

**FOREST GROVE CITY COUNCIL REGULAR MEETING  
SEPTEMBER 9, 2013 – 7:00 P.M.  
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***Minutes are unofficial until approved by Council.  
Council approved minutes as presented October 14, 2013.***

**1. ROLL CALL:**

Mayor Peter Truax called the regular City Council meeting to order at 7:04 p.m. and led the Pledge of Allegiance. **ROLL CALL: COUNCIL PRESENT:** Thomas Johnston, Council President; Camille Miller; Ronald Thompson; Elena Uhing; and Mayor Peter Truax. **COUNCIL ABSENT:** Richard Kidd and Victoria Lowe, excused. **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; George Cress, Light and Power Director; Michael Kinkade, Fire Chief (in the audience); Janie Schutz, Police Chief (in the audience); and Anna Ruggles, City Recorder.

**2. CITIZEN COMMUNICATIONS:**

Tammy Schaaf, Forest Grove, signed-in inquiring about Pacific University's new expansion as it relates to its parking plans, to which Mayor Truax addressed concerns and deferred to City Manager to provide additional information.

Alec Lecarno, Forest Grove, signed-in inquiring if the City has made a decision of opening the retention ponds near Willamina Avenue for public fishing, to which Mayor Truax advised staff is providing an update to Council pursuant to Agenda Item 5. C. (refer below).

Shawn Billman, Forest Grove, signed-in voicing concerns pertaining to a recent news article pertaining to a citizen who was cited for City Code violations and indicated that City staff is trespassing on private property in order to tag vehicles, to which Mayor Truax addressed concerns and deferred to City Manager to provide additional information.

- 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

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approval of the Consent Agenda item(s).

- A. Approve City Council Work Session (Jurisdictional Transfer of Roadways) Meeting Minutes of August 12, 2013.
- B. Approve City Council Work Session (L&P Master Plan Update) Meeting Minutes of August 12, 2013.
- C. Approve City Council Regular Meeting Minutes of August 12, 2013.
- D. Accept Historic Landmarks Board Meeting Minutes of July 23, 2013.
- E. Accept Parks and Recreation Commission Meeting Minutes of July 17, 2013.
- F. Accept Planning Commission Meeting Minutes of July 15 and August 5, 2013.
- G. Community Development Department Monthly Building Activity Informational Report for August 2013.
- H. Library Department Monthly Circulation Statistics Report for August 2013.

**MOTION: Councilor Uhing moved, seconded by Council President Johnston, to approve the Consent Agenda as presented. ABSENT: Councilors Lowe and Kidd. MOTION CARRIED 5-0 by voice vote.**

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

5. **PRESENTATIONS:**

5. A. 2013 Legislative Session Update:

Senator Bruce Starr, District 15, provided an overview of legislative bills introduced during the 2013 Legislative Session, noting the session was positive overall. Starr addressed Council inquiries pertaining to human services programs, Highway 47/Highway 8 (Quince intersection project) as well as other legislative-related issues, noting Governor Kitzhaber is poised to call the Legislature into special session on September 30, 2013, to take up additional Public Employee Retirement System (PERS) and revenue reforms.

5. B. Quarterly Financial Report for Period Ending June 30, 2013:

Cole and Downey presented a PowerPoint presentation outlining the quarterly financial report ending June 30, 2013, noting this is the fourth

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quarter of the City's fiscal year ending June 30, 2013. Cole explained while the fourth quarter report represents the end of the Fiscal Year, the report does not represent the final financial results, noting the City's finances have not been audited, an annual procedure that occurs in the fall of each year and is finalized around the new calendar year. Cole advised the annual audit could include entries that may change the numbers presented in the fourth quarter report. In addition, Cole explained the first part of the report is a graphical representation of the quarterly status of the City's major operating departments and funds; the second part of the report contains comments on other funds where material events have or are projected to occur; and the third part of the report is the line item detail, noting the actual revenues received or expenditures disbursed through the end of the quarter are compared to the quarterly budget allotment and expressed in the detail report as both a dollar variance and percent variance. In conclusion of the above-noted presentation, Cole 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, and Equipment Fund, noting the General Fund ended the year in good shape with revenues higher than budget projections and expenditures under budget projections.

**5. C. Staff Follow-Up to Citizen Comment at Council Meeting of June 10, 2013 (Water Quality Facility):**

Foster reported the purpose of this report was to provide an update to Council, noting Alex Lecarno and his father testified in front of Council on June 10, 2013, asking that two city-owned ponds (water quality facility) off Willamina Avenue be opened for fishing, to which Council asked staff to assess the possibility of allowing public access to the ponds for fishing.

Foster displayed photographs showing the two city-owned ponds, noting the water quality facility is located behind houses along Willamina Avenue. Foster reported the ponds are used to capture stormwater runoff from a nearby subdivision and runoff from the street system is flushed into the ponds; pollutants and chemicals from the runoffs accumulate in the ponds and are allowed to settle before the water flows into nearby creeks. Foster added the ponds are not fenced (fencing would cost approximately \$15,000) and there are no defined pedestrian walking trails around the ponds and the banks are hidden with weeds, noting current development standards require fencing around the perimeter of a water quality facility to prevent public access. Foster noted

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fencing is for the purpose of safety as well as to protect the plants that grow on the banks, which are specifically selected for absorbing contaminants from stormwater runoff. In conclusion of the above-noted staff report, Foster addressed various Council inquiries pertaining to signage, costs of fencing and the number of existing facilities that have fencing, noting staff recommends not allowing public access to the water quality facility, including fishing or any other activity, due to the fact that the ponds are unsafe for fishing as well as the other safety concerns mentioned above. In conclusion of Council comments, Mayor Truax addressed Lecarno, apologizing and stressing that the ponds are not meant as a public recreational area or as a recreation-fishing hole, noting Lecarno's safety also is very concerning.

**6. CONTINUE PUBLIC HEARING FROM AUGUST 12, 2013: SECOND 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**

The first reading of Ordinance No. 2013-09 by title occurred at the meeting of August 12, 2013.

**Staff Report:**

Holan had nothing further to report.

**Public Hearing Continued:**

Mayor Truax continued the Public Hearing from the meeting of August 12, 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.

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**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 August 12, 2013.

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

**ROLL CALL VOTE:** AYES: Councilors Johnston, Miller, Thompson, Uhing, and Mayor Truax. NOES: None. ABSENT: Councilors Kidd and Lowe. MOTION CARRIED 5-0.

7. **CONTINUE PUBLIC HEARING FROM AUGUST 12, 2013: SECOND 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**

The first reading of Ordinance No. 2013-10 by title occurred at the meeting of August 12, 2013.

**Staff Report:**

Holan had nothing further to report.

**Public Hearing Continued:**

Mayor Truax continued the Public Hearing from the meeting of August 12, 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.

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**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 August 12, 2013.

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

**ROLL CALL VOTE: AYES: Councilors Johnston, Miller, Thompson, Uhing, and Mayor Truax. NOES: None. ABSENT: Councilors Kidd and Lowe. MOTION CARRIED 5-0.**

8. **RESOLUTION NO. 2013-60 AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF FOREST GOVE AND WASHINGTON COUNTY FOR THE TRANSFER OF JURISDICTION OF CERTAIN COUNTY ROADS**

**Staff Report:**

Foster, Cole, and Downey presented the above-proposed resolution authorizing the City Manager to execute an Intergovernmental Agreement (IGA) between the City and Washington County in order to accept jurisdictional transfer of several roadways as noted below, which are within the City limits and are currently under County's jurisdiction. Staff reported Washington County has agreed to pay the City \$262,889.89 to take over jurisdiction of Willamina Avenue, 26<sup>th</sup> Avenue and Hawthorne Street, and two local access roads, Raymond Street and Firwood Lane (the two access roads do not need formal jurisdictional transfer as the City has jurisdiction pursuant to recent annexation). In conclusion of the above-noted staff report, Foster and Cole advised staff is recommending adoption of the proposed IGA as outlined in Exhibit A of Resolution No. 2013-60, which will allow the City to accept the County funds. In addition, Foster and Cole advised Resolution No. 2013-61 (Agenda Item 9) is formally requesting the County to transfer jurisdiction of the above-noted roadways.

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Before proceeding with Council discussion, Mayor Truax asked for a motion to adopt Resolution No. 2013-60.

Elsner read Resolution No. 2013-60 by title.

**MOTION: Councilor Miller moved, seconded by Council President Johnston, to adopt Resolution No. 2013-60 Authorizing the City Manager to Execute an Intergovernmental Agreement between the City of Forest Gove and Washington County for the Transfer of Jurisdiction of Certain County Roads.**

**Council Discussion:**

In response to Council President Johnston's inquiry pertaining to timeline of when the roadways will be improved, Foster indicated he anticipates the roads will be included as part of the City's pavement overlay program next summer; however, 26<sup>th</sup> Avenue will need more discussion with Council. Sykes added once the roadways are transferred, staff will be meeting with property owners to explore options for financing road improvements as well as look at potential Community Development Block Grant (CDBG) funds.

Uhing indicated she would like staff to research and provide a list with opportunities for citizens who may need financial assistance, to which Foster concurred, noting staff will be exploring all financing options and pointed out the City has been successful in obtaining CDBG funds for roadways in the past.

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, Miller, Thompson, Uhing, and Mayor Truax. NOES: None. ABSENT: Councilors Kidd and Lowe. MOTION CARRIED 5-0.**

9. **RESOLUTION NO. 2013-61 OF THE CITY OF FOREST AUTHORIZING THE REQUEST OF THE BOARD OF COUNTY COMMISSIONERS OF WASHINGTON COUNTY, OREGON, TO TRANSFER JURISDICTION OF PORTIONS OF WILLAMINA AVENUE, HAWTHORNE STREET AND 26<sup>TH</sup> AVENUE WITHIN THE CORPORATE LIMITS OF THE CITY OF FOREST GROVE**

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**Staff Report:**

Foster, Cole, and Downey presented the above-proposed resolution authorizing staff to make official request to the Board of Washington County Commissioners to relinquish and transfer to City jurisdiction Willamina Avenue, 26<sup>th</sup> Avenue and Hawthorne Street, as outlined in the map attached as Exhibit A of Resolution No. 2013-61.

Before proceeding with Council discussion, Mayor Truax asked for a motion to adopt Resolution No. 2013-61.

Elsner read Resolution No. 2013-61 by title.

**MOTION: Council President Johnston moved, seconded by Councilor Uhing, to approve Resolution No. 2013-61 of the City of Forest Authorizing the Request of the Board of County Commissioners of Washington County, Oregon, to Transfer Jurisdiction of Portions of Willamina Avenue, Hawthorne Street and 26<sup>th</sup> Avenue within the Corporate Limits of the City of Forest Grove.**

**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, Miller, Thompson, Uhing, and Mayor Truax. NOES: None. ABSENT: Councilors Kidd and Lowe. MOTION CARRIED 5-0.**

**10. RESOLUTION NO. 2013-62 APPROVING TO CANCEL SEPTEMBER 23, 2013, CITY COUNCIL MEETING**

**Staff Report:**

Sykes presented the above-proposed resolution requesting to cancel the Council Meeting of September 23, 2013, due to a lack of agenda items and management staff and Councilmembers who are unable to attend due to conferences.

Before proceeding with Council discussion, Mayor Truax asked for a motion to adopt Resolution No. 2013-62.

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Elsner read Resolution No. 2013-62 by title.

**MOTION: Councilor Uhing moved, seconded by Councilor Miller, to adopted Resolution No. 2013-62 Approving to Cancel September 23, 2013, City Council Meeting.**

**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, Miller, Thompson, Uhing, and Mayor Truax. NOES: None. ABSENT: Councilors Kidd and Lowe. MOTION CARRIED 5-0.**

**11. DESIGNATION OF VOTING DELEGATE AT 2013 LEAGUE OF OREGON CITIES CONFERENCE ANNUAL BUSINESS MEETING HELD SATURDAY, SEPTEMBER 28, 2013**

**Staff Report:**

Sykes reported the League of Oregon Cities is requesting that Council appoint its Voting Delegate and Alternate for the upcoming League of Oregon Cities Annual Business Meeting.

**Council Discussion:**

After brief discussion, the following motion was made.

**MOTION: Councilor Uhing moved, seconded by Councilor Miller, to appoint Council President Johnston as Voting Delegate and Council Thompson as Alternate. NOES: None. ABSENT: Councilors Kidd and Lowe. MOTION CARRIED 5-0.**

**12. CITY MANAGER'S REPORT:**

City Manager Sykes reported on upcoming meetings and events as noted in the Council calendar and reported on dates of significant events of interest as noted in the City Manager's Report. Sykes distributed a news article pertaining to Project Applesauce, which would have created 240 factory jobs, but the City lost the project to City of Coburg, noting staff is hopeful Project Viking, which would initially create 71 food processing jobs, will give Forest Grove the go ahead. In conclusion of the above-noted report, Sykes distributed a copy of his written report, which outlined

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various meetings he attended and provided updates on various City department-related activities, projects, and upcoming city-wide events.

**13. COUNCIL COMMUNICATIONS:**

Before proceeding with Council Communications, Mayor Truax indicated he was expecting citizens to attend this evening to speak under Citizen Communications; however, no one attended, referencing testimony heard at the Council meeting of August 12, 2013, regarding Dream Girl Espresso, a bikini barista, located at the corner of 19<sup>th</sup> Avenue and Elm Street. Mayor Truax advised Councilors wishing to comment to do so as part of their Council Communications, noting Council owes it to the citizens as some sense of closure.

Council President Johnston reported Cleo Howell was elected Forest Grove Rural Fire Protection District Board Chair. Johnston invited the public to attend the September 11<sup>th</sup> Ceremony, noting the ceremony will be held at 9:30 a.m. at the Flag Pole. Johnston asked Sykes to explore the possibility of including city and community-related events in the League of Oregon Cities' event calendar, to which Sykes concurred. In addition, Johnston reported on other matters of interest and upcoming meetings he was planning to attend. In response to testimony heard at the Council meeting of August 12, 2013, Johnston read his statement, noting that throughout his life, he has sworn to uphold the Constitution of Oregon and Constitution of the United States, and he may not have liked certain decisions; however, the laws enacted by the vote of the people must be obeyed.

Kidd was absent.

Lowe was absent.

Miller reported Public Arts Commission is sponsoring a Meet the Artist Dinner, which will be held September 20, 2013. In addition, Miller reported on other matters of interest and upcoming community-related events and meetings she was planning to attend. In response to testimony heard at the Council meeting of August 12, 2013, Miller read her statement, noting the same protection of free speech that allows the public to testify at a Council meeting protects businesses like Dream Girl Espresso.

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Thompson reported citizens and students are using Ride Connection's Community Transit Service, noting ridership projections were exceeded in the third week of operation. Thompson noted he distributed a copy of Forest Grove Senior and Community Center's budget via interoffice mail to Council. In addition, Thompson reported on other matters of interest and upcoming meetings he was planning to attend. In response to testimony heard at the Council meeting of August 12, 2013, Thompson indicated citizens can chose to "vote with their pocketbooks" by not conducting business with companies that patronize the espresso stand. Thompson also indicated he supports the City Attorney's legal opinion, adding that City Code specifies the City's business license program is for revenue purposes as well as for collecting data for police and fire emergency response.

Uhing reported Economic Development Commission sub-committee is assessing home businesses and other business-related matters. Uhing reported (on behalf of Lowe who was absent) Fernhill Wetlands is hosting a Birds & Brew event on October 12, 2013, 8am-Noon. In response to testimony heard at the Council meeting of August 12, 2013, Uhing read her statement, expressing her appreciation to both groups for their courage to speak, noting freedom of speech is the fundamental rights of all citizens. Uhing also indicated she cannot take away the right of a legally established business, noting she must adhere to the legal advice of the City Attorney and protect the City and its citizens from legal actions. Uhing also stressed to Dream Girl Espresso that she hopes the business is respectful to the community and its citizens by remaining a bikini barista as promised.

Mayor Truax announced dates of various upcoming activities and meetings as noted in the Council Calendar. Mayor Truax distributed invitations to Council to attend the Library Foundations' Friends & Family Night on September 17, 2013, at McMenamins Grand Lodge. Mayor Truax provided an update on the proposed county vehicle tax, noting the Washington County Board of Commissioners will make a decision at a future meeting. Mayor Truax thanked Senator Starr for his report earlier, noting Senator Starr has done a great deal for Forest Grove, Washington County and State of Oregon pertaining to transportation-related issues. In addition, Mayor Truax reported on various local, regional, Metro, and Washington County meetings he attended and upcoming meetings and

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community-related events he was planning to attend. In response to testimony heard at the Council meeting of August 12, 2013, Mayor Truax indicated he is unwilling to put the good name of Forest Grove on the line when the Constitution and First Amendment Bill of Rights are clear on the subject, noting the City Attorney's legal recommendation also cannot be ignored.

**14. ADJOURNMENT:**

Mayor Truax adjourned the meeting at 9:30 p.m.

Respectfully submitted,



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Anna D. Ruggles, CMC, City Recorder