

ASHLAND CITY COUNCIL
REGULAR BUSINESS MEETING DRAFT MINUTES

Tuesday, October 19, 2021

Held Electronically; View on Channel 9 or Channels 180 and 181 (Charter Communications) or live stream via rvtv.sou.edu select RVTV Prime.

Written and oral testimony will be accepted for public input. For written testimony, email public-testimony@ashland.or.us using the subject line: Ashland City Council Public Testimony. For oral testimony, fill out a Speaker Request Form at ashland.or.us/speakerrequest and return to the City Recorder. The deadline for submitting written testimony or speaker request forms will be on Monday, October 18th at 10 a.m. and must comply with Council Rules to be accepted.

Note: Items on the Agenda not considered due to time constraints are automatically continued to the next regularly scheduled Council meeting [AMC 2.04.030.E.]

5:30 PM EXECUTIVE SESSION - CANCELLED

The City Council will hold an Executive Session consider the employment of a public officer, employee, staff member or individual agent. Pursuant to ORS 192.660(2)(a). Executive Sessions are closed to the public.

6:00 PM REGULAR BUSINESS MEETING

I. CALL TO ORDER

Mayor Akins called the Business meeting to order at 6:00 PM

II. PLEDGE OF ALLEGIANCE

Councilor Moran led the Pledge of Allegiance.

III. ROLL CALL

Councilors' Hyatt, Graham, Moran, DuQuenne, Seffinger and Jensen were present.

IV. MAYOR'S ANNOUNCEMENTS

Hyatt read the Land Acknowledgment (*see attached*).

Mayor Akins suggested moving Item - Rogue Valley Sewer Services Next Steps to a future Business Meeting.

Moran/DuQuenne moved to postpone this item to a future Business meeting. Discussion: Graham questioned what to do about the Citizens who have signed in to speak about this item. It was confirmed that the Citizens would automatically be on the list when this Item is on a future Agenda. **Roll Call Vote: Graham, DuQuenne, Moran, Jensen, Seffinger and Hyatt: YES. Motion passed unanimously.**

Mayor Akins moved up Item – **XIV ORDINANCES, RESOLUTIONS AND CONTRACTS**

1. Second Reading of an Ordinance 3202 relating to Transient Lodging Tax

City Attorney Katrina Brown gave a brief Staff report.

Hyatt/Moran moved to approve second reading of Ordinance 3202. Discussion: None. Roll Call Vote: Moran, DuQuenne, Hyatt, Jensen, Seffinger and Graham: YES. Motion passed unanimously.

2. Resolution NO. 2021-23: A Resolution Adopting Findings regarding the use of Food and Beverage Tax Revenues for Fiscal Year 2022-23. And allocating funding for Street, Park and Tax Administration purposes.

Interim City Manager Gary Milliman gave a brief Staff report.

Public Input-

Michael Gardiner – Ashland – Spoke regarding the CIP money that parks receives. He spoke in support of Park funding.

(Moran announced he had to leave briefly at 6:14 PM).

Council discussed budget. Milliman explained the budget can be reviewed and all budgets are based on projections.

DuQuenne spoke that she is not in support of this Resolution.

Council discussed options.

(Moran returned at 6:45 PM).

Graham/Moran moved approval to approve Second Reading of Ordinance No. 3202 for enactment.

Discussion: Graham spoke to the importance of passing this Resolution. Moran spoke that he did not support to approve the budget due to the changes of F&B. He spoke that he will vote in support of this for a year and get through this as a group to rebuild and fix the budget issue. Jensen spoke that he will support this motion. Seffinger spoke in support of the motion and spoke that this is the best option for Parks. DuQuenne spoke that she appreciates all the hard work Staff has done but does not feel comfortable voting in support of this motion. Mayor Akins spoke that she would be in support of this motion. Hyatt spoke that when this topic came up about a month ago the importance of honoring the vote of Ashland residents and by voting yes to this is what Council is doing. **Roll Call Vote: Hyatt, Graham, Jensen, Seffinger, and Moran: YES. DuQuenne: NO. Motion passed 5-1.**

V. APPROVAL OF MINUTES

1. Study Session of September 20, 2021
2. Business Meeting of September 21, 2021

Moran/Hyatt moved to approve the minutes. Discussion: None. All Ayes. Motion passed unanimously.

VI. SPECIAL PRESENTATIONS & AWARDS

1. COVID-19 Emergency Declaration Discussion

Interim City Manager Gary Milliman gave a brief Staff report.

Graham/Jensen moved to approve the Declaration of State of Emergency Extension October 19, 2021 through December 21, 2021. Discussion: None. **Roll Call Vote: Hyatt, Graham, Moran, DuQuenne, Seffinger and Jensen: YES. Motion passed unanimously.**

2. Hargadine Street Workforce Housing Presentation

Kendrick Enterprise LLC Manager Brian Gassman gave a brief report.

Kendrick Enterprise LLC Owner Bob Kendrick went over some background information.

Oregon Shakespeare Festival General Manager Ted DeLong was also present.

Items discussed were:

- Cost
- Affordable Housing
- Land Cost Issues in Ashland
- Timeline
- RFP
- Affordability and Target Households

Councilor Graham questioned Community Development Director Bill Molnar if there would be staffing constraints to get this done. Molnar explained he would need to look at the file to see how much work this would entail if approved to move forward with the RFP.

Graham/DuQuenne moved to direct Staff to move forward with assessing the viability of producing housing on the Hargadine Parking Structure and developing an RFP that focuses on modest development housing. Discussion: Graham spoke that is good to determine developments in the community's interest. DuQuenne thanked all parties involved for bringing this forward. **Roll Call Vote: DuQuenne, Graham, Hyatt, Jensen, Moran and Seffinger: YES. Motion passed unanimously.**

3. Cities Race to Zero: Deadline for Recognition at COP26

Graham gave a brief Staff report.

Mayor Akins spoke that she is not in favor of signing pledges with no actions attached but willing to do what the Council directs.

Graham/Seffinger moved to have the City of Ashland sign on to the Cities Waste to Zero Pledge. Discussion: Seffinger spoke that this could bring additional information and grant possibilities. She spoke that climate changes are one of the most threatening things happening right now. DuQuenne spoke that she would not vote in support to the motion. Hyatt spoke in support of the

motion. Moran spoke that this sounds binding and too restrictive. He spoke that he would not be in support of the motion. Hyatt clarified that Ashland does not own the buses that system is ran through RVTD. Graham spoke that in the pledge states that when signed the City will be planning at least one inclusive an equitable climate action that will help the City and begin implementation no later than 2022. **Roll Call Vote: Jensen, Seffinger, Graham and Hyatt: YES. DuQuenne and Moran: NO. Motion passed 4-2.**

4. Budget Listening Session Planning
Graham gave a brief Staff report.

Council discussed options.

Hyatt/Jensen moved to accept the budget listening session planning as proposed and continue with the process. Discussion: Hyatt spoke to the importance of public input.
Roll Call Vote: Hyatt, Graham, DuQuenne, Seffinger, Moran and Jensen: YES. Motion passed unanimously.

MINUTES OF BOARDS, COMMISSIONS, AND COMMITTEES

Airport	Budget	Conservation & Climate Outreach
Historic	Housing and Human Svcs.	Parks & Recreation
Forest Lands	Climate Policy	Community Center & Pioneer Hall Ad Hoc
Planning	Public Arts	Social Equity & Racial Justice
Transportation	Tree	Wildfire Safety

- VII. PUBLIC FORUM** Business from the audience not included on the agenda. The Mayor will set time limits to enable all people wishing to speak to complete their testimony.
[15 minutes maximum]

Flavia Flanco – Ashland – Spoke regarding support to the “Race to Zero” and encouraged Council to take action.

Rick Landt – Ashland – Ashland Parks & Recreation Commission (APRC) – Mr. Landt expressed his disappointment of the cuts the APRC has received in the last 3 years. He discussed background information and asked Council to support APRC to find a long-term solution to provide first class service to the Community.

VIII. CITY MANAGER REPORT

1. SOU Survey Budget

Due to time constraints this Item was moved to the next Business Meeting.

Hyatt/Moran moved to extend public hearing to 9:30 PM. Discussion: None. Voice Vote: All Ayes. Motion passed unanimously.

IX. CONSENT AGENDA

1. Liquor License Oak Knoll Golf Course
Hyatt/Graham moved to approve the Consent Agenda. Discussion: None. All Ayes. Motion passed unanimously.

X. PUBLIC HEARINGS

Persons wishing to speak are to submit a “speaker request form” prior to the commencement of the public hearing. Public hearings conclude at 8:00 p.m. and are continued to a future date to be set by the Council, unless the Council, by a two-thirds vote of those present, extends the hearing(s) until up to 9:30 p.m. at which time the Council shall set a date for continuance and shall proceed with the balance of the agenda.

1. Public Hearing and First Reading of Ordinance #3203 Annexing 7.9 Acres at 192 N Mountain Avenue, Withdrawing the Property from Jackson County Fire District #5, and Reviewing Planning Commission Decision on 52-unit subdivision

Mayor Akins opened the Public Hearing at 8:31 PM.

Mayor Akins and City Recorder Melissa Huhtala read a script into the record (*see attached*).

Hyatt reported ex-parte contact due to being Council Liaison to the Transportation and Planning Commission.

Hyatt read a statement into the record *“I have not prejudged this application and I am not prejudiced or biased by my prior contacts or involvement or by any personal considerations; I will make this decision based solely on the public interest and the application of the relevant criteria and standards to the facts and evidence in the record of this proceeding.”*

Community Development Director Bill Molnar gave a brief Staff report and introduced Senior Planner Derek Severson.

Severson presented Council with a PowerPoint.

Items discussed were:

- Beach Creek Annexation
- Ashland Village Open Space
- Utility plan
- Annexation Criteria
- Residential Density
- Cottage Style Development
- Required Affordable Units
- Adequate Transportation
- Transportation Assessment
- Sidewalk Priority Projects
- Street Connections
- Sidewalk & Transportation Criteria
- Bike Connectivity

- Corridors
- Elevations of the homes
- Trees to be removed

Applicant

Mark Knox- Mr. Knox spoke requesting that Council amend the conditions of approval removing items 10 and 11 or add an amendment.

Public Testimony

Beth Jandernoa – Ashland – Ms. Jandernoa spoke that she is Co-President of the Ashland Village Homeowners Association. She spoke to her concerns of the erosion problems of the creek. Concern that the City plan will take too much time and could create more erosion. She spoke that she is happy to do her part and in addition with KDAs partnership she asked for the City’s partnership in addressing the intense water issue the narrowness in the channel and the erosion and debris that affect their HOA property.

Sue & Gary Whiteman – Ashland – Sue spoke that she resides within the Ashland Village Subdivision. She explained that since the blackberries were removed in the spring 2021 her and Gary have been involved with this project. She spoke that there is a large amount of trash in this area. She explained the flow of water. She spoke that the HOA is just beginning to restore the stream bank. She spoke that the debris and flow from KDA property is impacting their section of the creek. She requested that KDA follow the requests from the HOA recommendations. She spoke in concerns if this is not addressed could cause problems in the future.

Questions of Staff

Severson spoke regarding Drainage and Earth Advantage.

Rebuttal

Mark Knox – Knox spoke that the applicants have no issues with Staffs proposed conditions relating to items 10 & 11.

Knox spoke that they have met with all of the neighbors on numerous occasions and have no issues to work on the erosion constraints. He explained that this is a preliminary plan, and the final plan will be noticed to the neighbors.

Mayor Akins closed the Public Hearing at 9:21 PM.

Council Deliberation and Decision

Council discussed the drainage issue.

Jensen/Hyatt moved to direct staff to prepare written findings for approval of the proposed annexation, incorporating the Planning Commission’s decision and the staff recommendations, for Council adoption on November 2, 2021. Discussion: Jensen spoke that this is a great project and spoke in support of the motion. Hyatt spoke that there has been a lot of time that has gone into this and is well done. She spoke in support or the motion. **Roll Call Vote. DuQuenne, Seffinger, Moran, Jensen & Graham: YES. All Ayes. Motion passed unanimously.**

XI. UNFINISHED BUSINESS

1. Rogue Valley Sewer Services Next Steps

This Item was moved to a future Council Business Meeting.

XII. NEW AND MISCELLANEOUS BUSINESS

1. Follow-Up on Budget Discussions
2. Revenue Options Discussion

Due to time constraints these Items were moved to the next Council Business Meeting.

XIII. ORDINANCES, RESOLUTIONS AND CONTRACTS

1. Second Reading of an Ordinance 3202 relating to Transient Lodging Tax
2. Resolution NO. 2021-23: A Resolution Adopting Findings regarding the use of Food and Beverage Tax Revenues for Fiscal Year 2022-23. And allocating funding for Street, Park and Tax Administration purposes.

XIV. OTHER BUSINESS FROM COUNCIL MEMBERS/REPORTS FROM COUNCIL LIAISONS

XV. ADJOURNMENT OF BUSINESS MEETING

The Council Business Meeting was adjourned at 9:34 PM.

Respectfully submitted by:

City Recorder Melissa Huhtala

Attest:

Mayor Akins

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Manager's office at (541) 488-6002 (TTY phone number 1-800-735-2900). Notification 72 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting (28 CFR 35.102-35.104 ADA Title I).

Land Acknowledgement (shorter version)

We acknowledge and honor the aboriginal people on whose ancestral homelands we work—the Ikirakutsum Band of the Shasta Nation, as well as the diverse and vibrant Native communities who make their home here today. We honor the first stewards in the Rogue Valley and the lands we love and depend on: Tribes with ancestral lands in and surrounding the geography of the Ashland Watershed include the original past, present and future indigenous inhabitants of the Shasta, Takelma, and Athabaskan people. We also recognize and acknowledge the Shasta village of K'wakhakha—“Where the Crow lights”—that is now the Ashland City Plaza.

PROCEDURE FOR PUBLIC HEARING FOR A LAND USE HEARING

BEACH CREEK ANNEXATION/192 North Mountain Avenue

MAYOR TO READ ALOUD ALL IN BLUE

CITY RECORDER TO READ ALOUD ALL IN GREEN

FOLLOW STEPS BELOW AND ASK EACH QUESTION AS SHOWN

1. CALL TO ORDER

The Public Hearing is now open. This public hearing concerns several subjects, including legislative and quasi-judicial matters; because of the combined nature of the hearing, we will observe quasi-judicial protocols. The subject of this public hearing is a request to annex 7.91 acres of a ten-acre property located at 192 North Mountain Avenue. With annexation, 7.91 acres would be brought into the city with R-1-5-P Single Family Residential zoning. The remaining 2.1 acres are already within the city. The entire ten acres is proposed to be subdivided to create 52 residential lots – including eight units that would be deed-restricted affordable housing for those earning 80 percent of area median income.

The Planning Commission has granted Outline Plan approval for a 52-unit residential subdivision along with a Limited Activities & Uses Permit to install a new bridge over Beach Creek; an Exception to Street Standards to not install a parkrow planting strip with street trees on the bridge; and Tree Removal Permits to remove four trees. The Planning Commission has recommended that the Council approve the annexation request, and the Planning Commission’s development approval would only be effective if the property is annexed by Council.

Tonight’s proceedings include the land use public hearing and first reading of an ordinance annexing the property and withdrawing it from Jackson County Fire District #5.

The following general procedure will be used for the public hearing tonight:

1. Preliminary Matters and Required Statements
2. Staff Report
3. Applicant’s Presentation
4. Those wishing to provide testimony both in favor and in opposition
5. Questions of Staff
6. Rebuttal by the Applicant
7. Close Public Hearing and the Record
8. Council Deliberation and Decision.

The City of Ashland’s remains under a Declaration of Emergency due to COVID-19, and under the emergency powers granted in AMC 2.62, this meeting is being held electronically via Zoom as well as being broadcast on Rogue Valley Community Television and live-streamed via the internet at <http://www.rvtv.sou.edu> under “RVTV Prime.” Public notices for this meeting provided links to the application materials and directions for the applicant and the public on how to submit written testimony prior to the hearing or to provide oral testimony during the hearing via Zoom video-conferencing.

For those who are here in the Zoom “waiting room” to participate in this hearing, if you have any challenges for bias, or a conflict of interest, please Direct Message City Recorder Melissa Huhtala now via the chat function. Any challenges will be addressed after the reading of the required statements.

Presentations by the applicant are generally limited to 15 minutes and public testimony is limited to five minutes, although these may need to be adjust these time limits if necessary to accommodate the number of those wishing to testify. If you have signed up to speak tonight, when it is your turn you will be brought

from the Zoom waiting room by the host and become a panelist so that you are able to participate by video conference. Please be patient as you are transferred from guest to panelist, and be sure to unmute your audio and video. To begin, please give your name and city of residence and make your statement. If you have presented documents in support of your testimony, these will be considered exhibits and become part of the record. Councilor questions of staff or participants will not count toward time limits for testimony.

2. ABSTENTIONS, CONFLICTS, EX PARTE CONTACTS

Do any members of the council wish to abstain, declare a conflict of interest, or report any ex parte contact on this matter?

If contacts are reported, consider the following:

- a. *Ex-parte communications:* If a member has had ex parte communication the substance of the contact must be disclosed. The presiding officer and other members must listen to the disclosures to ensure the member places the substance of the ex parte communication on the record. The presiding officer should question the member if the disclosure of the written or oral communication is not complete. If the presiding officer fails to do so, a member may request a more full disclosure (point of order). Legal counsel will also monitor the disclosure.

After disclosure of an ex parte contact, (or potential conflict of interest or after a challenge for bias (see below) the member should make the following affirmative statement of impartiality:

“I have not prejudged this application and I am not prejudged or biased by my prior contacts or involvement or by any personal considerations; I will make this decision based solely on the public interest and the application of the relevant criteria and standards to the facts and evidence in the record of this proceeding.”

After ex parte disclosure the following **must be announced** by the presiding officer:

Any person has the right to rebut the substance of the evidence or information disclosed. Please present your rebuttal evidence on the substance of any ex parte contacts during the normal time allowed for testimony which has been established for this proceeding. Please reduce any bias, conflict of interest and prejudgment challenges to writing with supporting evidence and provide these to the City Recorder via e-mail.

- b. *Conflict of Interest:* If a member has an actual or potential Conflict of Interest, the member must both announce the conflict and explain the nature of the conflict. If the Conflict is only a potential conflict the member may participate and vote. If the Conflict is an actual conflict, the member must also announce that the member will not be participating or voting. The member should leave the room to avoid accusations of non-verbal communication. (The only exception to not voting [for the City Council] is for necessity). After disclosure of potential conflict of interest, the member should make an affirmative statement of impartiality.
- c. *Actual personal bias, prejudgment:* If a member is actually personally biased, that is, the member cannot make the decision based upon applying the relevant Code standards to the evidence and argument presented, the member must announce the nature of the bias and also announce that they will not be participating or voting. The member should leave the room to avoid accusations of non-verbal communication. (see also Challenges below) Remember, if a member refuses to disqualify him or herself, the Council, for the hearings before the Council, shall have the power to remove such member for that proceeding.

3. **READ THE FOLLOWING STATEMENT (pursuant to the City Land Use Code and ORS 197.763(5). (The City Recorder will read the following text in green.)**

- (1) The following is a list of the Ashland Municipal Code applicable substantive criteria for this decision:
 - The criteria for Annexation of the property into the City with R-1-5-P Zoning are described in AMC 18.5.8.050.
 - The criteria for Outline Plan subdivision approval are described in AMC 18.3.9.040.A.3
 - The criteria for a Limited Activities & Uses Permit within a Water Resource Protection Zone are described in AMC 18.3.11.060.D
 - The criteria for an Exception to Street Standards are described in AMC 18.4.6.020.B.1
 - The criteria for a Tree Removal Permit are described in AMC 18.5.7.040.B
 - The requirements for a City Ordinance are described in Article 10 of the City Charter
- (2) All testimony, arguments and evidence must be directed toward the applicable substantive criteria previously listed, or such other criteria in the Plan or Land Use regulations which the person testifying believes applies to the decision.
- (3) Failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the Oregon Land Use Board of Appeals on that issue.
- (4) Failure of the applicant to raise constitutional or other issues related to proposed conditions of approval with sufficient specificity to allow the decision maker to respond to the issue precludes any action for damages in Circuit Court.

4. **CHALLENGES**

City Recorder, do we have any written challenges to members of the Council for bias, prejudgment or conflict of interest?

If a challenge is made, the challenge needs to be entered into the record and summarized by the presiding officer or legal counsel. The presiding officer, the challenged member and if necessary, the hearing body, will make a determination as how to proceed, including the power to override a member's own decision and remove a member.

There is no opportunity for individuals to disrupt proceedings by making out of order oral presentations or interrogating members under the guise of conflict of interest, prejudgment and bias.

If a member is challenged for bias, the following statement should be made:

"I have not prejudged this application and I am not prejudiced or biased by my prior contacts or involvement or by any personal considerations; I will make this decision based solely on the public interest and the application of the relevant criteria and standards to the facts and evidence in the record of this proceeding."

5. **STAFF REPORT**

At this time, I call Bill Molnar, the Community Development Director, and Derek Severson, the Senior Planner to present the staff report for this proposal.

6. **APPLICANT'S PRESENTATION**

Would the applicants from KDA Homes please unmute your audio and video, state your names and city of residences and make any comments you may have for the council regarding the application?

Applicant is given 15 minutes to present proposal, and at 14 minutes they will be asked to conclude their remarks.

7. THOSE WISHING TO PROVIDE TESTIMONY – IN FAVOR AND IN OPPOSITION

I will now call forward those who have arranged in advance to be on-line with us to speak tonight. Each person will have five minutes. Please unmute your audio and video, state your name and city of residence, and make any comments you may have for the Council regarding the application.”

- Robin Warren**
- Beth Jandernoa**
- Sue & Gary Whiteman**

8. QUESTIONS OF STAFF

Does the council have any questions for staff, or does the staff have any matter they wish to respond to?

9. REBUTTAL BY THE APPLICANT

Does the applicant have any rebuttal?

***Applicant will be given five minutes of rebuttal time, after which the public hearing portion will be closed*

10. CLOSE PUBLIC HEARING

At this time, I will close the public hearing and the record.

11. COUNCIL DELIBERATION AND DECISION

“What is the pleasure of the council?”