west as Forest Gale Drive, north to David Hill Road, and east to Yew Street, and south along 14th Avenue, noting the routes and scheduled stops were selected based on 300-plus surveys and responses submitted during Ride Connection's public comment period. There are two buses, 14 scheduled bus stops, with heavier service during peak commute hours in the morning (starting at 6am) and afternoon (stopping at 6:30pm) with less frequent service midday with the option of deviating from any route. People can also call in the day before their trip to request a pick-up or drop-off that is not on the fixed route. In addition, Wilcke reported signage and route schedules are being installed at all designed stop points. In conclusion of the above-noted presentation, Wilcke invited everyone to attend Ride Connection's ribbon-cutting ceremony, which is scheduled for Tuesday, September 3, 2013, 12pm-1pm, Lincoln Park.

Council Discussion:

Thompson commended and thanked Ride Connection, noting he is proud that Ride Connection is making the new transit service user friendly by providing route deviation options. Thompson also stressed the importance of the community using the new transit service so funding could be justified in the future, pointing out the new transit service is free of charge.

Kidd commended and thanked Ride Connection for their hard work and providing support for the new transit service in Forest Grove.

Mayor Truax commended and thanked Tri-Met, along with Ride Connection, for their hard work and providing support for the new transit service in Forest Grove.

- 6. CONTINUANCE OF PUBLIC HEARING OF JULY 8, 2013: SECOND READING OF ORDINANCE NO. 2013-07 AMENDING FOREST GROVE CODE CHAPTER 2 BY ADDING NEW CODE SECTION 2.615 ENTITLED**

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**MUNICIPAL UTILITY BILLINGS; PRIORITIZATION OF PAYMENT;
SUSPENSION/TERMINATION OF UTILITY SERVICE**

The first reading of Ordinance No. 2013-07 by title occurred at the meeting of July 8, 2013.

Staff Report:

Downey and Cole had nothing further to report.

Public Hearing Continued:

Mayor Truax continued the Public Hearing from the meeting of July 8, 2013.

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 discussion from the Council, Mayor Truax asked for a roll call vote on the motion made at the meeting of July 8, 2013.

Elsner read Ordinance No. 2013-07 by title for second reading.

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

7. CONTINUANCE OF PUBLIC HEARING OF JULY 8, 2013: SECOND READING OF ORDINANCE NO. 2013-08 AMENDING FOREST GROVE

**CODE CHAPTER 4 BY ADDING NEW SUB-CHAPTER 4.300
ENTITLED STREETLIGHT FEE**

The first reading of Ordinance No. 2013-08 by title occurred at the meeting of July 8, 2013.

Staff Report:

Downey and Cole had nothing further to report.

Public Hearing Continued:

Mayor Truax continued the Public Hearing from the meeting of July 8, 2013.

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 discussion from the Council, Mayor Truax asked for a roll call vote on the motion made at the meeting of July 8, 2013.

Elsner read Ordinance No. 2013-08 by title for second reading.

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

8. PUBLIC HEARING AND RESOLUTION NO. 2013-56 SETTING THE STREETLIGHT FEE

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Staff Report:

Downey and Cole presented the above-proposed Resolution No. 2013-56 authorizing the City to set the streetlight fee (implemented pursuant to the above-noted Ordinance No. 2013-08) at \$1.50 per month per account as outlined in the staff report and as proposed in the resolution, noting the new fee will become effective the first billing cycle after October 1, 2013. Cole reported the proposed streetlight fee would generate approximately \$150,000 in revenue to fund the streetlight maintenance program; as a result, the gas tax revenues currently allocated to pay for streetlight maintenance would be allocated to fund the shortfall in the street overlay program.

Before proceeding with the Public Hearing and Council discussion, Mayor Truax asked for a motion to adopt Resolution No. 2013-56.

Elsner read Resolution No. 2013-56 by title.

MOTION: Councilor Kidd moved, seconded by Councilor Lowe, to adopt Resolution No. 2013-56 Setting the Streetlight Fee (\$1.50 per month per account, effective the first billing cycle after October 1, 2013).

Public Hearing Opened:

Mayor Truax opened the Public Hearing.

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.

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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, Miller, Thompson, Uhing, and Mayor Truax. NOES: None. MOTION CARRIED 7-0.

Mayor Truax called for Council consensus to suspend Council's 9:00 p.m. curfew rule, to which, Council collectively agreed to continue the meeting.

9. PUBLIC HEARING AND FIRST READING OF ORDINANCE NO. 2013-09 ADOPTING THE FOREST GROVE TUALITY HEALTHCARE DISTRICT MASTER PLAN, DATED JANUARY 25, 2013, AS AMENDED BY THE CITY OF FOREST GROVE

Staff Report:

Holan and Reitz presented the above-proposed Ordinance No. 2013-09 adopting the Forest Grove Healthcare District Master Plan (Exhibit A) as recommended by the Planning Commission (Exhibit B) and approve two zone changes (refer below to Agenda Item 10, Ordinance No. 2013-10) as outlined in the staff report and as proposed in the ordinances. Reitz reported the proposed master plan "is meant to be conceptual and serve as a flexible framework and maximum envelope for potential development as the need arises", noting Tuality Healthcare, applicant, has submitted a Master Plan establishing the Tuality Healthcare District, in the vicinity of Maple Street and 19th Avenue, and an additional Master Plan Opt-In Area (owner consent in the vicinity of Maple Street and 19th Avenue), which would allow, but does not require, the properties located in the Opt-In Area to redevelop pursuant to the Master Plan. Reitz gave an overview of the Master Plan, Figure H; Figure J, Massing Diagram; Figure G, Site Circulation; Figure F, Allowable Height; Figure D, Setbacks; Figure B, Previous Zoning; Figure E, Buffers; Figure C, Zoning; Figure A, Master Plan Area; Figure K-1A, Phase 1; Figure K-1B, Phase 1B; Figure K-2, Phase 2; Figure K-3A, Phase 3A; Figure K-3B, Phase 3B; and Figure K-4, Phase 4, noting some of the significant development plans in the Master Plan include a four-story hospital and outpatient

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services, two story medical office building with above parking, and a four-story parking structure. In addition, Reitz referenced the Master Plan (Exhibit A) outlining the provisions for setbacks, open space, landscaping, buffers, circulation, and parking, and building height and design concepts. Reitz noted that in addition to the hospital site, provisions would also apply to properties abutting 19th Avenue that have already been developed as medical services and property owners who have agreed to participate in the Master Plan Opt-In area. In conclusion of the above-noted staff report, Holan and Reitz advised the Planning Commission held its Public Hearing on July 15, 2013, and recommended approval of the Tuality Healthcare District Master Plan with five revisions as outlined below and as shown in Exhibit B, noting if Council concurs, staff will incorporate the following revisions into the Master Plan document:

1. The landscape buffer area adjacent to any residential zone shall comply with Category D of Development Code Section 10.8.425 Table 8-3 *Buffering Combinations for Landscaping and Screening*.
2. Setbacks adjacent to any residential zone shall be at least one foot of building setback per three feet of building height. Building height shall be measured at the highest point closest to the property line.
3. Outdoor lighting shall comply with DC Section 10.8.755 (A-D) *Lighting Standards for Multi-Unit Development*.
4. If 17th Place has not already been fully improved to City standards prior to the construction of any parking area or structure taking access from 17th Place, the applicant shall improve that segment from Maple Street to the east property line of 3309 17th Place with curbs and gutters on both sides, and a sidewalk and street trees on the north side of the street.
5. A traffic impact study shall be performed at any time traffic would potentially increase by at least 50 peak hour trips, in compliance with Development Code Section 10.1.225(D)).

Before proceeding with the Public Hearing and Council discussion, Mayor Truax asked for a motion to adopt Ordinance No. 2013-09.

Elsner read Ordinance No. 2013-09 by title for first reading.

MOTION: Council President Johnston moved, seconded by Councilor Kidd, to approve Ordinance No. 2013-09 Adopting the

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Forest Grove Tuality Healthcare District Master Plan, dated January 25, 2013, as amended by the City of Forest Grove. The second reading of Ordinance No. 2013-09 by title and final vote will occur at the Council meeting of Monday, September 9, 2013.

Public Hearing Opened:

Mayor Truax opened the Public Hearing for first reading of Ordinance No. 2013-09.

Conflict of Interest Disclosure:

Lowé declared a potential conflict of interest, citing she resides on 17th Place and is an affected party, and she has had conversations with a few of her neighbors. Lowé advised she would be able to consider the proposal without bias.

Written Testimony Received:

Holan referenced the following written testimony, submitted to the City Recorder prior to published deadline of July 8, 2013, 7:00 p.m., in support of the above-noted Master Plan:

1. Nancy Hopkins, Executive Assistant – President & CEO, Tuality Health Care, received August 8, 2013, along with the following attachments:
 - Bridget Cooke, Executive Director, Adelante Mujeres, dated August 6, 2013.
 - Howard Sullivan, Executive Director, Forest Grove/Cornelius Chamber of Commerce.
 - Jose Rivera, Executive Director, Centro Cultural, dated August 6, 2013.
 - Michael Mallery, Vice President, Pacific University, dated August 7, 2013
2. Kathleen O’Leary, Division Manager, Washington County Public Health Division, dated August 12, 2013
3. Jerralynn Ness, Executive Director, Community Action, dated August 8, 2013.
4. Gil Munoz, Executive Director, Virginia Garcia Memorial Health Center, dated August 8, 2013.

No other written testimony was received prior to the published deadline of July 8, 2013, 7:00 p.m.

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Proponents:

Applicant:

David Noren, representing Tuality Healthcare, 217 E Main, Hillsboro, OR 97123, and Scott Combs, Clark/Kjos Architects, representing Tuality Healthcare, 333 NW 5th Avenue, Portland, OR 97209, reported the Forest Grove Tuality Hospital currently employs approximately 173 full and part-time employees, noting when fully developed, the hospital itself is estimated to employ 400 employees. Noren and Combs indicated the hospital site is planned to evolve into a 100-bed community hospital with associated parking garage and attached medical office/outpatient services building, noting development is expected to occur in large incremental phases and will be built as population increases (30,000 residents or greater) and hospital services needed in the community grow and change. In addition, Noren and Combs gave an overview of the proposed Master Plan and future development plans, noting the early development phases are expected to focus on adding facilities for outpatient care and medical offices, with the later phases expanding inpatient facilities and providing for additional community hospital services. In conclusion of the above-noted testimony, Noren and Combs provided additional clarification pertaining to design concepts, Opt-In Area, and rezoning of the site to Institutional, noting Tuality Healthcare supports the Planning Commission's Findings and Recommendations.

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.

Council Discussion:

Lowe commended Tuality Healthcare, noting the much-needed public improvements and overall proposed Master Plan will be a good thing for the City. In response to Lowe's inquiry pertaining to saving existing trees, Reitz indicated some of the existing trees would be retained; however, it is doubtful the tree abutting the corner of Maple Street will be saved due to the tree is located on the corner of the proposed site for the

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medical office facility. In response to Lowe's inquiry pertaining to the Opt-In Area, Reitz explained individual properties (owner consent in the vicinity of Maple Street and 19th Avenue) will have the option to Opt-In in the future if certain conditions are met, i.e., proposed redevelopment to healthcare-related use, and explained once the properties Opt-In, the properties will be subject to the Master Plan provisions that regulate development within that zone.

In response to Thompson's inquiry pertaining to Tuality Healthcare's plans to add/expand specialty care, such as a cancer center, Noren explained the hospital will remain as a general hospital and will continue providing Geriatric care.

In response to Council President Johnston's inquiry pertaining to 17th Place improvements, Reitz advised prior to construction of any parking area or structure taking access from 17th Place, the applicant would be required to improve the segment from Maple Street to the east property line, as shown in diagram, with curbs and gutters on both sides and sidewalk and street trees on the north side of the street only. In response to Council President Johnston's inquiry pertaining to traffic light/signalization at Highway 47/Maple Street and Highway 47/Quince Street, Reitz concurred the Master Plan could help trigger signalization in the above-noted areas. Holan added as part of the conditions, a traffic study would need to be performed at any time traffic would potentially increase by 50 peak hour trips.

In response to Mayor Truax's inquiry pertaining to Figure D, setbacks, and vehicular traffic visibility if the medical office facility is abutting the corner of Maple Street, Holan advised the site distant requirements have been met pursuant to the Development Code; however, Council does have discretion to add setback requirements.

Hearing no further discussion from the Council, Mayor Truax recessed the Public Hearing for Ordinance No. 2013-09 as noted below.

Public Hearing Recessed:

Mayor Truax recessed the Public Hearing until September 9, 2013, at which time, second reading of Ordinance No. 2013-09 by title and final vote will occur.

10. PUBLIC HEARING AND FIRST READING OF ORDINANCE NO. 2013-10 AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FOREST GROVE TO REZONE CERTAIN TRACTS OF LAND FROM RMH (MULTIPLE-FAMILY (HIGH) RESIDENTIAL) TO INST (INSTITUTIONAL) FOR 1809 MAPLE STREET, WASHINGTON COUNTY TAX LOT NOS. 1S3-5BB-3800 AND 3801; APPLICANT: TUALITY HEALTHCARE. FILE NO. ZNC-13-00808

Staff Report:

Holan and Reitz presented the above-proposed Ordinance No. 2013-10 amending the official Forest Grove Zoning Map to rezone tracts of land from RMH (Multiple-Family (High) Residential) to INST (Institutional) for 1809 Maple Street, Tuality Healthcare, as outlined in the staff report and as proposed in the ordinance. Reitz reported the above-noted zoning request is to correct an oversight when the original Zoning Ordinance was adopted in 1980, noting the hospital site was placed in A-2 Multi-Family Residential Zone as a conditional use. Reitz explained when the current Development Code was adopted in 2009, the A-2 zone district became the RMH zone district, noting RMH zone district does not allow hospitals as either a permitted or a conditional use. In conclusion of the above-noted staff report, Holan and Reitz advised rezoning the site to INST would correct the oversight and allow the hospital (defined in the Development Code) as a conditional use.

Before proceeding with the Public Hearing and Council discussion, Mayor Truax asked for a motion to adopt Ordinance No. 2013-10.

Elsner read Ordinance No. 2013-10 by title for first reading.

MOTION: Council President Johnston moved, seconded by Councilor Kidd, to approve Ordinance No. 2013-10 Amending the Official Zoning Map of the City of Forest Grove to Rezone Certain Tracts of Land from RMH (Multiple-Family (High) Residential) to INST (Institutional) for 1809 Maple Street, Washington County Tax Lot Nos. 1S3-5BB-3800 and 3801; Applicant: Tuality Healthcare. File No. ZNC-13-00808. The second reading of Ordinance No. 2013-10 by title and final vote will occur at the Council meeting of Monday, September 9, 2013.

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Public Hearing Opened:

Mayor Truax opened the Public Hearing for first reading of Ordinance No. 2013-10.

Applicant/Proponent:

Refer to above-noted testimony under Agenda Item 9.

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.

Council Discussion:

Hearing no further discussion from the Council, Mayor Truax recessed the Public Hearing for Ordinance No. 2013-10 as noted below.

Public Hearing Recessed:

Mayor Truax recessed the Public Hearing until the next Council meeting of Monday, September 9, 2013, at which time, second reading of Ordinance No. 2013-10 by title and final vote will occur.

11. **PUBLIC HEARING AND FIRST AND SECOND READING OF ORDINANCE NO. 2013-11 OF THE CITY OF FOREST GROVE, WASHINGTON COUNTY, OREGON, AMENDING ORDINANCE NO. 2013-06 WHICH AUTHORIZED ISSUANCE OF EDUCATION FACILITY REVENUE BONDS TO FINANCE AND REFINANCE PROJECTS FOR PACIFIC UNIVERSITY; AND DECLARING AN EMERGENCY**

Staff Report:

Downey presented the above-proposed Ordinance No. 2013-11 amending Ordinance No. 2013-06, which authorized issuance of an additional \$50,000,000 in new bonds to refinance prior bonds issued by the City and to finance new capital projects at Pacific University Campus in Forest Grove, as outlined in the staff report and as proposed in the ordinance. Downey reported Pacific University is seeking to amend Ordinance No. 2013-06 to allow the University to sell the bonds to a

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commercial bank or other investor, which is not authorized pursuant to the adoption of Ordinance No. 2013-06. In conclusion of the above-noted staff report, Downey advised due to the proposed timing of the bond issuance, staff is requesting the proposed ordinance be presented for first and second reading, declaring an emergency, pursuant to City Charter, Section 16(B), which allows an ordinance to be enacted at a single meeting if noticed at least seven (7) days prior (published in *The Oregonian* August 5, 2013), noting the ordinance must also be approved by at least five (5) councilors.

Before proceeding with the Public Hearing and Council discussion, Mayor Truax asked for a motion to adopt Ordinance No. 2013-11 for first and second reading.

Elsner read Ordinance No. 2013-11 by title for first and second reading.

MOTION: Councilor Lowe moved, seconded by Councilor Miller, to approve First and Second Reading of Ordinance No. 2013-11 of the City of Forest Grove, Washington County, Oregon, Amending Ordinance No. 2013-06 Which Authorized Issuance of Education Facility Revenue Bonds to Finance and Refinance Projects for Pacific University; and Declaring an Emergency.

Public Hearing Opened:

Mayor Truax opened the Public Hearing for first and second reading of Ordinance No. 2013-11.

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.

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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, Miller, Thompson, Uhing, and Mayor Truax. NOES: None. MOTION CARRIED 7-0.

12. PUBLIC HEARING AND RESOLUTION NO. 2013-57 ADOPTING THE CITY OF FOREST GROVE LIGHT AND POWER ELECTRIC SYSTEM MASTER PLAN

Staff Report:

Cress and Downey presented the above-proposed Resolution No. 2013-57 adopting the Forest Grove Light and Power Electric System Master Plan (Exhibit A) as outlined in the staff report and as proposed in the resolution. Cress reported the Council held an earlier work session to review final updates to Master Plan and also held a work session on May 28, 2013, for the purpose of reviewing the proposed Master Plan with City's consultant, TriAxis's, who developed a multi-year substation improvement plan and recommendations for a comprehensive electric system upgrade plan. Cress reported the Plan recommends the staged replacement of aged major power equipment at the substations and includes three power transformers and several circuit breakers in order to provide improved equipment reliability, provide adequate capacity for load growth and lays out a plan to accommodate future service expansion (as referenced in Page 5 and 6 of the staff report). In addition, Cress reported the Light and Power Electric System Master Plan is intended to be used in the development of a long-range financing plan for the Light and Power Department that will include financing options and multi-year cash flow projections. In conclusion of the above-noted staff report, Cress advised commencing Fiscal Year 2013-14, the capital outlays (referenced in Page 25 of the staff report) over a six-year period for substation upgrades are estimated to be in the range of \$4 to \$5 million, noting the proposed investment for replacing aging equipment will extend the life of the substations and provide added capacity for growth for the next 40 years.

Before proceeding with the Public Hearing and Council discussion, Mayor Truax asked for a motion to adopt Resolution No. 2013-57.

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Elsner read Resolution No. 2013-57 by title.

MOTION: Councilor Lowe moved, seconded by Councilor Thompson, to approve Resolution No. 2013-57 Adopting the City of Forest Grove Light and Power Electric System Master Plan.

Public Hearing Opened:

Mayor Truax opened the Public Hearing.

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:

Council President Johnston supported the Master Plan, noting the plan lays out equipment replacement needs and contains a long-term maintenance plan, adding the Plan will carry the City's electric system for the next 40 years.

Lowe supported the Master Plan, noting the plan lays out a good replacement and maintenance plan, adding the Plan speaks to two things: 1) budget/costs, and 2) long-term equipment replacement needs. Lowe indicated she will be asking a lot of questions come budget time, noting she looks forward to looking at the cost-of-service electric rate study, to which Downey advised staff has submitted a Request for Proposal to conduct the cost-of-service electric rate study, noting the study will be presented to Council at a later date.

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

ROLL CALL VOTE: AYES: Councilors Johnston, Kidd, Lowe, Miller,

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Thompson, Uhing, and Mayor Truax. NOES: None. MOTION CARRIED 7-0.

13. RESOLUTION NO. 2013-58 AUTHORIZING THE CITY MANAGER TO EXECUTE ON BEHALF OF THE CITY OF FOREST GROVE AN AGREEMENT WITH ISOSCELES, LTD., RELATIVE TO COSTS ASSOCIATED WITH POTENTIAL ENVIRONMENTAL REMEDIATION ACTIVITIES IN 19TH STREET

Staff Report:

Downey presented the above-proposed Resolution No. 2013-58 authorizing the City Manager to execute an agreement on behalf of the City between Isosceles, Ltd., property owner of a site located at southwest corner of 19th Avenue and Birch Street (former Flying A Service Station). Downey reported the agreement pays the City an amount of \$9,125 for anticipated costs associated with possible remediation of possible fuel contamination in soils in 19th Avenue. Downey explained the Department of Environmental Quality (DEQ) will not issue a conditional closure on the owner's site, unless the City assumes full and complete responsibility for environmental liability and remediation activity beneath a section of the street. In conclusion of the above-noted staff report, Downey advised if and when the City does do street improvements along that section of the street, the above-noted payment is to pay for remedial activities if any exist.

Before proceeding with Council discussion, Mayor Truax asked for a motion to adopt Resolution No. 2013-58.

Elsner read Resolution No. 2013-58 by title.

MOTION: Councilor Kidd moved, seconded by Councilor Thompson, to approve Resolution No. 2013-58 Authorizing the City Manager to Execute on Behalf of the City of Forest Grove an Agreement with Isosceles, Ltd., Relative to Costs Associated with Potential Environmental Remediation Activities in 19th Street.

Council Discussion:

In response to Lowe's concerns pertaining to the negotiated price and accepting responsibility onto taxpayers, Downey explained the agreement

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was negotiated to protect the City's interest based on information generated by environmental reports to DEQ over the course of the last 17 years, which have shown no discernible spread of contaminants from the site. In addition, Downey referenced Exhibit A to the agreement, which listed all of the reports prepared for the site from 1996 to the last report in 2010, noting the City also has a copy of the May 2010 Groundwater Sampling Report. City Attorney Elsner added that he insisted on the payment based on projected anticipated costs, though it is his opinion there is limited risk to the City based on the mentioned-above reports that he reviewed. In response to Lowe's inquiry pertaining to the funds, Downey advised the funds would remain in a dedicated fund to be used only if needed.

In response to Council President Johnston's inquiry pertaining to if the agreement is so DEQ can issue the owner a conditional site closure permit, Downey concurred, noting the City is involved because 19th Avenue is a city-owned right-of-way, noting there are no existing hazardous substances found in the soil or groundwater at the property site. City Attorney Elsner advised the agreement is only for the right-of-way not the property site.

Mayor Truax referenced the agreement, pointing out that Item 7 in the agreement was blank, to which Elsner advised he would correct the numbering sequence in the agreement prior to signature.

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

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

14. RESOLUTION NO. 2013-59 AUTHORIZING STIPENDS FOR ELECTRONIC DEVICES FOR COUNCIL AND CERTAIN EMPLOYEES

Staff Report:

Downey and Ruggles presented the above-proposed Resolution No. 2013-59 authorizing stipends for electronic devices for Council and certain employees as outlined in the staff report and as proposed in the resolution. Ruggles reported staff met with Council in work session on

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July 8, 2013, and Council collectively concurred proceeding with a conversion from printed Council Meeting Agenda Packets to Council E-Packets, noting at the work session, Council participated in a live tutorial presentation using iPad technology. In addition, Ruggles noted at the conclusion of the above-noted work session, Council collectively voiced support of using an iPad as their preferred electronic device. Ruggles referenced the attached resolution outlining the following options:

Option 1 – a one-time stipend not to exceed \$850 (4-year term), plus \$20 per month Internet data service stipend, to purchase an iPad or comparable device.

Option 2 – a \$35 per month Internet data service stipend to compensate for personal use of an existing device.

Downey advised the above-noted stipends would be considered taxable wages, noting providing a stipend for business use of a personal device reduces the tax liability risks to the City and eliminates the need to audit accounts for personal use. Downey added the City will also pay for and install the software programs necessary to access Council E-Packets and City E-mail. In conclusion of the above-noted staff report, Downey and Ruggles advised if Council elects Option 1, estimated costs are \$12,570 (\$1,810 per Councilor, four-year term) and Option 2, estimated costs are \$11,760 (\$1,680 per Councilor, four-year term). Ruggles noted certain employees, as approved by the City Manager, would be allowed the same stipend options, noting funds have been allocated in Fiscal Year 2013-14 budget to purchase the necessary devices and programs/software required.

Before proceeding with Council discussion, Mayor Truax asked for a motion to adopt Resolution No. 2013-59.

Elsner read Resolution No. 2013-59 by title.

MOTION: Council President Johnston moved, seconded by Councilor Kidd, to approve Resolution No. 2013-59 Authorizing Stipends for Electronic Devices for Council and Certain Employees.

Council Discussion:

In response to Uhing's concern pertaining to purchasing own device,

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Downey explained the City can purchase the devices on behalf of the Council and employees. Ruggles added the purpose of the resolution is to authorize staff to proceed with the E-Packet conversion and so stipends can be issued to purchase the electronic devices.

In response to Lowe's concern pertaining to maintaining her family plan Downey explained the iPad is limited to certain internet providers, so it will be important to know each of the councilor's internet provider before purchasing an iPad. Ruggles added that she would e-mail a form to Council if the resolution is approved so staff can proceed with the next steps.

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

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

15. CITY MANAGER'S REPORT:

Due to the time, Sykes distributed a copy of his written report, which outlined various meetings he attended and provided updates on various City department-related activities, projects, and upcoming city-wide events.

16. COUNCIL COMMUNICATIONS:

Due to the time, Council Communications were postponed to the next meeting of Monday, September 9, 2013.

17. ADJOURNMENT:

Mayor Truax adjourned the meeting at 10:15 p.m.

Respectfully submitted,



Anna D. Ruggles, CMC, City Recorder