

September 15, 2008  
6:00 P.M.  
Newport, Oregon

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

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

### **PROCLAMATIONS, RECOGNITIONS, SPECIAL PRESENTATIONS**

**Presentation to recognize Dale Schmidt, Oregon Coast Aquarium Director.**  
The presentation honoring Dale Schmidt will occur on October 6, 2008.

**Presentation and update from the Friends of the Aquatic Center.** Kathryn Pedersen made a PowerPoint presentation, and addressed Council regarding the status of the proposed aquatic center. She was accompanied by Marcia Williams. Pedersen requested a city contribution of 1.5 to 2 million dollars to allow the project to move forward at the earliest possible date. George Mpitsos spoke in support of the request and the aquatic center project. It was noted that there are three potential sites. Protiva reported that this group has been together for more than three years, and the recent district focus has made the group stronger and more dedicated. Obteshka inquired as to the estimated total cost of the facility. Williams reported that it could be upward of 15 million dollars. The board is currently developing a business plan, and hopes to determine operational costs from that plan. Pedersen noted that users would likely come from Tillamook to Coquille. She also noted that the facility could be used for lessons, Coast Guard use, and parties, which would generate a fair amount of revenue. Firestone noted that a portion of this could qualify as a tourism facility.

### **CONSENT CALENDAR**

The consent calendar consisted of the following items:

- A. Approval of minutes from the City Council work session, executive session, and regular meeting of September 2, 2008.
- B. Police Department monthly report.
- C. Report of accounts paid for August 2008.
- D. OLCC application for Coho Distributing, 3503 South Coast Highway.

Riessbeck reported that the discrepancy in the accounts paid regarding Lincom had not been figured out yet. She noted that it looks like a \$61,000 check was voided, and a \$47,000 check replaced it. O'Neal reported that Riessbeck would finish researching this matter tomorrow and report the findings at the next meeting. Riessbeck noted that it is the

report that is not correct. MOTION was made by Sabanskas, seconded by Patrick, to approve the consent calendar, and ask Riessbeck to bring a report to the next meeting on the Lincom issue. The motion carried in a voice vote, with Kilbride abstaining.

## **COUNCILOR'S REPORTS AND COMMENTS**

Bertuleit reported that there is a vacancy on the Bicycle/Pedestrian Committee. He noted that the committee discussed the appropriate timing for support for the 68<sup>th</sup> Street underpass. The committee also discussed the placement of bike racks.

Patrick reported that she received a call from Dan Mann, Port Director, thanking the city for approving a time and payment plan to pay the balance of the large water bill caused by a leak.

Obtshka reported that the Senior Activity Center had sponsored a trip to Oktoberfest in Mt. Angel.

Obtshka reported that a library fundraiser will be held Thursday evening, and that Rebecca Cohen has tickets.

Sabanskas noted that a COG meeting is scheduled for Thursday, and she is unable to attend.

## **OFFICER'S REPORTS**

**Report of the Mayor.** Bain acknowledged the vacancy on Bicycle/Pedestrian Committee. Obtshka reported that there are two vacancies on the Senior Advisory Committee, and one on the Library Board.

**Report of the City Manager.** O'Neal reported that there will be a program on banned books at the library on October 1. There will be readings from four or five different books.

## **DISCUSSION ITEMS**

**Size of vending stands in city designated business vending areas on city property under NMC 4.10.040.** Firestone noted that the city has existing size limitations for vending carts for vendors selling in designated city vending areas at Nye Beach and on the Bayfront. He noted that the existing size restriction is fairly small, and recently someone approached the Council requesting an increase in the size of allowable vending carts. He reported that staff has looked at the issue, and there are four classes of stands authorized by the state, and three could be operated in the city's current size limitations.

Bassingthwaite noted that there is additional information in the packet, including a photograph of a cart similar to the one proposed by the people requesting the change. He noted that it is quite a bit larger than currently allowed by the city. He noted that staff is looking for direction from the City Council regarding whether to allow this size of vending cart. Bain reported that he had received an e-mail from an individual expressing concern about varying the size to allow for full food service operations. Obtshka noted that he is a resident and co-owner of a bed and breakfast inn in Nye Beach, and was president of the Nye Beach Merchants Association for two years, and that he would not

benefit financially from this request. Bain noted that he did not hear anyone strongly interested in developing a process to change the size. A discussion ensued regarding the size of the carts. Obtshka noted that his main concern is the size of the cart, as there is not really enough room on the turnaround for a cart of that size. MOTION was made by Sabanskas, seconded by Obtshka, to deny the request to change the size of the vending allowable vending carts in city designated business vending areas. The motion carried unanimously in a voice vote.

**Newport City Council policy on requests for city-initiated right-of-way vacations adopted on September 4, 2007.** It was noted that this item is on the agenda to review and discuss the existing Council policy that was adopted a year ago. Bassingthwaite noted that it is up to the Council as to whether there should be changes or adjustments. A discussion ensued regarding the provision requiring notarized petitions when petitioning adjacent property owners. Another discussion ensued regarding the possibility of charging for the value of vacated property. Firestone noted that Council could look at the factors and amend the policy as stated or in practice. He reviewed the factors in the basic policy contained in the Council packet.

#### **PUBLIC COMMENT**

Bain asked whether there was comment regarding any item not on the agenda. There was none.

**Newport City Council policy on requests for city-initiated right-of-way vacations adopted on September 4, 2007 (continued).** Bain noted that he likes the idea of strengthening the policy. He suggested that if there is no problem not requiring notarized signatures that consideration be given to removing the notary requirement. He also suggested approaching the idea of value for the property received in the vacation process. Sabanskas noted that public benefit needs to be defined. Obtshka suggested an option to rescind the policy. Sabanskas agreed with the removal of the notary requirement, but believes that applicants should carry the burden. MOTION was made by Sabanskas, seconded by Bertuleit, that the city attorney prepares a revised policy for Council consideration at the next meeting. The motion carried unanimously in a voice vote.

#### **RECESS**

Bain declared a five minute recess until 7:00 P.M., at which time, Council reconvened as the Urban Renewal Authority. The Urban Renewal Authority met until 7:12 P.M., at which time, they reconvened as the City Council.

#### **ACTION ITEMS**

**Consideration of a request from Bridgeview Heights, LLC, for use of city property for a proposed extension of Harney Street from NE 7<sup>th</sup> Street to serve approximately 86 acres of property.** Bain noted that the Council packet contains

information regarding this matter. Ritzman reported that this matter came before Council at a previous meeting, at which time, the staff was directed to obtain additional information and notify property owners within 1,000 feet of the proposed extension. He reported that additional information had been obtained, property owners had been notified, information had been posted on the website, and the city attorney had drafted a development agreement. Bassingthwaite reported that no additional letters had been received since the notice was sent to adjacent property owners. A question had been raised about the Lincoln County Fair Board, but there are no formal written comments. The Fair Board wants to make certain that their portion of Harney Street remains in commercial classification.

Bill Lulay, representing North Santiam Paving, of Stayton, Oregon, stated that the objective is to obtain approval to transfer ownership of city property into city right-of-way for the purpose of a Harney Street extension. He displayed maps showing engineering, topography, proposed street alignment, and a wetland map.

Patrick reported that she has hired a geotech engineer to examine her property, as several roads have failed. Lulay reported that the road near her driveway will be almost flat. She inquired as to the drainage plan. It was noted that pipes will go to the bottom of the slope and empty so the slope does not become saturated.

Ritzman noted that this is a project that has been in city's master plan for years.

Penelope Kazcmarek noted that she is happy with the project. She noted that the developers played an important role in preserving the forest. She stated that money was granted to purchase and retain the land for permanent open spaces. She suggested that this is a wonderful opportunity to pool good intentions and move forward with a plan for permanent protection of this forested area. She encouraged the city to submit an open space proposal, and thanked the Council for helping steward Newport's natural resources. She asked Council to form a panel to examine old growth forest issues. The panel could look at the public and ecological value of this area, and review possibilities for the area. She read a letter from Don Andre.

Sharon Lihou applauded the developer listening to the residents. She noted that she sees challenges in that 36<sup>th</sup> Street was constructed to serve as an alternative to 31<sup>st</sup> Street which might not survive another winter. She requested the city communicate street plans to the residents of Lakewood Hills. She read a letter from Beth Perry-Johnston. Bassingthwaite reported that the city plans to update the parks system master plan. Bertuleit inquired as to how to tie in a trail system from the middle and high schools to the ocean.

Nyla Jebousek urged Council to consider the use of conservation easements to protect this area. She questioned the elevation of properties to be developed in regard to possible inundation in a tsunami. It was noted that the bridge is above the tsunami zone. She expressed concern about noise. It was noted that Protiva and Kittel conducted noise measurements on Big Creek Road to determine potential impacts. Obteshka noted that traffic noise varies according to speed, and that information could be obtained from ODOT. Bassingthwaite noted that Council could place limitations on the use of the roadway. Firestone reported that the strictest standard is in residential zones during the nighttime, and it is 50 decibels. Jebousek noted that she would like this to be a part of the plan.

MOTION was made by Sabanskas, seconded by Bertuleit, to approve the development agreement, and authorize the city manager to sign the agreement, and the dedication of certain city-owned property into the right-of-way, with consideration of noise abatement best practices. Bain noted that standard road design includes those things routinely, and that part of the consideration deals with alignment, speed containment, and surface. Kilbride inquired as to whether this is city property or developer property. It was noted that all but a small triangular piece is on city property. There was no further discussion. The motion carried unanimously in a voice vote.

**Ordinance No. 1964 authorizing the city to enforce parking restrictions in parking lots owned or operated by other governmental entities.** Firestone noted that this ordinance would amend the existing municipal code provisions relating to parking by expanding the locations where the city could enforce parking. This provision would add a new section to authorize the city to take enforcement action on publicly-owned parking lots such as Port parking or OCCC parking. It would allow the city to put a parking ticket on vehicles or arrange for towing. MOTION was made by Sabanskas, seconded by Patrick, to read Ordinance No. 1964 by title only, and place for final passage. The motion carried unanimously in a voice vote. O'Neal read the title of Ordinance No. 1964. Voting aye on the adoption of Ordinance No. 1964 were Kilbride, Bertuleit, Patrick, Bain, Sabanskas, Henson, and Obtshka.

**Ordinance No. 1965 granting a franchise and approving a franchise agreement with Central Lincoln PUD.** Firestone reported that this would grant a new franchise to Central Lincoln PUD. The differences are the city's standard approach is a uniform 5% franchise fee, and this ordinance and agreement would continue a 5% franchise for most service, but a ¾% fee which is applicable to industrial and institutional uses. This ordinance clearly limits it to industrial and institutional customers. Another difference is that it is not that easy to implement this type of change, and the changeover is anticipated to occur when Central Lincoln installs a new billing system, but not later than January 1, 2010. MOTION was made by Sabanskas, seconded by Patrick, to read Ordinance No. 1965 by title only, and place for final passage. The motion carried unanimously in a voice vote. O'Neal read the title of Ordinance No. 1965. Voting aye on the adoption of Ordinance No. 1965 were Kilbride, Bertuleit, Patrick, Bain, Sabanskas, Henson, and Obtshka.

**Ordinance No. 1966 limiting the number and duration of garage sales.** Firestone reported that this ordinance would put into the municipal code some provisions that were previously adopted that were not included in the code during the codification process. He reported that Ordinance No. 981 limits residents to two garage sales per year, limited to a couple of days. He noted that the language has changed somewhat, but continues to limit garage sales to two per year, and 48 consecutive hours. If Council wants to adopt a different number of yard sales, they could do that. The limitations are necessary to avoid people engaging in commercial sales under the guise of garage sales. It was noted that enforcement would likely be complaint driven. Obtshka stated that he would like to allow four garage sales per year. Patrick noted that the issue is serial garage sales and signs. O'Neal suggested a more comprehensive presentation with photos and

additional information on serial garage sales. The matter was referred to staff for additional information, and will appear on the agenda of an upcoming City Council meeting.

**Consideration of a request from Melody Ashley for Council initiation of a street vacation of a portion of SW 11<sup>th</sup> Street between SW Angle Street and SW Hatfield Drive.** It was reported that Ms. Ashley left due to illness, but that her intent is to clean up the area. Obteshka, Bertuleit, and Patrick reported site visits. It was noted that the city can initiate the vacation or have the requestor obtain signatures from the two abutting property owners. Firestone noted that ownership promotes care of property. Council concurred to send the matter to staff for discussion regarding whether an encroachment permit or Council initiated vacation is the best way to achieve Ashley's goals. Bassingthwaite reported that Ashley has applied for an encroachment permit, with conditions that specify no fence, no building, and replanting of vegetation. Firestone noted that staff will continue and have dialog with Ms. Ashley. Bassingthwaite noted that the matter may not come back to Council, but rather be handled administratively.

#### **ADJOURNMENT**

Having no further business, the meeting adjourned at 9:04 P.M.

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Margaret M. Hawker, City Recorder

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William D. Bain, Mayor