

**FOREST GROVE CITY COUNCIL REGULAR MEETING  
SEPTEMBER 8, 2014 – 7:00 P.M.  
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***Minutes are unofficial until approved by Council.  
Council approved minutes as presented October 13, 2014.***

**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; Richard Kidd; Victoria Lowe; Camille Miller; Ronald Thompson; Elena, Uhing; and Mayor Peter Truax. **STAFF PRESENT:** Michael Sykes, City Manager; David Doughman, City Attorney; Paul Downey, Administrative Services Director; Jon Holan, Community Development Director; Janie Schutz, Police Chief; Dave Nemeyer, Fire Marshal/Division Chief; Richard Blackmun, Engineering Division Project Manager (in the audience); and Anna Ruggles, City Recorder.

**1. A. POLICE OFFICER SWEARING-IN CEREMONY:**

Ruggles administered the Oath of Office to Eduardo Sanchez-Quiroz who was sworn-in as Police Officer. Police Chief Schutz read the biography and introduced, welcomed and presented Officer Sanchez-Quiroz with his official Police badge.

**2. CITIZEN COMMUNICATIONS:**

Jeff Alderman, B Street, Forest Grove, addressed Council pertaining to metal awnings, noting he would like the City to change its code enforcement complaint procedures so citizens are not singled out, to which Mayor Truax referred the matter to City Manager Sykes.

Dale Feik, Lavina Drive, Forest Grove, addressed Council pertaining to toxic air emissions. In addition, Feik invited Council to attend a 9-11 remembrance ceremony.

**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 Interviews)

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- Meeting Minutes of August 11, 2014.
- B. Approve City Council Work Session (WCCCA IGA) Meeting Minutes of August 11, 2014.
  - C. Approve City Council Regular Meeting Minutes of August 11, 2014.
  - D. Accept Historic Landmarks Board Meeting Minutes of July 10 and July 22, 2014.
  - E. Accept Library Commission Meeting Minutes of July 29, 2014.
  - F. Accept Public Arts Commission Meeting Minutes of July 10, 2014.
  - G. Community Development Department Monthly Building Activity Informational Report for July 2014.
  - H. Fire Chief Report for July 12 through August 22, 2014.
  - I. Library Circulation Statistics Report for August 2014.
  - J. **RESOLUTION NO. 2014-68 MAKING APPOINTMENT TO SUSTAINABILITY ADVISORY COMMISSION (Edgar Sanchez-Fausto, Forest Grove High School Student Advisor, and Hailey Jongeward, Pacific University Student Advisor, Terms 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:**

Sykes added Agenda Item 4. A. (Refer below).

**4. A. RESOLUTION NO. 2014-69 AUTHORIZING CITY MANAGER TO COMPLETE PURCHASE OF PROPERTY FROM FRIENDS OF HISTORIC FOREST GROVE**

**Staff Report:**

Downey presented the above-proposed resolution for Council consideration, noting the proposed resolution is requesting to authorize the City Manager to complete the purchase of approximately 3.20 acres of property identified as Tax Lot No. 1S307AB00800 from the Friends of Historic Forest Grove (FHFG). Downey reported staff has negotiated to purchase the property from FHFG for City park needs, including providing access and parking for the A. T. Smith House, noting the City has agreed

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to allow FHFG to have representation on future development discussion of the site. In conclusion of the above-noted staff report, Downey advised the property purchase was included in the CIP budget and funds are available in the Parks Acquisition and Development Fund to purchase the property, noting the purchase price is not to exceed \$240,000.

Before proceeding with Council discussion, Mayor Truax asked for a motion to approve Resolution No. 2014-69.

Sykes read Resolution No. 2014-69 by title.

**MOTION: Councilor Kidd moved, seconded by Councilor Lowe, to approve Resolution No. 2014-69 Authorizing the City Manager to Complete Purchase of Property from Friends of Historic Forest Grove.**

**Council Discussion:**

In response to Council President Johnston's concern pertaining to General Fund impact, Downey advised no General Fund money would be used for the property purchase, noting the property was detailed in the CIP project list and budgeted as noted above.

Hearing no further discussion from the Council, Mayor Truax asked for a voice 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.**

5. **PRESENTATIONS:** None.
  
6. **CONTINUE PUBLIC HEARING AND SECOND READING OF ORDINANCE NO. 2014-08 AMENDING FOREST GROVE CODE CHAPTER 5, PUBLIC PROTECTION OFFENSES, BY ADDING NEW CODE SECTION 5.655, TITLED "OPEN BURNING", AND ADDING NEW CODE SECTION 5.660, TITLED "VIOLATIONS AND PENALTIES"**

The first reading of Ordinance No. 2014-08 by title occurred at the Council meeting of August 11, 2014.

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**Staff Report:**

Nemeyer presented the above-proposed ordinance for second reading, noting staff had nothing further to report.

**Public Hearing Continued:**

Mayor Truax continued the Public Hearing from the meeting of August 11, 2014, and explained hearing procedures.

**Written Testimony Received:**

John Hayes, 15<sup>th</sup> Avenue, Forest Grove, submitted revised written testimony, dated August 25, 2014, requesting to allow hardship burn permits for large properties.

Jon Holan, Community Development Director, submitted an e-mail on behalf of the Sustainability Commission, dated September 2, 2014, which was referenced under Brian Schimmel's testimony noted below.

**Proponents:**

No one testified and no written comments were received.

**Opponents:**

Ray Venghaus, A Street, Forest Grove, testified in opposition at the meeting of August 11, 2014, urging Council to consider immunity for all of western Washington County and allowing an opportunity for residents to burn this fall season.

Brad Amundson, Firwood Lane, Forest Grove, testified in opposition, noting his property was among those annexed into the City recently. Amundson spoke on his views regarding backyard burning and urged Council to rethink the severity upon those who were recently annexed and who have larger properties.

Harry Holsapple, Firwood Land, Forest Grove, testified in opposition, noting his property was among those annexed into the City recently. Holsapple spoke about the large amounts of yard debris that his property accumulates, noting he has no way to get rid of large amounts of waste and already has a large pile ready to burn this fall season.

Lucinda Hites-Clabaugh, Firwood Lane, Forest Grove, testified in opposition, noting her property was among those annexed into the City

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recently. Hites-Clabaugh spoke about the large amounts of yard debris that her property accumulates, noting if the City is not providing city services, i.e., leaf pick-up service on Firwood Lane, residents in this area need open burning and stressed it is not environmental appropriate resorting to using garbage bags to dispose of yard debris.

Mary Flagg, Willamina Avenue, Forest Grove, testified in opposition, noting her property was among those annexed into the City recently. Flagg spoke on her views regarding backyard burning and urged Council to allow one burn in the fall and spring. Flagg also recited a poem she wrote in 1970, titled “Now About That Burning Ban”.

Brian Schimmel, 33<sup>rd</sup> Avenue, Forest Grove, testified on behalf of the Sustainability Commission, noting the Sustainability Commission passed a motion at their meeting held on August 28, 2014, recommending to Council to enact a total ban on backyard burning with hardship permit exceptions. Schimmel noted the Sustainability Commission’s reasons were health-related; leaf pick-up program; and allowing large properties having unique circumstances to apply for a hardship permit.

Elizabeth Mathiesen, 17<sup>th</sup> Avenue, testified in opposition, noting a complete burn ban would be a huge problem for her as well as a hardship. Mathiesen spoke about the large amounts of yard debris that her 1/3-acre property accumulates, noting if she leaves debris sitting, it attracts rodents.

David Cobbley, Hoodview Drive, Forest Grove, testified in opposition at the meeting of August 11, 2014, urging Council to allow hardship permits and perhaps set a minimal administrative processing fee. Cobble stressed it is not a fire safety issue, noting the City does not need to enact local restrictions when DEQ already restricts burn days.

Kenneth Stamps, Camino Drive, Forest Grove, testified in opposition, noting it is impossible to put large amounts of debris that his 1/4-acre property accumulates into recycle bins, noting he appreciates the opportunity to burn in the fall to get rid of his accumulated yard waste.

Dale Feik, Lavina Drive, Forest Grove, testified in opposition at the meeting of August 11, 2014, noting outdoor burning does affect public health. Feik testified as a Sustainability Commission member, noting the Sustainability Commission supports allowing burning this fall season and

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allowing hardship exceptions.

Bob Van Dyk, Main Street, Forest Grove, testified in support of a complete burn ban and allowing hardship exceptions.

Tom Beck, Hawthorne Street, Forest Grove, testified in support of phasing in a burn ban and allowing a hardship permit based on size of property.

Sue Nemchick, Catching Court, Forest Grove, testified in support of enacting a total burn ban, noting outdoor burning poses health threats, safety hazards and other nuisances. Nemchick suggested finding better ways of getting rid of yard debris instead of burning.

John White, 17<sup>th</sup> Avenue, Forest Grove, testified in support of a total burn ban and applauded Council for taking a stance. White suggested finding the ability to compost as an alternative method.

No one else testified and no written comments were received.

**Others:**

No one else testified and no written comments were received.

**Public Hearing Closed:**

Mayor Truax closed the Public Hearing

**Council Discussion:**

In response to Council inquiries pertaining to the DEQ boundary, Nemeyer displayed a map showing the DEQ burn ban boundary, noting Hillsboro is considering enacting a burn ban.

Sykes noted it makes sense for the City to consider extending the implementation date of the ordinance, i.e., effective in January, noting DEQ would have air quality restrictions during the fall burn season.

Uhing concurred with extending the implementation date of the ordinance, pointing out the importance of allowing a fall burn season for recently annexed properties. In addition, Uhing advised she would like more Council discussion or a work session to discuss the application criteria for allowing hardship permits.

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Council President Johnston concurred extending the implementation date of the ordinance, noting he does not believe the City could provide the public education needed within 30 days. Johnston noted whatever the Council decides to do; it is not going to make everyone happy.

In response to Lowe's concerns pertaining to the City's leaf pick-up program, Foster explained the program is funded through storm water management (Firwood Lane lacks gutters and storm drainage) and the program was designed for street trees only, not yard trees and yard debris.

Lowe suggested a motion to TABLE the proposed ordinance, noting she is not supportive of a 30-day implementation date. Lowe indicated by tabling the ordinance, it would allow Council to readdress issues, i.e., annexed properties and hardship permit process. In addition, Lowe noted for over 10 years, she has been trying to implement a drop-site on city-owned property, stressing this is something the City needs to consider seriously.

**MOTION TO TABLE: Councilor Lowe moved, seconded by Councilor Miller, to TABLE Ordinance No. 2014-08 Amending Forest Grove Code Chapter 5, Public Protection Offenses, by Adding New Code Section 5.655, Titled "Open Burning", and Adding New Code Section 5.660, Titled "Violations And Penalties".**

**Council Discussion:**

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

**ROLL CALL VOTE MOTION TO TABLE: AYES: Councilors Lowe, Miller and Uhing. NOES: Councilors Johnston, Kidd, Thompson and Mayor Truax. MOTION FAILED 3-4.**

**MOTION TO AMEND: Councilor Kidd moved, seconded by Council President Johnston, to AMEND Ordinance No. 2014-08, Section 2, Setting an Effective Date of January 12, 2015, and Directing the City Manager to prepare an Administrative Process for Establishing a Hardship Permit before March 1, 2015.**

**Council Discussion:**

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

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

**Council Discussion:**

Thompson noted he is willing to compromise by allowing leaf pick-up services to undeveloped streets within the City and allowing burning to occur in garden sites to rid of large piles of debris, excluding garbage and leaves.

Mayor Truax advised he is looking to allow the 2014 fall burn season and allowing hardship exceptions for spring burn season, noting it is a process and moving forward with a total burn ban is doing something for this planet.

Sykes read Ordinance No. 2014-08 by title for second reading as amended.

Hearing no further discussion from the Council, Mayor Truax asked for a roll call vote on the motion made at the meeting of August 11, 2014, and as amended.

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

**7. PUBLIC HEARING TO CONSIDER AN APPEAL OF THE PLANNING COMMISSION'S DENIAL OF GALES CREEK TERRACE PLANNED DEVELOPMENT (FILE NO. PRD-14-00181). APPLICANT: CITY REDEVELOPMENT, LLC (MORGAN WILL AND TRIPTI KENZER)**

**Staff Report:**

Holan presented the above-noted staff report, noting the purpose is to considering an appeal of the Planning Commission's denial of an application for a Planned Development (PD), known as Gales Creek Terrace (File No. PRD-14-00181). Holan reported the Planning Commission denied the application at its meeting held August 4, 2014, noting the issue before Council is whether to approve, approve with

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conditions, or deny the application. Holan referenced an e-mail distributed to Council at the meeting, dated September 8, 2014, submitted from Gordon Root, Stafford Land Company, 485 South State Street, Lake Oswego, OR 97034, Manager for Gales Creek Development, LLC, which read: "Pursuant to ORS 227.178(5), Creek Development, LLC hereby grants a 90-day extension of time for a decision on the proposed Gales Creek Terrace Development in Forest Grove, Oregon." In conclusion of the above-noted report, Holan advised a final decision by the City is required by September 19, 2014, noting staff and City Attorney are recommending Council extend the time for a decision to a certain date to allow time to review the Appellant's Summary List of Appeal Issues.

**Public Hearing Opened:**

Mayor Truax opened the Public Hearing and explained hearing procedures, noting if Council approves a motion to extend the time for a decision to a certain date, no Public Hearing will occur this evening.

**Declaration of Ex-parte Contacts, Conflicts of Interest, or Abstentions:**

Uhing disclosed the organization where she is employed conducts work with the applicant and the proposed development is near her residence, to which City Attorney Doughman advised Uhing that she has no potential conflict and was free to continue.

**Challenges from Parties:**

None declared.

**Written Testimony Received:**

Gordon Root, Stafford Land Company, 485 South State Street, Lake Oswego, OR 97034, Manager for Gales Creek Development, LLC, submitted an e-mail, dated September 8, 2014, as noted above in the staff report.

Bob Van Dyk, Main Street, submitted written testimony at the meeting requesting the record reflect his support of the Planning Commission's denial of the planned development.

No other written testimony was received prior to the published deadline of September 8, 2014, 7:00 p.m.

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**Council Discussion:**

In response to Kidd's concern pertaining to the ORS cited in the above-noted e-mail, City Attorney Doughman advised the ORS was correct in the appellants/applicant's e-mail.

In response to Miller's concern pertaining to rescinding the application to the Planning Commission, Holan explained the appeal process pursuant to the Development Code, noting Council's decision would be based on the conditions of appeal and would be the City's final decision.

**MOTION TO TABLE: Councilor Miller moved, seconded by Councilor Thompson, to TABLE no later than December 8, 2014, the Public Hearing to Consider an Appeal of the Planning Commission's Denial of Gales Creek Terrace Planned Development (File No. Prd-14-00181). Applicant: City Redevelopment, LLC (Morgan Will and Tripti Kenzer).**

**Council Discussion:**

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

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

**8. DESIGNATION OF VOTING DELEGATE AT 2014 LEAGUE OF OREGON CITIES CONFERENCE ANNUAL BUSINESS MEETING HELD SATURDAY, SEPTEMBER 27, 2014**

**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 Council collectively concurred to appoint Mayor Truax as Voting Delegate and Council President Johnston as Alternate.

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

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Sykes reported on upcoming events as noted in the Council calendar and reported on other various upcoming local meetings and community-wide events as noted in the City Manager's Report. Sykes introduced Richard Blackmun who was recently hired as the new Engineering Division Project Manager. In addition, 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.

**10. COUNCIL COMMUNICATIONS:**

Council President Johnston reported on Forest Grove Rural Fire Protection District and Washington County Public Safety Coordinating Committee-related activities. Johnston invited everyone to attend the Fire Department's 9-11 Memorial Ceremony, 9:30 am, Community Flag Pole. In addition, Johnston reported on other matters of interest and upcoming meetings he was planning to attend.

Kidd reported on Historic Landmarks Board (HLB)-related activities. In addition, Kidd reported on other matters of interest and upcoming meetings he was planning to attend.

Lowe reported the Aquatic Center would reopen September 15, 2014. Lowe invited everyone to attend Fernhill Wetlands Birds and Brew Festival, October 11, 2014. In addition, Lowe reported on other matters of interest and upcoming meetings she was planning to attend.

Miller reported on Public Arts Commission (PAC)-related activities. In addition, Miller reported on matters of community interest, upcoming community-related events and upcoming meetings she was planning to attend.

Thompson reported on Ride Connection and Forest Grove Senior and Community Center-related activities. In addition, Thompson reported on other matters of interest and upcoming meetings he was planning to attend.

Uhing reported on Economic Development Commission-related activities. In addition, Uhing reported on other matters of interest and upcoming meetings she was planning to attend.

Mayor Truax announced dates of various upcoming activities and

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meetings as noted in the Council Calendar. Mayor Truax reminded Council the League of Oregon Cities' City Hall Day would be held Thursday, September 11, 2014, 6pm, Community Auditorium, noting Forest Grove is hosting the event. Mayor Truax invited everyone to attend the Library's Friends and Family Night, September 30, 2014. Mayor Truax announced the Mayor's Ball is scheduled for Saturday evening, October 25, 2014. Mayor Truax gave an overview of his conversations with Senator Betsy Johnson, District 16, and whom the Oregon Mayors Association recently made an Honorary Member, regarding Highway 47/Fernhill/Maple intersections, noting fire crews responded to a serious motor vehicle incident/accident recently near Hwy 47/Maple Road intersection. In addition, Mayor Truax reported on other various local, regional, Metro, and Washington County meetings he attended and community-related events he was planning to attend.

**11. ADJOURNMENT:**

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

Respectfully submitted,



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Anna D. Ruggles, CMC, City Recorder