



OFFICIAL MINUTES OF THE TUALATIN CITY COUNCIL MEETING FOR AUGUST 22, 2022

Present: Mayor Frank Bubenik, Council President Nancy Grimes, Councilor Bridget Brooks, Councilor Maria Reyes, Councilor Valerie Pratt, Councilor Cyndy Hillier, Councilor Christen Sacco

Call to Order

Mayor Bubenik called the meeting to order at 7:00 p.m.

Pledge of Allegiance

Announcements

1. Public Health Announcement

Councilor Brooks reminded residents to check on their vaccine updates as students head back to school.

2. Tualatin Library Foundation Vine2Wine Event

Library Director Jerianne Thompson and Tualatin Library Foundation President Royce Hermens announced the Vine2Wine event to be held on September 18 at the Tualatin Library.

Public Comment

None.

Consent Agenda

Motion to adopt the consent agenda made by Council President Grimes, Seconded by Councilor Brooks.

Voting Yea: Mayor Bubenik, Council President Grimes, Councilor Brooks, Councilor Reyes, Councilor Pratt, Councilor Hillier, Councilor Sacco

MOTION PASSED

1. Consideration of Approval of the Work Session and Regular Meeting Minutes of August 8, 2022
2. Consideration of **Resolution No. 5640-22** Authorizing the City Manager to Execute an Intergovernmental Agreement with Metro for a Clean-Up Grant; and Appropriating Special Purpose Revenues in the City's General Fund During the FY 2022-23 Budget
3. Consideration of **Resolution No. 5641-22** Authorizing the City Manager to Execute a Deed Acquiring Property for Basalt Creek Parkland
4. Consideration of **Resolution No. 5642-22** Authorizing the City Manager to Execute an Intergovernmental Agreement with Metro for Basalt Creek Parkland Acquisition using 2019 Parks and Nature Bond Measure Local Share Program Funds; and Appropriating Special Purpose Revenues in the City's Park Development Fund During the FY 2022-23 Budget

General Business

1. Climate Friendly and Equitable Communities Status and Next Steps

Management Analyst Cody Field presented information on whether the City should formally join the City of Springfield, and at least seven other cities, pursuing legal action seeking to delay implementation of the Climate Friendly and Equitable Communities rules. He stated the cost of the litigation will be divided between the participating cities based on the size of each city's budget. Management Analyst Fields presented background information on the rules stated the CFEC rulemaking effort was initiated by the Oregon Land Conservation and Development Commission in 2020, in response to Governor Kate Brown's Executive Order 20-04, directing state agencies to take actions to reduce and regulate greenhouse gas emissions. He stated the new rules impact the way Tualatin will manage its parking mandates and the amount of time, effort, and analysis required to update the City's transportation system plan, which will likely lead to an increase in costs and staff time. Analyst Fields stated there are three options for the city to consider tonight:

- a. Join in the City of Springfield's legal challenge to the CFEC rules and contribute financially to the cost of litigation.
- b. Not join the legal challenge (note: staff will stay engaged with LOC to ensure we are aware of the state of the legal action and will continue to keep you all apprised).
- c. Consider other strategies - such as "working with state legislators to enact modifications to the adopted CFEC rules."

Acting City Attorney Chris Crean stated there are at least seven cities that have publicly committed to challenging the rules and several others who have made preliminary decisions to that affect.

Oregon Department of Land Conservation and Development (DLCD) Climate Mitigation Planner Evan Manvel shared context to the rule making decision. He stated there are three parts to the rules: to make Climate Friendly Areas, updates to parking mandates, and changes to Transportation System Planning. Planner Manvel stated the City of Tualatin does not have to make Climate Friendly Areas as it has already been done as part of the Town Center. He stated many cities are choosing to hire consultants to address parking reform and the costs have varied based on city size. Planner Manvel stated the Transportation System Planning costs have typically been covered by the state through ODOT and they have no set timelines at this time. Planner Manvel stated DLCD will continue to go to the legislature to ask for funding to help implement the new rules. Planner Manvel stated the commission is open to adjusting the rules as needed and are monitoring the implementation.

Mayor Bubenik stated the focus of the discussion tonight is on whether to join the lawsuit to ask DLCD to help fund the effort before requiring these rules to be implemented. He stated there has been many unintended impacts to surrounding cities such as Cornelius being included in the Traffic Study because of the way transit is laid out. He stated Hillsboro and Cornelius have joined the lawsuit and Sherwood will be considering at their upcoming meeting.

COUNCIL QUESTIONS

Councilor Reyes asked what surrounding cities have joined the lawsuit. City Attorney Chris Crean stated West Linn, Lake Oswego, and Hillsboro have joined and Sherwood is considering it.

Councilor Pratt asked if the purpose of the lawsuit is to delay the implementation. Attorney Crean stated there are three rules the court will consider when a rule is challenged to invalidated it being that it is unconstitutional, exceeds the scope of the agencies authority, or the correct procedures were not followed when adopted. He stated if any of those are met it would invalidate the rule and send it back to the agency, at which point they can correct it. Attorney Crean stated DLCD has not been responsive since the rules were adopted in January. He stated they don't think what was adopted reflects the concerns of local government and the goal is to have the rules returned to the agency so those conversations can occur.

City of Milwaukie Mayor Mark Gamba stated they will not be joining the lawsuit. He stated less than 10% of their city would fall under the required parking minimums. Mayor Gamba stated they have already begun work on several of the climate items and will likely be receiving a grant to cover the expenses of additional items moving forward. He estimates their additional costs to be less than \$100,000 to complete the actions.

Councilor Sacco stated she feels conflicted as she agrees that swift climate action needs to be taken. Her concerns are that items on the list are not equitable to those in the most vulnerable communities. She would lean to looking to other options as a solution.

Councilor Brooks stated after the executive session she had more questions than answers so she reached out to surrounding cities. She would like to see this be more of a conversation than a lawsuit as that does not align with her values. Councilor Brooks would like to look to creative solution making to solve this problem.

Councilor Pratt asked how DLCD will work with cities this is cumbersome to. Planner Manvel stated the rule is not one size fits all as there are exemptions and stricter rules varying by city sizes. He stated there is a provision where Metro can come up with their own solution for parking. Planner Manvel stated there is flexibility to reopen the rules as development happens.

Councilor Reyes asked the Mayor to state the problem and the solution for the audience. Mayor Bubenik stated this is an executive order to establish Climate Friendly and Equitable Communities. He stated the frustration from cities is in the rule making process and the fact that cities concerns were not incorporated in the rules, timelines on these new requirements, and issues with parking requirements for developments within a half mile of frequent transit. Mayor Bubenik stated the lawsuit would put a pause on the rules as they work through addressing their concerns related to funding, timelines, and community impacts. Councilor Reyes stated she is in support of Climate Friendly Communities but wants to make sure the equity concerns are addressed.

Council President Grimes stated she would like to pause the rules so there can be time to make the necessary changes and accommodations so the rules can be successful.

Mayor Bubenik stated the city does not have staff to address these new rules. He agrees with the goals but not the implementation. Mayor Bubenik stated Metro's plate is full and he does not see them addressing this in the future. He stated he would like to join the lawsuit.

Councilor Hillier stated if she felt like DLCD had the desire to make the changes they would have already done it. She has concerns with their good faith and how a negotiation would go with DLCD.

Councilor Pratt expressed concerns with how a lawsuit could affect a relationship with DLCD.

Councilor Brooks stated she would rather pay a lobbyist to gather support around this instead of joining a lawsuit. She doesn't feel it is the best way to move forward and build good repore with partner agencies.

Motion to have staff bring back a resolution to authorize the city to participate in the coalition of cities challenging the State's Climate Friendly and Equitable Communities rules made by Council President Grimes, Seconded by Councilor Hillier.

Voting Yea: Mayor Bubenik, Council President Grimes, Councilor Reyes, Councilor Hillier

Voting Nay: Councilor Brooks, Councilor Pratt, Councilor Sacco

MOTION PASSED

Councilor Brooks asked what outcome measures would make the Council more comfortable before taking a final vote on the item at the next meeting.

Council Communications

Councilor Brooks stated she plans to attend the Tualatin Chamber of Commerce Key Leaders Breakfast to be held on September 8.

Councilor Hillier invited the Community to attend the upcoming Inspiring Truth Event at Rolling Hills. She stated more information can be found on Eventbrite.

Adjournment

Mayor Bubenik adjourned the meeting at 8:15 p.m.

Sherilyn Lombos, City Manager

_____ / Nicole Morris, Recording Secretary

_____ / Frank Bubenik, Mayor