



Minutes of the Molalla City Council Regular Meeting

Molalla Adult Community Center
315 Kennel Ave., Molalla, OR 97038
January 27, 2021

CALL TO ORDER AND FLAG SALUTE

The Molalla City Council Meeting of January 27, 2021 was called to order by Mayor Scott Keyser at 7:02pm.

COUNCIL ATTENDANCE

Mayor Scott Keyser, Council President Leota Childress, Councilor Elizabeth Klein, Councilor Terry Shankle, Councilor Jody Newland, Councilor Crystal Robles, Councilor Steve Deller.

STAFF IN ATTENDANCE

Dan Huff, City Manager; Gerald Fisher, Public Works Director; Chaunee Seifried, Finance Director; Mac Corthell, Planning Director; Dan Zinder, Associate Planner; Christie DeSantis, City Recorder.

PRESENTATIONS, PROCLAMATIONS, CEREMONIES

None.

PUBLIC COMMENT – Items not on the Agenda

None.

APPROVAL OF THE AGENDA

Approved as presented.

CONSENT AGENDA

A motion was made by Councilor Newland to approve the Consent Agenda, seconded by Councilor Shankle. Vote passed 7-0 with all Councilors voting Aye.

PUBLIC HEARINGS

The Public Hearing for Ordinance 2021-01, Amending Section 21.12 and Renumbering to Molalla Municipal Code Section 17-4.9 Regarding Change of Use and Occupancy was opened by Mayor Keyser at 7:09pm. As there were no members of the audience wishing to speak on this topic, the Public Hearing was closed at 7:10pm.

The Public Hearing for Ordinance 2021-02; Annexing Tax Lot 52E05 02002, a 5.97 Acre Parcel Located North of Town Between Rachel Lane and Vick Road, and Assigning an R-1 (Low Density Residential) City Zoning Designation to the Annexed Territory was opened by Mayor Keyser at 7:16pm.

Multiple citizens requested to speak during this Public Hearing.

Dave Carter, Oregon City, developer of the above stated property. Mr. Carter represented Dale and Julie Bystrom, owners of the property to be annexed.

Nicholas Taylor, Molalla. Mr. Taylor is opposed to the annexation and is concerned about the Wastewater Treatment Plant supporting thirty more proposed homes being developed.

Mike Simmons resides in Colton, property owner in Molalla. Mr. Simmons is in favor of the annexation.

Kim Tracy, Molalla. Ms. Tracy is opposed to the annexation and would like the City to consider not extending the Urban Growth Boundary.

Clint Ancell, Molalla. Mr. Ancell is opposed to rezoning the proposed annexation. He feels that the process was presented incorrectly.

Walter McAllister, Molalla. City Recorder DeSantis read Mr. McAllister's letter into public record.

The Public Hearing for Ordinance No. 2021-02 was closed at 7:33pm.

ORDINANCES AND RESOLUTIONS

A motion was made to hold the First Reading of Ordinance No. 2021-01 by Councilor Newland, seconded by Councilor Klein.

During discussion, Councilor Deller inquired about this item having gone in front of the Planning Commission. Planning Director Corthell confirmed that it had been presented to Planning Commission.

The vote was called and passed 7-0 with all Councilors voting Aye.

A motion was made to hold the Second Reading of Ordinance No. 2021-01 by Councilor Robles, seconded by Councilor Deller. Vote passed 7-0 with all Councilors voting Aye.

A motion was made to adopt Ordinance No. 2021-01 by title only by Council President Childress, seconded by Councilor Robles. The Ordinance passed 7-0, with all Councilors voting Aye.

A motion was made by Councilor Robles to hold the First Reading of Ordinance 2021-02 by title only, seconded by Councilor Shankle. Mayor Keyser read the Ordinance and opened the item for discussion.

Councilors had many questions regarding this Ordinance and ORS 222.127. Councilors were uncomfortable with the State superceding Molalla City Charter.

Councilor Newland asked Mr. Corthell what happens if the Council votes "no" on the ordinance.

Mr. Corthell explained that it would likely provide the applicant a strong cause for legal action, and that a "no" vote should be coupled with a statement of what criteria is not met.

Mayor Keyser quoted Molalla City Charter, Chapter X, Section 38. Annexations of territory to the city that are initiated by property owners shall be approved by the voters in an election to be paid for by the property owners seeking annexions. (Resolution No. 2011-13)

Mr. Corthell explained that Oregon State Statute 222.127 provides: "Notwithstanding a contrary provision of the city charter or a city ordinance, upon receipt of a petition proposing annexation of territory submitted by all owners of land in the territory, the legislative body of the city shall annex the territory without submitting the proposal to the electors of the city if [certain enumerated requirements are met]." Mr. Corthell further explained that while there is an analysis to determine whether a state law supercedes a local law, we need not reach that analysis because we have an opinion from the City's legal council and the most recent legal decision on the issue, City of Jefferson, also states that the state law supercedes contrary local laws.

Mayor Keyser asked Mr. Corthell whether the statute said "Notwithstanding..." Mr. Corthell agreed that it did, then explained to Mayor Keyser that the term "notwithstanding" means that the charter and city ordinances do not withstand the state law. Councilor Deller added that "notwithstanding" can be read, "in spite of."

The vote was called and passed 6-1. Councilors voting Aye were: Councilor Deller, Councilor Robles, Councilor Newland, Councilor Shankle, Council President Childress, Councilor Klein. Voting Nay: Mayor Keyser.

Mr. Corthell explained to Mayor Keyser and Councilors that if Council finds that all criteria for this annexation has been met, that they should provide a "yes" vote, or find that a criteria has not been met to bolster a "no" vote. Councilors agreed that all criteria was met. Mayor Keyser rescinded his Nay vote and voted Aye, under duress.

RECESS TO EXECUTIVE SESSION

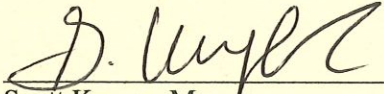
The Regular Meeting was recessed at 9:27pm by Mayor Keyser, in order to hold Executive Session held pursuant to Oregon Public Record Law, ORS 192.660(2), letter (e), to conduct deliberations with persons designated by the governing body to negotiate real property transactions.

RECONVENE REGULAR SESSION

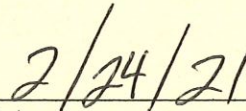
Regular Session was reconvened at 10:15pm.

ADJOURN

The meeting was adjourned by Mayor Keyser at 10:16pm.

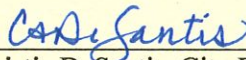


Scott Keyser, Mayor



Date

ATTEST:



Christie DeSantis, City Recorder