

July 21, 2008
6:00 P.M.
Newport, Oregon

The Common Council of the City of Newport met on the above date in the Council Chambers of the Newport City Hall. On roll call, Bain, Henning, Obteshka, Henson, Patrick, Bertuleit, and Sabanskas were present.

Staff attending was as follows: City Manager O'Neal, City Recorder Hawker, City Attorney Firestone, Community Development Director Bassingthwaite, Finance Director Riessbeck, and Police Chief Miranda.

PROCLAMATIONS, RECOGNITIONS, SPECIAL PRESENTATIONS

Proclamation – July 21, 2008 – Police Department Volunteer Recognition Day. Bain proclaimed July 21, 2008 as Police Department Volunteer Recognition Day in the City of Newport. Miranda accepted the proclamation and commented about volunteers and volunteerism. Outstanding volunteer citations were presented to Ron Thomas, Wayde Dudley, Barbara Dudley, and Ed Simon. Wayne Hill was scheduled to be presented a volunteer citation, but was unable to attend.

CONSENT CALENDAR

The consent calendar consisted of the following items:

- A. Approval of minutes from the City Council work session and regular meeting of July 7, 2008;
- B. Fire and Police Department monthly reports;
- C. Report of Claims – June 2008.

MOTION was made by Sabanskas, seconded by Patrick, to approve the consent calendar as presented. The motion carried unanimously in a voice vote.

COUNCILOR'S REPORTS AND COMMENTS

Bertuleit reported on a recent meeting of the Airport Committee. He noted that air service proposals would be reviewed on August 1. The airport staff is looking for a newer fuel truck. The cost of fuel has affected local fuel sales. The Committee also discussed the trail that connects near the Airport. The Committee is looking for space for transient parking or drop-off for the anticipated airline service. The Airport website has been updated.

Obteshka reported on a recent meeting of the Library Board. He noted that the Bridges to Literacy program will focus on geology and paleontology, and a number of activities are planned around these topics. He reviewed the June library statistics. The Board discussed self-checkout and a DVD security system. He reported that a local

option tax for library services is on the ballot in unincorporated areas of the county. The Library has adopted a privacy policy.

Obtreshka reported that he had attended an Ernest Bloch symposium sponsored by OCCA. He noted that state parks is looking for historical site designation to maintain the Bloch house as a public site. If funding becomes available, the Bloch property would be purchased, and a museum and conference center will be developed at the site.

Sabanskas reported that the COG held a brief meeting. She noted that a new executive director is being sought, and there were many applicants. A recruiter has been retained to narrow the field.

OFFICER'S REPORTS

Report of the Mayor. Appointment of designated representative and alternate to OCZMA. Mayor Bain appointed Obtreshka as the city's representative to OCZMA, and he agreed to serve as the alternate. MOTION was made by Sabanskas, seconded by Henning, to ratify the Mayor's appointments. The motion carried unanimously in a voice vote.

Bain reported that the Lincoln County Fair was successful and is on the way to reinventing itself. He noted that the Fair was well attended; perhaps the best attendance in many years.

Bain reported that he had received a message from Katy Hildenbrand, OSU Seagrant extension agent, noting that the Salvage Chief is recovering the Finavera buoy that sank last fall.

Report of the City Manager. O'Neal reported that he had met with representatives from Lincoln City, Toledo, Lincoln County, the COG, and the Lincoln County Transit District to coordinate efforts to determine interest in ridesharing, vanpooling, etc. The city will survey the employees. The ultimate goal is to extend into community if there is interest. Hawker will represent the city.

O'Neal reported on the Community Cartoon Project. He noted that the city is participating and city buildings would appear on that map that will be produced by this company. It will be distributed when it is received.

O'Neal reported that colored water has been reported in the Agate Beach area. He noted that it reports are spotty and staff is working to determine the cause. The water is safe to drink.

O'Neal reported that the Destination Newport Committee has been doing many creative things this year. He noted that the PDXposed program would be filming in town this week. The filming will produce approximately 22 minutes of airtime and will air in October at the beginning of the tourism shoulder season.

O'Neal noted that Grady Britton, the city's advertising agency, would begin new photo production to keep the website updated and the advertising current.

O'Neal reported that August 5, 2008 is National Night Out. Information will be available on the city's website and in the newspaper.

Bain reported that Newport had been featured live on the Channel 12 morning show.

Report of the City Attorney. Firestone reported that he had inadvertently failed to give Cheryl Atkinson the proposed Georgia-Pacific agreement containing options, and that it had consequently not appeared in the packet. He suggested Council might want to postpone consideration until the next meeting to allow time to review the document.

Firestone noted that Council could address agenda items 8.c., and 8.d., at this time.

DISCUSSION ITEMS

Discussion of potential local preference provisions for public contracting rules. Firestone reported that he had drafted a resolution to amend the public contracting rules pursuant to Council request. He discussed the local preference possibilities. Council concurred with the resolution as written and asked that it be placed on the agenda of the next meeting for adoption.

Presentation on collection of data and timeline required for the Harney Street Extension Project. Firestone reported that a memo on this subject had been distributed at the noon workshop. He noted that the proposal is to bring the matter back to Council on September 15. Pursuant to Council direction, the following information will be available at that meeting: (1.) draft development agreement; (2.) public notification of property owners within 1,000 feet of the proposed extension; (3.) maps showing the property that will be affected, including a map of the property the city acquired with a federal grant in 1967; (4.) slopes and grades including cross sections of the proposed alignment addressing any geologic issues that might exist; (5.) proposed bicycle and pedestrian accommodations; (6.) noise levels of vehicles from various distances on a similar street; (7.) the impact on the fairgrounds; (8.) determine and address any wetland issues. It was noted that the materials would be available at the time of public notice, which will be ten to fourteen days prior to the September 15, 2008 meeting. Council concurred with the process.

Consideration of a resolution placing water system improvements bond measure on the ballot. O'Neal reported that a great deal of staff effort had gone into this matter based on Council discussion. He noted that staff wants to ensure that the proposal is clear regarding tax rates and options. He recommended placing this item on the agenda of August 4, 2008. This will give staff an opportunity to talk with bond counsel about wording, and to work with Seattle NW on the tax numbers. MOTION was made by Sabanskas, seconded by Henning to move this item to the meeting of August 4, 2008. The motion carried unanimously in a voice vote.

PUBLIC COMMENT

Stu Strong reported that the Toledo Summer Festival would be held next weekend. There is a full schedule of events, including fireworks, logging show, and a parade. The theme is "Hollywood Style."

ACTION ITEMS

Consideration of Resolution No. 3449 authorizing application for and support of a Transportation Enhancement Activity grant to construct sidewalks on SW Naterlin Drive. O'Neal reported that the city has an opportunity to apply for a grant to construct sidewalks on SW Naterlin Drive. He reported that the estimated cost of the project is \$715,500, and the city would be required to provide at least a five percent match of \$35,775. He recommended approval. MOTION was made by Patrick, seconded by Sabanskas, to adopt Resolution No. 3449, as presented. The motion carried unanimously in a voice vote. O'Neal reported that the project is costly due to the switchback design. If approved, the grant funds would be available in 2010/11 fiscal year.

Sabanskas requested an excused absence from the August 4, 2008 meeting, as she will be fishing in Canada. MOTION was made by Bertuleit, seconded by Patrick, to approve the request. The motion carried unanimously in a voice vote.

At 6:50 P.M., Council recessed until 7:00 P.M..

Request for Council initiation of a street vacation of a portion of SW 12th Street south of Abbey Street abutting property owned by Peter Lawson and Nancy Jane Reid. Dennis Bartoldus appeared on behalf of the applicants, Peter Lawson and Nancy Jane Reid. He requested Council initiate the vacation of a vertical portion of the SW 12th Street public right-of-way adjacent to the applicant's property. He reported that his clients are requesting the vacation to replace their garage. He addressed the criteria outlined in the Council guidelines on city-initiated right-of-way vacations. He reported that his clients are sensitive to trying to maintain the area. It was noted that the footprint of the garage would not change. A discussion ensued regarding other methods that would allow for the garage improvement.

Bertuleit reported that he had visited the site. He noted that he is cautious about allowing this type of process. Henning noted that the request meets the criteria, and the process has been used previously in the same manner. Patrick noted that she has no problem with the request. Sabanskas noted that she agrees with Bertuleit. She suggested eliminating the process. Obteshka inquired as to whether the slope would be destabilized. Bartoldus reported that his client plans to replace only the garage, but that a geologic report could be added as a condition, with the applicant bearing the cost of the report. Henson stated that this is a difficult issue, noting the city does have a policy for this type of request, and a precedent has been established with the Gordon White vacation. Bain reported that he is familiar with the property due to his occupation. MOTION was made by Henning, seconded by Patrick, to initiate the vacation with the condition that a geologic analysis be a condition, with the applicant bearing the cost of the geologic analysis. The motion carried in a voice vote with Bertuleit and Sabanskas voting no.

Continued public hearing to consider adoption of File Nos. 1-CP-08 and 2-CP-08 as part of the Transportation System Plan update. Bassingthwaite reported an updated TSM document was e-mailed today, and he has not had a chance to review it to determine whether the changes have been incorporated. He recommended continuing this

matter to the August 18, 2008 meeting. He noted that Pete McKeeman would like to speak regarding the Northside Local Street Plan. McKeeman addressed Council on behalf of the City Center Newport Association. He distributed copies of information expressing opposition to TSP items 15 and 16. Obtshka inquired as to whether the Glick Study addressed any of these issues. Bassingthwaite noted that the existing plan removes all parking on Highway 101. The proposed amendment would try to limit the removal of parking from Highway 101. It was noted that this could be considered as a further refinement plan. ODOT is currently working on alternate mobility standards. The necessity of left turn lanes at both Hurbert and Angle Streets was discussed. MOTION was made by Sabanskas, seconded by Patrick, to continue this public hearing to August 18, 2008. The motion carried unanimously in a voice vote.

Further consideration of an agreement with Georgia Pacific for use of rights-of-way for a treated effluent pipeline. Henson presented the city recorder with a list of folks who have contacted him regarding GP. Bain reported that copies of the letter, being sent to the Mayor and City Council, were not circulated to the staff or to the applicant for the license. He noted that the letters request an increase to the NPDES requirements for the GP effluent. He noted that this is a DEQ issue. Firestone noted that this meeting is not a formal public hearing as none is required, but some aspects are quasi-judicial because they involve the permit. Council can decide whether to disclose ex parte contacts, which is what Henson has done, noting that it is appropriate, but not a requirement. Council could also forward the e-mails to the office administrator for the city, and that would constitute full disclosure. He noted that given the volume of correspondence, it might not be possible to get all the letters in the packet. Bain reported that a letter from Mark Pearson had been received tonight. He also noted that Rolla Cleaver had submitted a letter, but would be making a presentation this evening.

Firestone offered apologies to the Council and the public for the omission of a version of the GP agreement that contained options. He recommended that Council consider this document later to give the staff and public time to review it. It was reported that DEQ has agreed to send two representatives to the next Council meeting to answer questions from the Council about DEQ, the process, and the status of permit. Council will need to agree on a process for the discussion, and potential action, on this matter. It was noted that it will be at least a month before the appraisal and value of the license agreement has been completed.

Bain noted that public comment would be taken, and he encouraged adherence to the three-minute time limit.

Edna Abbott reported that she has lived in the shadow of the GP smokestack for 50 years. She noted that she is not employed by GP, nor is anyone in her family. She reported that she has viewed underwater photographs of the outfall, and saw many marine creatures in the area of the outfall.

Cindy Ashy stated that she has three recommendations. She asked that Council ask the staff to declare, in writing, whether they have any conflicts of interest in the GP matter. She also recommended that Firestone be asked whether he has a propensity to side with big business based on the types of clients he has represented in the past. She finally recommended that two additional attorneys be retained to examine the GP issue, and that they should not be selected by the city attorney.

Mark Pearson submitted a letter for Council review.

Rolla Cleaver thanked the Mayor and City Council for televising the meetings. He stated that he was representing the Lincoln County Chapter of the Oregon League of Conservation Voters. He noted that it is not the intention of OLCV to close the GP mill. He recommended removing the emotional element of the discussion and deciding what is best for the entire community. He recommended a scientifically led task force to determine the state of the pipe, bay, beach and the outfall. He urged Council to protect the health and safety of the citizens and make a decision based on science.

Charlie Plybon, Oregon field coordinator for Surfrider Foundation, thanked Council for the opportunity to speak. He commended Council and staff for reasonable options, noting that this was a considerable amount of work. He noted that he supports GP and is looking for a win-win situation for everyone. He voiced his support for a task force to study the issue. Henson reported that Plybon had spoken to the Fisherman's Club at Longview Hills, but that he was not in attendance.

Melinda McComb reported that she was glad to see the contract with options. She stated that she prefers option D., which is none of the above. She noted that she does not think it is good public policy for private companies to dump anything on public land. She stated that industries have to be accountable for what they produce. She noted that she would like to see GP recycle their water.

Marcia Schwartz distributed a handout regarding the poisoning of water. She stated that one of the problems is to try to figure out how the GP plant measures compared to other businesses on the west coast. She reviewed a report that addressed pollutions, noting that GP is one of the largest polluters on the Pacific Ocean, and there is evidence of persistent heavy metals. She noted that the amount of pollutants changes in 2002, and it is unclear why that occurred. She suggested that unsuspecting chemicals could be tipping the balance.

Roger Hart, a retired marine geochemist from OSU, addressed Council regarding chemicals and heavy metal concentrations at the outfall. He noted that over a ton of lead is deposited offshore annually, and that toxins could accumulate along the pipe.

Dan Husko urged approval of license of agreement, and asked Council to weigh the facts

Nyla Jebousek urged council to appoint a task force to get more information for this decision. She thanked Council for taking steps to obtain appraisals. She suggested that the subject might need more study after the appraisal. She recommended weighing the economic impact of discharge on tourism as a part of the economic analysis. She noted that GP is an important part of the community and we need to partner with them.

Sam Adams, a resident of Lincoln County and a GP employee, asked Council to focus on the important issue. He noted that GP is important to the economic health of Lincoln County. He noted that there is no evidence of harm off Nye Beach. He stated that GP is a natural resource company, and the treated effluent is from wood and water. He suggested that GP needs a long-term assurance for funding improvement projects, and he urged approval of the agreement.

Marcus Spink urged Council to approve the license agreement as recommended by city staff.

Ellen Bristow thanked Council for their continued careful review of this matter. She thanked staff for acting with fairness, and recommended the appointment of a task force to study the issue.

Ulrike Bremer distributed a letter to Council. She urged the non-renewal of the lease unless GP can prove the effluent is safe.

Dustin Bailey noted that this issue is of great interest to him. He stated that he started working at GP in the lab at the environmental center since the last meeting. He reported that he has been able to explore some of the issues. He noted that extensive scientific investigation shows that the soil and environment around the effluent zone is no different from at other sites along the Pacific Ocean. He noted that the mill is required to maintain bioaccumulation levels below the toxicity level, and that there is no substantial bioaccumulation in the environment.

Maria Sause reported that she lives in Nye Beach. She noted that she is not a scientist, but urged Council to consider the health of people before the interests of GP. She noted that two people supporting GP have stated that GP processes wood. She stated that is an outright lie and even a nonscientist cannot be conned and convinced by that argument. She stated that an independent scientist is needed to study this issue. She noted that she likes the options and that the issue is open to discussion.

Bain noted that if speakers did not get all the time they needed, that written comments would be accepted for the record.

Sam Valenti thanked employees of the GP Toledo plant for testifying. He noted that many speakers are looking for reassurances through sound scientific studies. He expressed concern regarding the effects of many years of exposure to the effluent.

Evan Gardner reported that he leads environmental study groups and is a language instructor. He reported that he brings tourists to the city, and suggested that fees for dumping effluent be used for field trips for children.

Daniel McCarthy recommended a task force be formed to consider the needs of the mill and citizens. He reported that he had sent a proposed contract, with significant modifications, to the City Council, city manager, and city attorney. Firestone noted that it would be included in the next Council packet.

Bain reported that Council would not deliberate this matter tonight. He noted that DEQ would send two representatives to the meeting of August 4, 2008. It will not constitute a hearing before the DEQ. The DEQ representative will answer Council questions, not questions from the public. It was noted that Councilors have submitted a list of questions to DEQ, and anticipate that a number of those questions are likely to be asked at the next meeting. Obteshka inquired as to whether the options would be discussed at the next meeting. Bain noted that they would be discussed, but that the discussion may not be completed at that meeting.

Maria Sause inquired as to whether it would be possible to have another entity with ocean studies expertise present. Bain noted that it is possible, but not currently in the plan. It was noted that the question of levels of toxicity of chemical composition would be determined at the DEQ level because the city does not have the legal authority to make those determinations.

Nyla Jebousek suggested Council or staff accept questions from the community that Council could ask DEQ at the next meeting.

Firestone noted that if citizens have questions, they should be submitted to Council well in advance. It was noted that citizens could log onto the city website and send questions to the city attorney who will pass them onto the City Council.

COUNCIL COMMENTS

O'Neal reminded Council to send their LOC legislative priorities to Hawker.

ADJOURNMENT

Having no further business, the meeting adjourned at 8:55 P.M.

Margaret M. Hawker, City Recorder

William D. Bain, Mayor