

April 2, 2012  
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, Beemer, Allen, McConnell, Bertuleit, Roumagoux, Brusselback, and Sawyer were present.

Staff present was City Manager Voetberg, City Recorder Hawker, Community Development Director Tokos, Public Works Director Gross, Finance Director Marshall, Public Works Project Director Jones, Deputy City Engineer Schaecher, and Police Chief Miranda.

### **PLEDGE OF ALLEGIANCE**

The City Council and audience recited the Pledge of Allegiance.

### **PUBLIC COMMENT**

Rex Capri addressed Council regarding the possible ban on single use plastic check-out bags. He asked about the purpose, noting that he saw no logical reason for a possible ban. McConnell noted that a task force has been established to review the issue and make a recommendation to Council. Staff was directed to add Capri to the task force mailing list.

### **WASTEWATER, WATER, AND STORMWATER FEE PRESENTATION AND DISCUSSION**

McConnell noted that a presentation and discussion regarding wastewater, water, and stormwater fees would be held until 7:00 P.M., at which time the public hearing on VRD's would occur.

Gross made a presentation regarding utility rates and needed projects. He addressed the water and wastewater cost expenditure per unit, noting that the average cost of water is \$6.07 per thousand gallons while wastewater is \$7.47 per thousand gallons. He reviewed the infrastructure fee and the revenue collected by virtue of this fee. He discussed capital projects identified by the 2008 Water System Masterplan and additional projects identified by city staff as immediate needs. He also addressed the capital projects identified in the 2011 Water System SCADA Masterplan; the 2011 Agate Beach Wastewater System Plan; and the draft five-year capital improvement plan.

Marshall reviewed the water, wastewater, and stormwater financials.

Allen noted that comparables would be helpful, especially from cities with comparable population and infrastructure costs. Marshall reported that the LOC has published a report with this information. Allen inquired about the timeline to meet with Council and stakeholders on the stormwater utility fee before the budget process

begins. Gross reported that he has met with stakeholders and most agreed that a straight fee for all water users was the most acceptable method. McConnell stated that there needs to be time for public input on the whole proposal to gauge the reaction of citizens. Allen noted that if there is a proposal for the budget, the regular City Council meetings are the best place to vet proposals publicly. Gross stated that it looks like the city needs to set aside 1.5 million dollars yearly in both the water and sewer fund; and that stormwater will be less because it does not require treatment.

## PUBLIC HEARINGS

**Continuation of Public Hearing and Possible Action on Ordinance No. 2032 Regarding Vacation Rental/Bed and Breakfast Requirements.** McConnell opened the continued public hearing at 7:07 P.M. He stated that he had received a letter from Patricia Neal regarding business license and vacation rentals. McConnell asked for public comment.

Bob Berman, a member of the ad hoc committee that advised the Planning Commission on this issue, distributed a letter to Council. He discussed a VRD in his neighborhood, noting that there are continual violations to the existing ordinance, but the city has been unable to enforce the ordinance. He reported that some of the violations include noise, motorcycles, garbage, too many people, and parking. He stated that he does not believe that VRD's are appropriate in the R-1 or R-2 zones. He suggested possible separate restrictions for VRD's in the R-1 and R-2 zoning districts. Berman noted that vacation rental tenants show up on weekends and at nights when there is no way to connect directly with the city. He suggested that the guest register be made available to the Community Development Department staff in addition to emergency personnel.

Stephen Salisbury distributed a letter to Council. He stated that this is not the way to raise money for the city. He stated that the only fair way to regulate VRD's, with the exception of those in commercial or tourist commercial zones, is to require a conditional use permit. He suggested that the CUP should be conditioned on permission of every neighbor within 250 feet, and that the permits should only be valid for two years.

Rex Capri asked whether Salisbury was suggesting requiring a CUP for residential rentals.

Norm Ferber asked what steps could be taken to resolve Berman's issue. Tokos reported that the way this is set up, the operator would be the primary point of contact. He added that the neighbors would receive notice so they know who the primary contact is. Ferber stated that he interviews his clients, and that he is available. He added that his immediate response to a problem is to attempt to call the people in the house. He noted that his next step is to call the police. He stated that to expand the VRD inventory will increase the costs to the city. It was noted that the operator of a VRD is supposed to maintain a complaint log and failure to do so is a violation of the code. Tokos noted that this ordinance contains clear, objective, and enforceable standards to make the code easier to enforce than what exists today. He added that the ramifications of violating the ordinance are progressively more serious within a twelve month period. Tokos also noted that transient room taxes were not a catalyst for the proposed changes, but rather to address an unenforceable code. Allen noted that it is his sense that the issues with the proposed ordinance are focus on allowing VRD's in the R-1 and R-2 zones. Tokos

reported that the proposed ordinance is what was developed by the ad hoc working group and the Planning Commission. Allen asked whether the current standards could be kept in place with a limit on the number of times a VRD is rented in an R-1 or R-2 zone. Tokos noted that it was the predominant view of the Planning Commission and the ad hoc working group that the standards are equally applicable and suitable in all districts. It was noted that there was a lack of a rational finding to justify different standards in certain zoning districts.

Bob Berman stated that there is no way to gather evidence that a VRD was rented more than ten times. He disagreed that it is not possible to have a different set of rules for R-1 and R-2 than other districts. He added that R-1 and R-2 zones are comprised of neighborhoods primarily of full-time or part-time residents, or people who have a real investment in the community. He stated that it is perfectly reasonable for the Council to decide that more severe restrictions should be imposed in R-1 and R-2 zones, or not allow them at all in those neighborhoods.

McConnell closed the public hearing for Council deliberation at 7:25 P.M. Brusselback asked whether notification within a certain area is a requirement so that neighbors know who to call. Tokos reported that this was a recommendation from the Planning Commission. Further discussion ensued regarding the possibility of requiring a CUP for VRD's in R-1 and R-2 zones. Sawyer stated that R-1 residences should be owner occupied or a long-term rental. He added that he likes the idea of a CUP in these zones, as it would allow a good majority of the neighbors to dictate what happens in the neighborhood. He added that it should be more restrictive in R-1 and R-2 districts. Tokos noted that to make the rules stricter would require a Measure 56 notice. A discussion ensued regarding remanding a part of the ordinance, regarding the possible requirement of a CUP for VRD's in R-1 and R-2 districts, back to the Planning Commission. Beemer noted that there has been a lot of testimony for not allowing VRD's in the R-1 and R-2 districts. Allen noted that it would be good to remand this portion to see if the issue could be more fully vetted. Tokos noted that these are all residential tenancy issues that can be dealt with by clear and objective standards. MOTION was made by Allen, seconded by Beemer, to read Ordinance No. 2032, an ordinance amending the City of Newport Zoning Ordinance, to revise the criteria for authorizing vacation rental and bed and breakfast uses within the City of Newport, by title only, and place for final passage, and further to direct the Planning Commission to take a further look at R-1 and R-2 zones for purposes of whether we can impose some additional conditional use standards and criteria for VRD and B&B uses in those particular zones. Allen added that the adoption by title only include language referenced by the Planning Director regarding section 2-4-11.010(b)(1) by adding at the end of the section, language reading, "The exemptions to standards 2-4-11.025 listed herein shall not apply to rentals listed less than ten times in a calendar year. The motion carried unanimously in a voice vote. Voetberg read the title of Ordinance No. 2032. Voting aye on the adoption of Ordinance No. 2032 were Bertuleit, Sawyer, Beemer, Roumagoux, Allen, Brusselback, and McConnell.

## **CONSENT CALENDAR**

The consent calendar consisted of the following items:

- A. Approval of City Council minutes from the work session, executive session, and regular meeting of March 19, 2012, and the special meeting of March 20, 2012;
- B. OLCC application for Pacific Seafood.

Allen made the following changes to the minutes: Paragraph 6. In the Work Session minutes, first line, should read "leadview" rather than "lee.view" page six of the regular session minutes, second line from the bottom of the page should read "repealing and re-enacting. . .;" and the special meeting minutes section on the Oregon Coast Aquarium, should reference "Viewpoints", rather than exhibits on the eighth line, and on the third line from the bottom of that paragraph. MOTION was made by Beemer, seconded by Bertuleit, to approve the consent calendar with the amendments to the minutes as suggested by Allen. The motion carried unanimously in a voice vote.

## PROCLAMATIONS

**Child Abuse Prevention Month.** McConnell proclaimed the month of April 2012 as Child Abuse Prevention Month in the city. Miranda accepted the proclamation.

## OFFICER'S REPORTS

**Mayor's Report.** McConnell appointed Peggy Sabanskas to the Plastic Bag Community Plan Task Force. MOTION was made by Allen, seconded by Beemer, to ratify the Mayor's appointment. The motion carried unanimously in a voice vote.

McConnell reported that he had received a notice of a planning meeting for Beaver Creek which will be held on April 24, from 6:00 - 8:00 P.M.

McConnell reported that he had received a letter from Bill Hall regarding a pilot program for vehicle camping. He noted that this item will appear on the City Council Work Session agenda of April 16.

McConnell reported that he had received a letter of thanks from DLCD for allowing the use of City Hall for its recent meetings.

McConnell reported that Kurt Schrader will hold a round table meeting on April 12, 2012, from 3:30 - 5:00 P.M., at the Courthouse.

McConnell reported that the Oregon Mayor's Association newsletter contained an article on Newport regarding NOAA.

McConnell noted that he had received a list of names from Voetberg for participation in the leadview profile. Allen asked why someone from the Port was not on the list.

**City Manager's Report.** Voetberg reported that Public Works Department staff will hold a public meeting regarding sidewalk improvements on NW 3<sup>rd</sup> and NW 6<sup>th</sup> Streets. The meeting will be held on April 18, 2012, at 6:00 P.M., at City Hall. It was noted that since a quorum of Council will not be attending, that the meeting will not need to be noticed as a Council meeting.

Voetberg reported that there is a note of appreciation in the packet for the work performed by the Public Works Department during the recent storm.

Voetberg reported that he plans to attend the Kurt Schrader round table.

Voetberg reported that there is a capital projects update in the packet.

Voetberg reported that the weekly manager's reports are in the packet.

McConnell asked for an update on Big Creek Road. Gross updated Council.

McConnell asked for an update on the sidewalks under the bridge. Gross reported that the work would not be done before the onset of tourist season.

## PUBLIC HEARINGS

**Public Hearing on Resolution No. 3586 Establishing the Method of Assessment and Spreading of Costs for Project 4-2009 - NE 56<sup>th</sup> Street Sewer LID.** McConnell opened the public hearing at 8:49 P.M. He asked for declarations of conflict of interest or bias. There were none. Gross reported that the issue before Council is to hear public testimony regarding the method of assessment and spreading of costs for Project 4-1990 - NE 56<sup>th</sup> Street Sewer LID, and consider the adoption of Resolution No. 3586 establishing the method of assessment for a Sewer Improvement Project No. 4-2009, and to establish the amount to be assessed to each benefitted property owner as required by the Newport Municipal Code.

McConnell asked for public comment. There was none.

McConnell closed the public hearing for Council deliberation at 8:51 P.M. MOTION was made by Roumagoux, seconded by Brusselback, to adopt Resolution No. 3586 establishing the method of assessment for a Sewer Improvement Project No. 4-2009 - NE 56<sup>th</sup> Street Sewer, and establishing the amount to be assessed to each benefitted property as required by NMC 12.05.045(F). The motion carried unanimously in a voice vote. A discussion ensued regarding whether there is a better process to get all the neighborhoods onto city sewer. Gross noted that the LID process is being revised and will come to a City Council work session for discussion.

## ACTION ITEMS

**Consideration of Resolution No. 3585 Establishing Fees for Vacation Rental Dwellings/Bed and Breakfast Endorsements.** Tokos reported that the issue before Council is consideration of whether it is in the public interest to establish a fee for the review and issuance of vacation rental and bed and breakfast endorsements. Allen asked whether there is a way to reduce fees on both ends. McConnell asked how a fee can be justified for existing VRD's. Tokos noted that none of the existing VRD's has been inspected for health and safety. He noted that the building program is fee supported, and addressed the costs of contracted services being utilized for inspections. Further discussion ensued regarding fees. MOTION was made by Allen, seconded by Beemer, to adopt Resolution No. 3585, establishing fees for the review and issuance of vacation rental and bed and breakfast endorsements with the following changes: deleting the last four words of section 1. - "is \$75 per dwelling unit; and changing the \$150 in section 2. to \$75. The motion carried unanimously in a voice vote.

## COUNCIL REPORTS AND COMMENTS

Roumagoux reported that the Parks and Recreation Committee is working on expanding its committee to help with events, tree city, and other issues. Voetberg reported that an ordinance, expanding this committee, will appear on the agenda of the

next meeting. It was agreed that one member of each sub-committee did not have to be a city resident.

Allen reminded Council about the federal task force that is working with local and state officials regarding wave energy, and that Council had sent a letter in July endorsing Onno Husing as the representative from this area. He noted that Husing has accepted the position of Planning Director for Lincoln County, and there is now a potential opening on this task force. He volunteered to fill the potential opening, if possible. MOTION was made by Roumagoux, seconded by Beemer, to ask the Mayor to send a letter to the Task Force regarding the potential opening on the Federal/State Renewable Energy Task Force. The motion carried unanimously in a voice vote.

Sawyer reported that he had sent an e-mail regarding the stockpile of emergency supplies in Seaside.

McConnell noted that a Town Hall meeting will be held on April 30, 2012, at 7:00 P.M., at the Longview Hills Clubhouse. He added that Council will tour the area beginning at 6:00 P.M.

The entire Council responded affirmatively to the invitation to the volunteer recognition dinner.

### **ADJOURNMENT**

Having no further business, the meeting adjourned at 9:25 P.M.

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Margaret M. Hawker, City Recorder

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Mark McConnell, Mayor