



TUALATIN CITY COUNCIL WORK SESSION MINUTES OF NOVEMBER 24, 2008

PRESENT: Mayor Lou Ogden, Councilors Chris Barhyte, Monique Beikman, Bob Boryska, Jay Harris, Donna Maddux, and Ed Truax; Sherilyn Lombos, City Manager; Brenda Braden, City Attorney; Mike McKillip, City Engineer; Carina Christensen, Assistant to the City Manager; Don Hudson, Finance Director; Kent Barker, Chief of Police; Doug Rux, Community Development Director; Eric Underwood, Development Coordinator; Dan Boss, Operations Director; Nancy McDonald, Human Resources Director; Ginny Kirby, Recording Secretary

ABSENT: [* denotes excused]

[Unless otherwise noted, MOTION CARRIED indicates all in favor.]

A. CALL TO ORDER

Mayor Ogden called the meeting to order at 5:06 p.m.

B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS

Tualatin-Sherwood Road Fountain at Commons Park

Eric Underwood, Development Coordinator, introduced the engineering firm representative: Dave Simmons, CH2M Hill, and Carol Mayer-Reed and Ryan Carlson, Mayer-Reed, the subcontractor assisting CH2M Hill in the design of the feature.

This project consists of two parts – the maintenance strip from Kmart to the Outback Restaurant, and the water feature at Tualatin Commons Park. The budget for the project is \$1.8 million total (design and construction). The water feature is considered the primary feature; and what monies are left in the project budget after the water feature will be used for landscaping.

Ms. Lombos noted the goal for this evening is to establish the goal for the water feature; set the boundaries. Mr. Simmons said an advisory group is established for this feature. Mayor Ogden noted that this project actually is a Tualatin Development Commission project and will be discussed in the TDC Work Session this evening.

[City Council Work Session recessed to go into Development Commission Work Session discussion at 5:16 p.m.]

[City Council Work Session reconvened at 6:22 p.m.]

Utility Undergrounding Update

Mike McKillip, City Engineer, noted that last spring Council discussed undergrounding of overhead lines. At that time, Council asked that staff come up with a fee and come back to Council with a plan. Mr. McKillip said staff discussed the issue and realized that what was being discussed was a Construction Excise Tax. It was clarified that what is being talked about is a tax because it generates revenue, unless you can structure it as a fee. Discussion followed regarding the difference of a tax vs. a fee and how it could be structured to cause it to be a fee. If it could be structured as a fee, then the City could collect fees, pool the money, and start working on the pieces where utilities are not ungrounded. The feeling was to make it a City-wide fee, which would be a fee that would be paid by development (ex: when a building permit is paid for, it would be included as one of those fees). The City Attorney will do some further research and bring back a more in-depth definition of excise tax at a future work session.

Library Policies Discussion

Due to time constraints, this discussion will be held at a future Work Session.

C. CITIZEN COMMENTS

Not applicable.

D. CONSENT AGENDA

The Consent Agenda was reviewed by Council. Councilor Truax expressed concern regarding closing right-of-way and the revocable permit issue (Item D.5). After a brief discussion, Item D.5 was removed in its entirety and will be scheduled at a future Work Session. Councilor Harris expressed concerns regarding no parking zones (Item D.6); and asked for clarification regarding this item. It was decided, after some discussion, to remove Item D. 6 in its entirety tonight to allow time for staff to speak with Tigard/ Tualatin School District about this issue; the item will be rescheduled for a future meeting.

E. PUBLIC HEARINGS - *Legislative or Other*

Not applicable.

F. PUBLIC HEARINGS - *Quasi-Judicial*

Not applicable.

G. GENERAL BUSINESS

None.

H. ITEMS REMOVED FROM CONSENT AGENDA

Not applicable.

I. COMMUNICATIONS FROM COUNCILORS

None.

J. EXECUTIVE SESSION

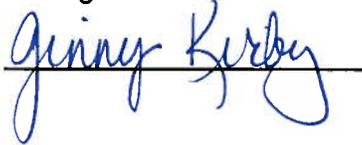
None.

K. ADJOURNMENT

Meeting adjourned at 6:49 p.m.

Sherilyn Lombos, City Manager

Recording Secretary

A handwritten signature in blue ink, reading "Ginny Kirby", is written over a horizontal line.



TUALATIN CITY COUNCIL MEETING MINUTES OF NOVEMBER 24, 2008

PRESENT: Mayor Lou Ogden, Councilors Chris Barhyte, Monique Beikman, Bob Boryska, Jay Harris, Donna Maddux, and Ed Truax; Sherilyn Lombos, City Manager; Brenda Braden, City Attorney; Mike McKillip, City Engineer; Don Hudson, Finance Director; Kent Barker, Chief of Police; Doug Rux, Community Development Director; Dan Boss, Operations Director; Carina Christensen, Assistant to the City Manager; Paul Hennon, Community Services Director; Carl Switzer, Parks & Recreation Coordinator; Ginny Kirby, Recording Secretary

ABSENT: [* denotes excused]

[Unless otherwise noted, MOTION CARRIED indicates all in favor.]

A. CALL TO ORDER

Mayor Ogden called the meeting to order at 7:08 p.m.
Councilor Harris led the pledge of allegiance.

B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS

1. New Employee Introduction - *Catherine Yagodinski* - Paul Hennon
Paul Hennon, Community Services Director, introduced Catherine Yagodinski. Ms. Yagodinski is the new Office Coordinator for the Community Services Department.
2. 5-Year Service Award - *Kent Barker*
Sherilyn Lombos, City Manager, awarded Chief Barker's 5-year service award. Mayor Ogden thanked Chief Barker for all he gives to our community. Councilor Maddux reiterated that Chief Barker is well known and respected across the State.
3. 30-Year Service Award - *Dan Boss*
Sherilyn Lombos, City Manager, awarded Dan Boss with a 30-year service award. Ms. Lombos noted some of Dan's activities and achievements over the years, including his involvement with the American Public Works Association and in Emergency Management for the City. Mayor Ogden thanked Dan for all his hard work and dedication to the community.
3. National League of Cities Conference Recap – *Youth Advisory Committee*
Katie Ogden and Will Downey, YAC members, gave a brief summary of the Tualatin Youth Summit that was held earlier this month at Tualatin High School. They noted that several YAC representatives attended the recent National League of

Cities/Youth Conference (NLC). Councilor Beikman stated that this was the second time she has been able to attend the NLC/Youth Conference and was very impressed with Tualatin's youth. Mayor Ogden asked that YAC members please provide their input on municipal issue items to Council in the future.

4. **Starry Nights and Holiday Lights Presentation - Carl Switzer**

Carl Switzer, Parks and Recreation Coordinator, gave a PowerPoint presentation covering Starry Nights/Holiday Lights. This event is scheduled for Friday, December 5, 2008, 6:00 p.m. - 9:00 p.m. at the Tualatin Commons. The Floating Christmas Tree will be lighted at 7:00 p.m. It is a great way for the community to welcome in the holiday season!

Mr. Switzer stated that the Tualatin Studio Tour 2008 will be on Saturday, November 29, 2008 from 10:00 a.m. – 5:00 p.m. There is detailed information available on the City's website.

5. **Get Out! Activity Guide Presentation – Carl Switzer**

Carl Switzer, Parks and Recreation Coordinator, gave a PowerPoint presentation regarding the new Get Out! Activity Guide. He noted that the City was previously lacking one central "guide" for people to refer to for a variety of activities available in the City. An updated guide will be published three times each year. This will harbor citizens to get out and learn about their community and meet neighbors. The Get Out! Guide has been mailed to all households in Tualatin. The brochure will also be available on the City's website; links are included that will lead you to detailed event information.

C. CITIZEN COMMENTS

None.

D. CONSENT AGENDA

MOTION by Councilor Barhyte, SECONDED by Councilor Maddux to adopt the Consent Agenda as read and amended:

1. Approval of Minutes for the Meeting of November 10, 2008
2. Fiscal Year 2007/2008 Water System Development Charge (SDC) Report
3. Resolution No. 4844-08 Awarding Bid for the Water Pipeline Undercrossing of I-5 at Norwood Road
4. Resolution No. 4845-08 Accepting Public Improvements for 21527 SW 99th Avenue Residential Driveway Replacement
5. Resolution No. - - - Authorizing a Revocable Permit to Allow a Fence in Tract Q in the Victoria Woods No. 3 Subdivision
[Item removed in its entirety during Work Session]

6. Resolution No. - - - Authorizing Installation of a No Parking Zone on Both Sides of SW Boones Ferry Road from SW Ibach Street To SW Norwood Road
[Item removed in its entirety during Work Session]
7. Resolution No. 4846-08 Accepting a Continuing Control Agreement for the Westside Express Service Wilsonville to Beaverton Commuter Rail Project
8. Citizen Involvement Committee Appointments

MOTION CARRIED.

E. PUBLIC HEARINGS - Legislative or Other

1. Change of Ownership Liquor License Application – Stars Cabaret-Bridgeport

Mayor Ogden opened the public hearing.

City Manager Sherilyn Lombos gave a history of the process thus far. She stated a City Business License application had been submitted, as well as the OLCC application, which was submitted on September 23, 2008. The City Business License has been granted. The City has until December 2, 2008 to submit a recommendation to OLCC of either denial or approval of a liquor license for Stars Cabaret. OLCC has the formal authority to grant or deny liquor licenses. If a local jurisdiction gives an unfavorable recommendation, then OLCC must hold a hearing to discuss the application.

The Oregon Revised Statutes (ORS) provide grounds upon which OLCC may deny a liquor license application. Staff believes the following are grounds for denial of a liquor license for Stars Cabaret:

1. Existing establishments do not have a good record of liquor law compliance.
2. History of serious and persistent problems.
Chief Barker reviewed police activity statistics beginning with 2005 to current. He noted that the information in this PowerPoint is based on the three existing Stars establishments which are located in Salem, Bend, and Beaverton.
3. Located within 500-feet of a childcare or child-oriented recreational facilities.
Both 24-Hr Fitness Kids Club and My Gym are located within these boundaries.
4. Incomplete and inaccurate application.
Required information was missing and applicants gave an incomplete list of violations.

The history of police calls, the City's limited personnel, and the proximity to child-oriented facilities is why the City is recommending denial of the OLCC liquor license application for Stars Cabaret-Bridgeport. Ms. Lombos reiterated that if Council recommends denial, then OLCC will have a hearing. If the OLCC denies the liquor license for Stars Cabaret, there is an appeal process available.

Chief Barker gave a PowerPoint presentation that gave the statistics for Police Calls for Service and DUII from 2005 through September 30, 2008. Brief discussion followed regarding the statistics.

PROPONENTS

Mr. Gregory A. Chaimov, with Davis Wright Tremaine LLP, stated he is the legal counsel for the business and Mr. Kaiser, co-owner of Stars Cabaret.

Mayor Ogden said questions would be addressed at the end, if their schedule allowed. Mr. Chaimov stated he would answer this like the City answered them when wanting to meet; they don't have the time.

Mr. Randy Kaiser stated that he doesn't feel he was treated fairly. If the City was interested in fairness, they would have interviewed the neighbors of the three existing Stars businesses and found out that at first they were concerned, but after time, they didn't object to Stars being their neighbor.

Mr. Kaiser feels the City has violated his civil rights. He does not feel the City's report will withstand independent scrutiny. Tomorrow they are presenting OLCC with 1,000 letters in support of the Stars project. Mr. Kaiser went on to say that 24-Hr Fitness has worked with Stars for 13 years by asking that Stars feature their marketing materials for Star's patrons. He added that there were 43% more calls for service this year at 24-Hr Fitness than any Stars location.

Mr. Kaiser said he is proud of their accomplishments, which include providing jobs for people to earn a living and support themselves and their family members, given money to Veteran's memorials, and donating money to animal shelters.

OPPONENTS

Mayor Judi Hammerstad and Councilor John Tershi, City of Lake Oswego. Mayor Hammerstad stated she and Councilor Tershi are here to support the City's opposition to the liquor license application for Stars Cabaret. Mayor Hammerstad noted that the City of Lake Oswego wrote to OLCC regarding the negative impacts of establishments such as Stars. Councilor Tershi urged the Council to deny the liquor license.

Jim Beriault, SW McEwan Road. Mr. Beriault noted he is the appointed Community Representative for the community group called "Change". They are deeply concerned about the potential of increased crime in the area, the potential of increased DUII violations, and the potential use of tax dollars and resources (police) that will be used for problems that currently do not exist. Families pass through this area daily; there are no crosswalks in the area. The increased risk of intoxicated drivers is of great concern. There will be a negative impact on local business. He stated that he is submitting 336 letters tonight and thanked Mr. Kaiser for having a lively debate this evening.

Emile Bonfiglio, SW McEwan Road. Mr. Bonfiglio stated his objective tonight is to represent his neighborhood as a community. He said Mr. Kaiser stated many people support the Stars club, but if you look around and see who took the time to show up tonight, they are not Stars supporters.

Peter Klaebe, Rosewood CPO/NA, SW Tree Street, Lake Oswego. Mr. Klaebe said he is particularly afraid the increased number of drunk drivers will be a large safety concern. He noted their group has already written a letter to OLCC. He urges Council to recommend denial of the liquor license.

Don Miller, Millers Homestead Restaurant, SW McEwan Road. Mr. Miller said some people mistakenly think he is the person that owns the proposed Stars facility; he is concerned that it will have a negative effect on his business.

Linda Brown, Kelok Road, Lake Oswego. Ms. Brown distributed a copy of a letter to the OLCC, dated November 20, 2008, from Ms. Deborah Lopardo, Chairperson, Lake Oswego School Board, which stated that on September 27, 2008, the School Board unanimously moved that they recommend to OLCC that the denial of a liquor license to the Stars Cabaret club. Their great concerns lie with all the child-oriented facilities in the vicinity (24-Hr Fitness, My Gym, and Players). The Board also recommended denial due to the increased response this business would put upon both Lake Oswego and Tualatin police departments.

Jeff Kleinman, SW 6th Avenue, Portland. Mr. Kleinman is an attorney working with several folks in the immediate vicinity of the Stars site. He reiterated how important it is for the City to recommend denial or OLCC won't pursue denial. Mr. Kleinman said there needs to be as much evidence as possible presented to OLCC; there is a lot of work to be done.

Katie Webb, SW Greening Lane, Tigard. Ms. Webb noted she is here as a patron of the Little Gym. She knows that the Little Gym relies on positive word of mouth and repeat business. She feels that if the Stars facility is granted a liquor license it will have a definite adverse effect on the Little Gym.

Scott Mint, SW Choctaw Street, Tualatin. He wanted Council to know that the vast majority of the Good Neighbor Center are not in favor of the Stars facility receiving a liquor license.

Rick Miller, SW 110th Place, Tualatin. Mr. Miller asked if in the investigation performed, was the potential financial impact quantified – for calls for service. Chief Barker stated he did not look into that issue; that he was looking for elements why Council would recommend denial of the liquor license. Chief Barker said that is not an issue that OLCC considers.

Councilor Maddux asked why the difference in the 2005 Salem facility statistics. Chief Barker said he wasn't sure when in 2005 the Salem Stars opened. Councilor Harris asked about the square footage comparison on any facilities, as the larger the facility, the potential of more calls for service. This information isn't in the staff report, but could be researched.

Chief Barker stated that Tualatin has less officers on duty on the night shift than day shifts and most calls do happen at night. Discussion followed regarding police calls and the correlation to the types of businesses.

Citizen, SW Lakeview Blvd, Lake Oswego, asked if the 500-feet is a deal breaker.

Steve Longhead, SW Longfellow Avenue, Lake Oswego. Mr. Longhead stated a big sign will draw people from everywhere.

Leona, SW Dawn Street, Lake Oswego, said she is concerned about the possible prostitution.

Tom Krueger, SW 4th Place, Lake Oswego. Mr. Krueger said the manager of the 24-Hr Fitness couldn't be here this evening due to health reasons. Mr. Krueger stated he knows the manager is opposed to Stars and has collected approximately 1,000 letters opposing Stars. He noted the business hours of the Stars Cabaret are very different from the existing Out of the Blues business.

Vickie King, Lynhold Avenue. Ms. King doesn't feel Stars represents the type of life that women should live and this establishment isn't what the City should portray. She feels it reflects upon women in society.

Becky Lomax, SW Yakima Court, Tualatin. Ms. Lomax said she is speaking on behalf of her teenagers and herself, they are all members of 24-Hr Fitness. The teenagers like to use the club at very late hours; she won't be comfortable with that if the Stars Cabaret opens.

Lisa Stevens, Frost Lane, Lake Oswego. Ms. Stevens stated she is here as a Rivergrove Elementary School Advisory Member. She has concerns for patrons of Stars that may want to avoid the well-lit area of Bridgeport and turn right onto McEwan Road upon leaving Stars. This would send potential drunk drivers through the neighborhood; an area that does not have safe sidewalks throughout.

COUNCIL QUESTIONS

Brenda Braden, City Attorney, clarified for Council that it isn't enough to have a child-recreational facility within 500-feet; you have to show that the facility will be adversely impacted.

It was stated that Council was not in receipt of any petition containing 1,000 signatures.

Chief Barker said the issue of prostitution had been brought up at the September 16, 2008 public meeting. Prostitution is a very difficult crime to prosecute. He did note Motel 6 is aware of potential problems and has already met with police department representatives. Mayor Ogden asked Chief Barker if he knew why any of the Stars had liquor licenses suspended. The Chief stated fines and suspensions have been issued for several reasons, including allowing minors into a restricted area, promoting disorderly conduct, lewd entertainment, and unlicensed entertainers. Mayor Ogden asked if there were any more questions from those in attendance; there were.

Vickie King asked if sex crimes had been reported at any of the Stars. Chief Barker said yes, but you need to be aware that the "label" of sex crimes varies widely on what it can be.

Deb Tate, SW Ochoco Street, Tualatin. Ms. Tate realized that a denial can't be based on opinions of the public. She wanted to know what data would be needed to present to OLCC to show that the Little Gym was going to be adversely affected.

Jesse Fox, SW Sequoia Drive, Tualatin. Mr. Fox stated they will not send any of their five children to the Little Gym if Stars goes in.

Ron Skoletsky, Owner, The Little Gym, SW McEwan Road. Mr. Skoletsky said they collected many signatures from patrons, but no one has said to him that they won't come there any longer. He is concerned that some of his patrons are here tonight saying they will no longer come there if Stars locates where proposed.

Patty Cameron, Owner, Gallop Saddlery, SW McEwan Road. Ms. Cameron stated her business is 90% women, and she also caters to children. Ms. Cameron is very concerned that her business will be adversely affected; she has even had an employee state they would no longer work at the Saddlery if Stars goes in.

Mike, SW Nyberg Lane, Tualatin. Mike has concerns about the impact of Stars on fire calls, in addition to police calls. He feels the Fire Department would be affected if this facility is approved.

Mayor Ogden closed the public hearing.

COUNCIL DISCUSSION - None

MOTION by Councilor Barhyte; SECONDED by Councilor Beikman to recommend denial of an OLCC license for Stars Cabaret-Bridgeport.

Friendly amendment by Councilor Maddux, in addition to denial of an OLCC liquor license, submit unfavorable recommendation along with Chief's documents and its reasons for denial. Mayor Ogden asked that the Grounds for Denial be placed on the statistics and included in the documents to OLCC. Councilor Maddux stated that the supporting documents confirm the four findings.

MOTION by Councilor Barhyte; SECONDED by Councilor Beikman to recommend denial of an OLCC license for Stars Cabaret-Bridgeport and include all supporting documents with the recommendation to the OLCC.

MOTION CARRIED.

F. PUBLIC HEARINGS - Quasi-Judicial
None.

G. GENERAL BUSINESS
None.

H. ITEMS REMOVED FROM CONSENT AGENDA

None.

I. COMMUNICATIONS FROM COUNCILORS

Councilor Harris noted that Council and staff just returned from a successful retreat; he thanked everyone for their participation.

Councilor Maddux stated that today was Turkey Drop-off day for Tualatin Food Pantry; they had a great response.

J. EXECUTIVE SESSION

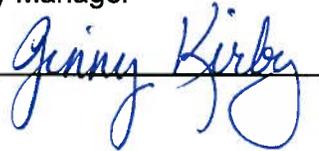
Not applicable.

K. ADJOURNMENT

The meeting adjourned at 9:09 p.m.

Sherilyn Lombos, City Manager

Recording Secretary

A handwritten signature in blue ink, reading "Ginny Kirby", is written over a horizontal line.