



Medford City Council Meeting

Minutes

August 18, 2016

12:00 Noon AND 7:00 P.M.

**Medford City Hall, Council Chambers
411 West 8th Street, Medford, Oregon**

The regular meeting of the Medford City Council was called to order at 12:00 noon in the Medford City Hall Council Chambers on the above date with the following members and staff present:

Mayor Gary Wheeler; Councilmembers Clay Bearson, Daniel Bunn, *Chris Corcoran, Dick Gordon, Tim Jackle, Eli Matthews, Kevin Stine, Michael Zarosinski

City Manager Pro Tem Alison Chan; Deputy City Manager Bill Hoke; City Attorney Lori Cooper; City Recorder Karen Spoons

*Left or returned as noted.

Employees from the Police, Public Works, WRD, and TS were recognized for their years of service. New employees from Finance, Planning, and Police were introduced. Promotions from Building, Planning, and WRD were recognized.

20. Approval or Correction of the Minutes of the August 4, 2016 Regular Meeting

There being no additions or corrections, the minutes were approved as submitted.

30. Oral Requests and Communications from the Audience

- 30.1 Quarterly Economic Development update from SOREDI by Colleen Padilla
Colleen Padilla provided information on the handout distributed, upcoming activities, and introduced Rob Merriman, Community Development Manager. She thanked the City for their membership.

Out of sequence

- 70.1 Rogue Retreat
Mayor Wheeler noted that Council requested Agenda Item 70.1 regarding Rogue Retreat be moved to this time. He noted Council voted down the 3rd and Front Street property for Hope Village, but was going to discuss other properties and possible next steps today.

Councilmember Gordon explained that staff requested Council direction for Rogue Retreat regarding whether to 1) enter into a lease agreement at another location 2) sell City land and donate the proceeds to Rogue Retreat for Hope Village 3) earmark CDBG funds for the homeless and/or 4) donate money directly to Rogue Retreat for Hope Village.

Councilmember Bunn noted there is a memorandum in front of Council on this topic; he believes this matter is really two broad issues: 1) should the City subsidize the property at a sub-market rate and enter into a contract with a non-profit to provide homeless services; and 2) the application of Oregon Land Use Code, which does not fit into our Chapter 10 requirements. The memo included two proposed motions for Council consideration; one regarding the use of the City's Service Center for a pilot project. The second motion was

regarding an amendment to Chapter 10 to create a public process for these types of facilities.

Councilmember Stine questioned if Council action would dismiss the topic and it would not be seen again. Councilmember Bunn explained the land use process is extensive, but Council could add specifications in the lease. Pertaining to the property, Council needed to give a date certain for staff to report back with options, perhaps the next meeting. Councilmember Zarosinski noted Council has control with the lease, but criteria needed to be set for this type of project. Councilmember Gordon agreed to look at the Service Center property or other property that staff recommends, the changes to Chapter 10, and using CDBG funding.

- 30.2 Jack Schmidt, representing Precision Electric at 425 N. Front Street, stated that he met with the Planning Director Jim Huber and City Attorney Lori Cooper this week regarding ORS 446.265 and its application in this process. One of the main goals of Rogue Retreat is to get roofs up quickly. Mr. Schmidt reminded Council of the extensive cost for sewer, electrical, parking requirements and other issues, and recommended Council determine a permanent location versus a temporary location. Everyone supports the concept; it just needs a location.

Councilmember Bearnson questioned whether Mr. Schmidt was still interested in purchasing the property; Mr. Schmidt confirmed he would still purchase it.

- 30.3 William Manning, 18 S. Groveland, expressed concern about the City micro-managing the homeless situation. He noted there are incentives for private development to build. The weather will change; people will suffer.
- 30.4 Heidi Hill, representing Jackson Care Connect at 33 N. Central, stated they support Hope Village, which these types of project have demonstrated to lead to better outcomes in terms of healthcare expenses, pathways to sobriety and other health related expenses, but also significant reductions in the judicial and law enforcement services.
- 30.5 Fred Herrmann, 2400 Heritage Way, stated he is constructing an apartment building for veterans at 520 North Front and there are 27 businesses supporting the project. He would like to see Hope Village be moved to a larger piece of property where it can be made permanent and not a temporary solution.
- 30.6 Don Bruland, 253 Tahitian Avenue, is a member of the Steering Committee for Hope Village. He noted that funding has been raised and many others are interested in funding as well. Case management funding has been promised too. He stated that time is of the essence to provide housing before inclement weather begins.
- 30.7 Jacqueline Martinez, a homeless person, stated she has gone to college and noted there are people to care about her, such as Dazzle. She noted she is trying to survive.
- 30.8 Steve Curry, 3389 Calle Vista, stated ACCESS and other agencies have contributed to providing resources supporting activities such as the Hope Village. He thanked Council for hearing the business side as well.

- 30.9 Christopher Douglas, no address provided, stated he has been homeless for almost three years. The cost for illegal camping is \$3,000; a homeless person cannot afford that. Hope Village will provide the homeless hope and a temporary place to live.
- 30.10 Kenard Barral, spoke on behalf of veterans and noted he was homeless after serving in the military. Currently he is a productive citizen and stated that Hope Village is another way of serving those that are even further down that he was, or to help someone that doesn't know how to receive help.
- 30.11 Greg Long, 1533 Grand Avenue, stated government does not have any business supporting or donating to charitable organizations or social experiments. He would like the 3rd and Front Street on the tax rolls which will generate money for the City. Mr. Long noted that local businesses want to get involved, but are not listened to.

Mayor Wheeler questioned if Council would like to discuss this during the evening session. Councilmembers Bunn and Zarosinski were ready to discuss now, but were not opposed to continuing to the evening session.

Councilmember Corcoran stated he will abstain.

Councilmember Matthews questioned whether the City had conducted an exhaustive search of proposed properties. Councilmember Bunn noted Council has the list and the interactive map and it should not be up to staff to bring back their recommendation. He suggested property on Spencer Street or the City's Service Center.

Motion: Direct staff to report on the feasibility of leasing a portion of the Service Center property for transitional housing purposes.

Moved by: Kevin Stine

Seconded by: Clay Bearson

Councilmember Stine thanked Councilmembers Bunn and Zarosinski for their work on this issue. Councilmember Bunn noted the list of concerns and recommended staff report back at the next Council meeting.

Councilmember Jackle clarified that Council was not going to enter into a lease, then modify the Code to match the lease. The Code amendment and lease agreement would move forward concurrently. Councilmember Bunn noted it will take time to amend the Land Use Code, but there is value in having a process in place and believed Council and staff could work on both issues at the same time and add specific language within the lease to that effect.

Councilmember Corcoran recused himself from the 3rd and Front Street property issue, but did not think he needed to recuse himself from discussing or voting on other pieces of property.

Councilmember Corcoran withdrew his recusal.

Councilmember Bearson thanked the homeless who came forward to speak, as that takes courage. Councilmember Matthews hoped that staff will work with Rogue Retreat pertaining to transit.

Roll call: Councilmembers Bearnson, Bunn, Corcoran, Gordon, Jackle, Matthews, Stine, and Zarosinski voting yes.

Motion carried and so ordered.

Councilmember Bunn questioned Planning Director Jim Huber regarding the amendment of Chapter 10 and asked if the Planning Commission had any issues with what has been brought forward. Mr. Huber responded that although this is very complex, he did not see any problems.

Motion: Direct staff to initiate an amendment to Chapter 10 establishing procedures for designating transitional housing in accordance with ORS 446.265.

Moved by: Daniel Bunn

Seconded by: Kevin Stine

Roll call: Councilmembers Bearnson, Bunn, Corcoran, Gordon, Jackle, Matthews, Stine, and Zarosinski voting yes.

Motion carried and so ordered.

Mayor Wheeler thanked Councilmembers Bunn and Zarosinski for bringing this forward.

Back in sequence

Councilmember Corcoran stated he needed to leave the meeting. He noted his concern with Agenda Item 60.2 and requested it tabled or moved to the evening meeting. He explained that two Councilmembers were unable to attend the study session, there was miscommunication with the invitations extended to those interested in this issue, and he would like additional discussion regarding the definition of ownership. Councilmember Corcoran stated he does not have a conflict of interest with this topic.

*Councilmember Corcoran left the dais.

Mayor Wheeler declared a recess at 1:19 p.m.

Council reconvened to the noon session at 1:25 p.m. with the same persons present.

Mayor Wheeler noted that Agenda Item 60.2 will be moved to the evening meeting.

40. Consent Calendar

40.1 COUNCIL BILL 2016-93 A resolution affirming the Public Works Director's administrative decision pertaining to parking restrictions on Layla Drive.

40.2 COUNCIL BILL 2016-94 An ordinance authorizing cash payments to Hayden Homes for Storm Drain System Development Charge credits in the amount of \$61,402.99 for construction of oversize storm drain piping completed as a condition of approval for Delta Estates Phase I.

- 40.4 COUNCIL BILL 2016-96 An ordinance amending the contract with Knife River Materials for the purchase of asphalt concrete in an amount of \$263,280.
- 40.5 COUNCIL BILL 2016-98 An ordinance dedicating a public pedestrian easement to the City of Medford as a requirement of obtaining building occupancy for the Medford Police Station and secured garage.

Motion: Adopt consent calendar.

Moved by: Kevin Stine

Seconded by: Daniel Bunn

Roll call: Councilmembers Bearson, Bunn, Gordon, Jackle, Matthews, Stine, and Zarosinski voting yes.

Motion carried and so ordered. Resolution 2016-93 and Ordinances 2016-94, 2016-96 and 2016-98 were duly adopted.

50. Items Removed from Consent Calendar

Agenda Item 40.3 was removed by Councilmember Gordon and he requested a staff report to ensure we needed all the money requested.

- 40.3 COUNCIL BILL 2016-95 A resolution authorizing the transfer of \$300,000 from the Regional Sewage Treatment Fund Contingency Account to the Public Works Department to complete repairs to a raw sewage influent pipe at the Regional Water Reclamation Facility.

City Manager Pro Tem Alison Chan noted she was speaking as the Finance Director and the money was needed to fund a \$300,000 repair. The other repairs associated with this were within her signing authority. Deputy Public Works Director for Operations Brice Perkins noted there are two pipelines that run from the plant headworks to the primary treatment area. One of the pipelines is 32 years old and leaks. In the winter, the City uses both pipelines and this needed to be fixed as soon as possible. Ms. Chan noted Mayor could sign the contract without Council approval, but due to the proximity to a Council meeting it was added to the agenda. She explained that although this is an urgent contract, there was no delay in bringing this to Council.

Motion: Approve the resolution authorizing the transfer of \$300,000 from the Regional Sewage Treatment Fund Contingency Account to the Public Works Department to complete repairs to a raw sewage influent pipe at the Regional Water Reclamation Facility.

Moved by: Dick Gordon

Seconded by: Kevin Stine

Roll call: Councilmembers Bearson, Bunn, Gordon, Jackle, Matthews, Stine, and Zarosinski voting yes.

Resolution 2016-95 was duly adopted.

Councilmember Bunn apologized to Mr. Perkins and employees at the Service Center for suggesting the Tiny Homes project at their location without prior discussion. He would like to receive their comments.

60. Ordinances and Resolutions

- 60.1 COUNCIL BILL 2016-99 An ordinance adopting the urban growth boundary amendment.

Councilmember Zarosinski questioned whether Appendix C was part of the findings or reference material. Principal Planner John Adams stated it does not damage the intent.

Motion: Adopt the ordinance adopting the urban growth boundary amendment with the addition of Appendix B findings, at page 22 from the first whole paragraph from the bottom immediately following "attached as background information only" and the words "is not considered a part of the findings."

Moved by: Michael Zarosinski

Seconded by: Dick Gordon

Councilmember Bunn recused himself.

Councilmember Zarosinski thanked Planning staff for their work on this project. Councilmember Gordon did not like the term "the grand bargain" because it insinuates something that is not true; this amendment was studied over and over again by Council and Council asked many questions during the process. Council also received a lot of input and this it is a good proposal. Councilmember Jackle noted this is a community document and many people came together to finalize this amendment. Mayor Wheeler thanked the Council and staff for their work on this.

Roll call: Councilmembers Bearson, Gordon, Jackle, Matthews, Stine, and Zarosinski voting yes.

Ordinance 2016-99 was duly adopted.

60.2 COUNCIL BILL 2016-56 An ordinance repealing sections 9.350 and 9.400, amending section 9.660, and adding sections 9.900 through 9.914 to adopt the International Property Maintenance Code.

Motion: Table Council Bill 2016-56 to the evening meeting.

Moved by: Kevin Stine

Seconded by: Daniel Bunn

Roll call: Councilmembers Bearson, Bunn, Gordon, Jackle, Matthews, Stine, and Zarosinski voting yes.

Motion carried and so ordered.

60.3 COUNCIL BILL 2016-100 An ordinance amending Section 8.751 of the Medford Code pertaining to Rental Car Tax.

Motion: Adopt the ordinance amending Section 8.751 of the Medford Code pertaining to Rental Car Tax.

Moved by: Dick Gordon

Seconded by: Daniel Bunn

Councilmember Gordon thanked Ms. Chan for her work on the amendment.

Roll call: Councilmembers Bearson, Bunn, Gordon, Jackle, Matthews, Stine, and Zarosinski voting yes.

Ordinance 2016-100 was duly adopted.

60.4 COUNCIL BILL 2016-101 A resolution by the City of Medford affirming compliance with the Americans with Disabilities Act of 1990.

Councilmember Stine requested a staff report. Ms. Chan noted the City of Medford has been under review by the Department of Justice regarding our compliance with the Americans with Disabilities Act (ADA) regulations. Staff is diligently working on compliance; a policy and a resolution stating our intention to comply shows our good intent and will help us in our discussions with the Department of Justice.

ADA Coordinator and Risk Manager Bonnie Huard noted staff is working to bring the City into compliance and is looking for the support of Council. This process involves every part of the City operations. Councilmember Bearnson noted that compliance appeared to be a moving target and questioned whether future Councils would need to review this resolution again. Ms. Bonnie noted this is a policy statement of support for the City's efforts to comply and as rules change, we will continue to comply.

Motion: Approve the resolution by the City of Medford affirming compliance with the Americans with Disabilities Act of 1990 as amended.

Moved by: Daniel Bunn

Seconded by: Kevin Stine

Councilmember Bunn noted this is a good step for the City.

Roll call: Councilmembers Bearnson, Bunn, Gordon, Jackle, Matthews, Stine, and Zarosinski voting yes.

Resolution 2016-101 was duly adopted.

60.5 COUNCIL BILL 2016-102 A resolution adopting the Medford Parks and Recreation Department Americans with Disabilities Act Transition Plan.

Motion: Approve the resolution adopting the Medford Parks and Recreation Department Americans with Disabilities Act Transition Plan.

Moved by: Clay Bearnson

Seconded by: Eli Matthews

Councilmember Zarosinski questioned the impact this could have on the Parks system amenities; Assistant Parks and Recreation Director Rich Rosenthal noted when new parks and amenities are constructed, ADA standards are incorporated. However, older parks have not complied with the current ADA standards, but there is an analysis on page 9 of the plan that addresses barriers such as parking, seating areas, accessible routes, etc. Some parks rate higher on the analysis than others. It is estimated the adjustments will cost approximately \$680,000.

Roll call: Councilmembers Bearnson, Bunn, Gordon, Jackle, Matthews, Stine, and Zarosinski voting yes.

Resolution 2016-102 was duly adopted.

60.6 COUNCIL BILL 2016-103 A resolution declaring an emergency due to a failing 48-inch raw sewage influent pipe at the Water Reclamation Plant.

Motion: Approve the resolution declaring an emergency due to a failing 48-inch raw sewage influent pipe at the Water Reclamation Plant.

Moved by: Dick Gordon

Seconded by: Michael Zarosinski

Roll call: Councilmembers Bearson, Bunn, Gordon, Jackle, Matthews, Stine, and Zarosinski voting yes.

Resolution 2016-103 was duly adopted.

- 60.7 COUNCIL BILL 2016-97 An ordinance authorizing exemption from competitive bidding and awarding a contract in the amount of \$168,595.00 to Michels Corporation for emergency repair of a 48-inch raw sewage influent pipe at the Water Reclamation Plant.

Councilmember Stine questioned how this corporation was chosen; Mr. Perkins explained that Michels Corporation is excellent at what they do, the City has experience with this company and they are physically closest to the City of Medford.

Motion: Adopt the ordinance authorizing exemption from competitive bidding and awarding a contract in the amount of \$168,595.00 to Michels Corporation for emergency repair of a 48-inch raw sewage influent pipe at the Water Reclamation Plant.

Moved by: Clay Bearson

Seconded by: Daniel Bunn

Roll call: Councilmembers Bearson, Bunn, Gordon, Jackle, Matthews, Stine, and Zarosinski voting yes.

Ordinance 2016-97 was duly adopted.

70. Council Business

- 70.3 Cemetery Commission interviewed Patrick Ormerod for a vacancy.

Motion: Appoint Patrick Ormerod to the vacancy on the Cemetery Commission to a term effective immediately and ending January 31, 2017.

Moved by: Michael Zarosinski

Seconded by: Daniel Bunn

Roll call: Councilmembers Bearson, Bunn, Gordon, Jackle, Matthews, Stine, and Zarosinski voting yes.

Motion carried and so ordered.

- 70.4 League of Oregon Cities Meeting

LOC annual conference is coming up and the event needs voting members for appointments to their Board of Directors and other issues. Councilmembers Bearson and Gordon are attending.

Motion: Appoint Councilmember Bearson as the voting delegate and Councilmember Gordon as the alternate.

Moved by: Dick Gordon

Seconded by: Daniel Bunn

Roll call: Councilmembers Bearson, Bunn, Gordon, Jackle, Matthews, Stine, and Zarosinski voting yes.

Motion carried and so ordered.

- 70.2 Transportation Funding – Foothills Road

Councilmember Gordon noted this topic came out of a study session discussion. Councilmember Zarosinski stated that the Agenda Item Commentary for 70.2 captures all the items that were discussed.

Motion: Approve resolution 2016-104.

Moved by: Michael Zarosinski

Seconded by: Daniel Bunn

Councilmember Bearnson noted he would abstain, as he was absent from the study session.

Roll call: Councilmembers Bunn, Gordon, Jackle, Matthews, Stine, and Zarosinski voting yes; Councilmember Bearnson abstaining.

Motion carried and so ordered.

70.3 Tiny Houses

Councilmember Gordon requested time to make a motion regarding the Tiny Houses project.

Motion: Direct staff to present to the Council the current and future funding for the homeless opportunities under the City's CDBG program.

Moved by: Dick Gordon

Seconded by: Kevin Stine

Councilmember Zarosinski questioned whether Councilmember Gordon wanted to amend the plan and take money from approved projects or if he wanted to know what funding is available. Ms. Chan will check with staff, but clarified that there are project specifications for the funding. Councilmember Bearnson verified that a percentage of the funding is dedicated to things like administration and capital improvement projects, which can be carried over. Councilmember Matthews questioned if other funding should be addressed, such as the sale proceeds from the 3rd and Front Street property.

Roll call: Councilmembers Bearnson, Bunn, Gordon, Jackle, Matthews, Stine, and Zarosinski voting yes.

Motion carried and so ordered.

Councilmember Bunn suggested addressing Councilmember Matthews' comments in an executive session.

80. City Manager and Other Staff Reports

80.1 Further reports from City Manager

80.2 GFOA Certificate of Achievement for Excellence in Financial Reporting

Ms. Chan stated for the 26th year, the City has been awarded the GFOA Certificate of Achievement for Excellence Award.

90. Propositions and Remarks from the Mayor and Councilmembers

90.1 Proclamations issued: Senator Alan Bates Day, August 18, 2016

90.2 Further Council committee reports

a. Councilmember Jackle noted he was contacted by a man who is concerned with the Police Advisory Committee pertaining to an employer/employee dispute; he may come before Council regarding the issue, as he wants the Committee to investigate the matter. However, this is not the role of the Committee.

90.3 Further remarks from Mayor and Councilmembers: None

100. Adjournment to the Evening Session

Mayor noted there will be an Urban Renewal study session at 6:00 p.m., a regular evening meeting at 7:00 p.m. and an executive session covering three items. Council adjourned to the evening session at 2:05 p.m.

EVENING SESSION

7:00 P.M.

The regular evening session of the Medford City Council was called to order at 7:00 p.m. in Medford City Hall Council Chambers on the above date with the following members and staff present:

Mayor Gary Wheeler; Councilmembers Clay Bearnson, Daniel Bunn, Chris Corcoran, Dick Gordon, Tim Jackle, Eli Matthews, Kevin Stine, Michael Zarosinski

City Manager Pro Tem Alison Chan; Deputy City Manager Bill Hoke; City Attorney Lori Cooper; City Recorder Karen Spoons

110. Oral Requests and Communications from the Audience

Mayor Wheeler noted that Agenda Item 60.2 regarding the International Property Maintenance Code was tabled from the noon session and the public could speak about that topic at this time.

110.1 Ken Troutman, representing People's Bank, spoke regarding determining the correct method to resolve the blighted homes problem in Medford. He explained the various loan types and how his bank handles homes abandoned by the borrower. He voiced concern with the proposed Code amendment, the definition of owner and designating the responsible party. He recommended using a panel to determine how to handle these blighted and/or vacated properties.

Councilmember Bunn questioned if the industry has proposed amendments to the ordinance; Mr. Troutman responded the initial language was revised to exclude easements onto property for things like power, etc. Mr. Troutman stated that Council really needed to determine the responsible party for the properties.

Councilmember Bunn questioned why a trust deed is not updated for the term of the loan; Mr. Troutman responded that MERS is used to track the chain of ownership and not all jurisdictions use that system. Councilmember Stine questioned if this exact language is used anywhere else in the state; City Attorney Lori Cooper responded yes, our ordinances use the same language as state law which utilizes lien holders for enforcing that law. She was unsure of local jurisdictions that amended the definition of owner.

Councilmember Bearnson questioned the time period before pursuing this course of action; Ms. Cooper noted there is due process incorporated into our Code and our practice is complaint driven. This ordinance would be used for abandoned or blighted homes. Councilmember Bearnson questioned if banks continue to collect the interest on

abandoned properties; Mr. Troutman responded that their bank did not and there is no incentive to sit on those properties. He noted the bigger lenders were not prepared to handle the volume of abandoned homes when the market downturned.

Councilmember Bunn questioned how the City should handle a person who is current on their mortgage, but has no intention of handling a Code violation; Mr. Troutman responded the City would have an issue with the borrower and the lender is notified by the City. Councilmember Jackle stated he was concerned about this; he preferred more discussion and would like to create a work group. Councilmember Gordon questioned how MERS operates; Councilmember Jackle explained it is an electronic way to record mortgages, but Oregon does not account for an electronic mortgage. Councilmember Bunn noted that MERS records aren't necessarily on file with the clerk. Councilmember Zarosinski voiced concerns about fines for entering the property for repairs; Mr. Troutman explained the bank could enter the property, after a foreclosure is complete. Councilmember Bunn asked Mr. Troutman to suggest who should attend a meeting on this process; Mr. Troutman recommended representatives from the credit union, People's Bank, and Wells Fargo. Councilmember suggested Councilmember Jackle meet with bank representatives sometime next week and report back during the next meeting.

Mayor Wheeler noted we will continue this item to another date.

- 60.2 COUNCIL BILL 2016-56 An ordinance repealing sections 9.350 and 9.400, amending section 9.660, and adding sections 9.900 through 9.914 to adopt the International Property Maintenance Code.

Councilmember Bunn stated he had public policy questions on this topic; 1) do we want to prohibit the sale of a property in violation of this ordinance; 2) whether a commercial building should be repaired or demolished after six-month waiting period.

Councilmember Corcoran noted he called the state Government Ethics Commission and because he works for a bank; it is a conflict of interest for him to participate in the motion.

Motion: Table Council Bill 2016-56 to our first regular meeting in October.

Moved by: Dick Gordon

Seconded by: Michael Zarosinski

Roll call: Councilmembers Bearson, Bunn, Gordon, Jackle, Matthews, Stine, and Zarosinski voting yes; Councilmember Corcoran abstaining.

Motion carried and so ordered.

- 110.2 Clay Bearson, 176 Dove Lane, is a downtown merchant who was advised that his sandwich board was in violation of Code. He was informed that it was not a violation to place his sign on MURA-owned property and out of the public right-of-way, so he began doing this. Mr. Bearson was then contacted regarding the need for a permit. The Planning Department advised that he would need approval from the MURA Director to keep his sign on MURA-owned property. Mr. Bearson requested Council review the sandwich board ordinance. Councilmember Stine questioned the nature of the complaint; Mr. Bearson explained a City employee did not like a green cross with a green arrow, because that symbol typically references a marijuana shop. He noted the MURA Director Pro Tem has the authority to allow temporary approval while this issue was resolved.

Planning Director Jim Huber noted that Code 10.1022(d) states all portable signs require a permit and they are not allowed in the public right-of-way. Councilmember Bunn questioned the criteria for issuing a sign permit; Mr. Huber noted there are many items in that category and there is a \$25 fee. Ms. Chan stated sign placement needed to be compliant with ADA. Ms. Cooper clarified that sidewalk cafes are allowed, so the Code does contain language regarding ADA distance.

Councilmember Bunn was in favor of changing the Code if the walkway complies with ADA requirements; Mr. Huber explained that if MURA approves, Mr. Bearnson could get a permit. Ms. Chan asked for Council direction. Councilmember Zarosinski questioned giving people rights to use MURA property. Ms. Cooper suggested Mr. Bearnson write a letter to the executive director of the MURA Board and the legal department with his request, as the Council meeting was the wrong forum; Mr. Bearnson will do so.

120. Public Hearings

- 120.1 Public hearing to consider an appeal of the Public Works Director regarding a sidewalk at 1222 La Loma Drive.

Deputy Public Works Director – City Engineer Alex Georgevitch provided the staff report noting the property owner received a 90 day extension to July 17, 2016. He then requested additional time due to travel and medical issues. Staff recommended a six month extension.

Councilmember Gordon questioned if Council could authorize an extension of more than six months; City Attorney Lori Cooper believed the Council had the ability to authorize a longer period.

Public hearing opened.

Eugene Anderson, 515 E. Main Street, Ashland, stated he is representing his ex-wife who owns the property. She lives in Uganda and the property is a rental. He received a five-week extension and didn't get the repair done, but noted if he received a six-month extension he would complete it.

Councilmember Stine questioned whether he would schedule the repairs. Mr. Anderson stated he would schedule them as soon as the weather cools down.

Public hearing closed.

Motion: Direct staff to grant a six month extension to complete the sidewalk repair at 1222 La Loma Drive.

Moved by: Daniel Bunn

Seconded by: Kevin Stine

Roll call: Councilmembers Bearnson, Bunn, Corcoran, Gordon, Jackle, Matthews, Stine, and Zarosinski voting yes.

Motion carried and so ordered.

- 120.2 Public hearing to consider an appeal of the Site Plan and Architectural Commission approval of the construction of a 3,750 square foot addition to an existing metal industrial building and denial of the associated exception request to eliminate public right-of-way dedications and standard street improvements. (AC-15-115 and E-16-042) Land Use, Appeal

Planning Director Jim Huber presented the staff report. He noted there is a 35,400 square foot addition of asphalt to the site and a 3,750 square foot building addition. They requested relief from the right-of-way dedication and street improvements.

Senior Assistant City Attorney Eric Mitton noted there are two legal issues here 1) the exception request together with proposed conditions and 2) Nollan Dolan question; whether the proposed dedication constituted an unconstitutional taking.

Councilmember Jackle did not see anything in the record regarding the impact in terms of trips or the facility itself; Mr. Mitton noted a correction in the Executive Summary and clarified that applicant's assertion that the number of trips was equal to 2½ residential houses is not outside of the evidentiary record. He also clarified that trip count is speculative as the construction of the surrounding properties has yet to be done; Councilmember Jackle questioned what is being taken in terms of impact; Mr. Mitton explained the end goal is to have a fully-developed street and the only way to get there is to build-up the street as it develops. Ms. Cooper referenced a Public Works memo and stated it appears the department did not require trip counts. Councilmember Jackle stated again that he did not see the impact; Ms. Cooper responded that Public Works was comparing like developments. Mr. Mitton noted the question is whether they pay the development now or later and the proportionality and impact are the same in this case.

Councilmember Zarosinski clarified this is an existing private lot accessed by an existing private road and asked what is the authority to require this dedication to the City; Mr. Mitton responded there are portions that are private access and portions that are being dedicated. Mr. Georgevitch explained the various aspects of the property and the development.

*Councilmember Corcoran left the dais.

Public hearing opened.

Jay Harland, CSA Planning, Agent of Record, pointed out there are challenges when County property is annexed into the City and thanked City staff and SPAC for their work on this. He explained that an irrevocable covenant requiring a 5½ foot dedication for the sidewalk and curb was offered and rejected. The current street can accommodate the sidewalk, but not the sidewalk and a planter strip. Mr. Harland noted that no employees walk to work and no customers will be walking to the site, as it is a trucking company.

*Councilmember Corcoran returned.

Councilmember Bunn asked if the irrevocable covenant would only come into effect if the road was developed to the west of Table Rock Road or if tax lot 801 was developed; Mr. Harland responded it was only offered if the road was to the west.

Attorney Dick Stark, 100 East Main, stated this is the only public area of street on this road. All others are private easements and those property owners have agreed to a 30' foot street, if it is ever required. The impact to the City from this development is nil. The trucks will go to a private road and the City will not have a public street. They proposed this covenant to move forward with their business. The likelihood of developing that street in the next 20 years is very small.

Councilmember Gordon asked how irrevocable covenants work; Mr. Stark noted it is a covenant that cannot be revoked without the City's approval. If an improvement comes along, the property owner has to participate, complete the dedication and conduct the improvements.

Mr. Harland noted the irrevocable covenant required the project went all the way to Table Rock Road.

Mr. Stark noted the City would be the first in line on the title, should the property sell. Councilmember Stine questioned how we could ever force someone to conduct improvements; Ms. Cooper responded the City would need to take court action.

Council discussed the locations of various future developments that could occur in the area.

Councilmember Gordon noted that he sat in at least one SPAC hearing, but did not participate in any actions or discussions during that meeting; he asked the difference between an irrevocable covenant and a deferred improvement agreement. Mr. Harland responded a deferred improvement agreement requires a cash deposit. Councilmember Jackle added that this would be the only time he would approve an irrevocable covenant; because of the impact of development, street improvements are required in our Code. In this situation, there is no impact to the area due to the private street.

*Councilmember Bearnson left the dais.

Public hearing closed.

Councilmember Stine questioned whether the planter strip would be required when improvements were made; does the Code allow for a waiver of the planter strip. Ms. Cooper noted the Code requires it, but SPAC and Council have granted exceptions.

*Councilmember Bearnson returned to the dais.

Councilmember Zarosinski questioned how this situation turned into an irrevocable covenant; Mr. Mitton stated the exception request was for all public improvements and all right-of-way dedications, creating no clear procedure for SPAC.

Motion: Uphold the Site Plan and Architectural Commission's approval of the construction of a 3,750 square foot addition to an existing metal industrial building (AC-15-115) and reversing their decision to deny the associated exception request to eliminate public right-of-way dedications and standard street improvements (E-16-042), because legal error occurred and there was insufficient evidence to find there was sufficient Dolan findings for the action. Part of the motion is to accept the irrevocable covenant with a condition of approval that it should be recorded and a subordination agreement as well.

Moved by: Tim Jackle

Seconded by: Daniel Bunn

Ms. Cooper questioned if Councilmember Jackle reviewed the irrevocable covenant; Councilmember Jackle stated he had. Ms. Cooper preferred denial of the appeal and for Council to direct staff to work out a DDA or some sort of irrevocable covenant with the applicant. Councilmember Bunn noted Council was directing staff to prepare the final order to bring back at the next Council meeting and she could add stipulations at that time; Ms. Cooper explained the deadline is tomorrow for the agenda preparation. Councilmember Jackle agreed with Councilmember Bunn that there should be some modification to this irrevocable covenant to add that it is triggered by development on either side of the road. Councilmember Zarosinski was concerned because it appeared Council was stating an industrial area does not need beautification and pedestrian access; Councilmember Jackle clarified that was not his intention; this is a special circumstance.

Mayor Wheeler noted he was concerned this decision could impact future developments and appeals; he requested additional time from the appellants for Council to come to a reasonable solution. Councilmember Bunn stated we meet the exception criteria and this is a unique site.

Roll call: Councilmembers Bearson, Bunn, Corcoran, Gordon, Jackle, Matthews, Stine, and Zarosinski voting yes.

Motion carried and so ordered.

Councilmember Corcoran congratulated JDT Trucking for the improvements to their company.

130. Ordinances and Resolutions

None.

140. Council Business

None.

150. Further Reports from the City Manager and Staff

None.

160. Propositions and Remarks from the Mayor and Councilmembers

160.1 Further Council committee reports

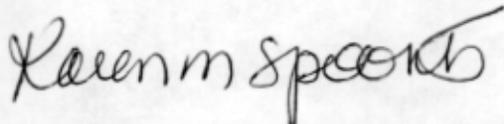
Councilmember Corcoran noted the Medford Water Commission voted to contribute \$200 for the Winterspring memorial stone for Mel Winkelman.

160.2 Further remarks from Mayor and Councilmembers: None.

170. Adjournment

There being no further business, this Council meeting adjourned to the Executive Session at 9:30 p.m.

The proceedings of the City Council meeting were recorded and are filed in the City Recorder's Office. The complete agenda of this meeting is filed in the City Recorder's Office.



Karen M. Spoonts, MMC
City Recorder

RESOLUTION NO. 2016-102

A RESOLUTION adopting the Medford Parks American with Disabilities Act Transition Plan.

WHEREAS, this plan assists the City of Medford to identify policy, programs, and physical barriers to accessibility within its park system, and to develop barrier removal solutions that will facilitate access opportunities for all individuals; now therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MEDFORD, OREGON,

That the Medford Parks American with Disabilities Act Transition Plan is hereby adopted for the City of Medford.

PASSED by the Council and signed by me in authentication of its passage this 18 day of August, 2016.

ATTEST: Karen M. Spence
City Recorder

[Signature]
Mayor