

August 17, 2009  
6:00 P.M.  
Newport, Oregon

The City Council of the City of Newport, Oregon met on the above date in the Council Chambers of the Newport City Hall. On roll call Bain, Bertuleit, Patrick, Brusselback, Kilbride, and Obteshka were present. McConnell participated via telephone.

Staff present: City Manager Voetberg, City Recorder Hawker, City Attorney McCarthy, Community Development Director Tokos, Public Works Director Ritzman, Finance Director Riessbeck, and Police Chief Miranda.

### **PUBLIC COMMENT**

Marcia Williams, representing the Friends of the Oregon Coast Aquatic Park, asked Council if they had questions regarding the aquatic park. Kilbride suggested that FOCAP revisit the amount of service fees they expect to collect. He reported that he had examined the Lincoln City and Astoria revenues, and there is a big discrepancy. He also suggested FOCAP look at its utility costs. He noted that FOCAP has budgeted \$23,500 annually, and Lincoln City has budgeted \$83,000, and Astoria has budgeted \$192,000. He added that this is too big a difference and something is wrong some place. Williams reported that the Astoria pool is almost ten years old, and she would not anticipate that kind of expense until the fourth or fifth year. She stated that the current revisions indicate a profit of \$500,000, \$750,000, and \$1.1 million for years one through three. 1 – 3. Kilbride asked what would happen if the operating projections do not meet expectations. Williams stated that FOCAP has the potential of seeking a commercial loan or line of credit. McConnell asked about the revised admission fees and Williams noted that is proprietary information, but there is a rate for Lincoln County residents and for visitors. She stated that the project will be going forward with or without the city.

Bain reported that Robert Kent had called to express opposition to the gasoline tax.

### **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 August 3, 2009, and special meeting of August 10, 2009, and executive session of August 13, 2009.
- B. Police and Fire Department monthly reports for July 2009.
- C. List of claims paid for July 2009.
- D. Resolution No. 3477 authorizing LOCAP financing agreement.

MOTION was made by Patrick, seconded by Obteshka, to approve the consent calendar with the changes to the minutes as noted at the noon meeting. The motion carried unanimously in a voice vote.

## **COUNCILOR REPORTS AND COMMENTS**

Kilbride reported on an article on PERS that he had read in the LOC Local Focus magazine. He reviewed statistics from the article, and noted that the city could be looking at its PERS contributions doubling. McConnell asked how many city employees are in the PERS program, and Riessbeck reported that there are 20 – 25.

Bertuleit reported on a recent meeting of the Bicycle/Pedestrian Committee. He noted that the group discussed bike route signs, sidewalks in South Beach and Naterlin Drive, and bike racks.

Bertuleit reported on a recent meeting of the Nye Beach Merchants Association. One of the discussion items was kiosks where signs could be posted.

Obteshka reported on a recent meeting of the Lincoln County Sustainability Committee. Issues discussed included the ecological business certification program, waste prevention recycling stations, and a newspaper column on sustainability issues.

Obteshka reported that DEQ will be holding a meeting on August 20 and 21, at the Best Western Agate Beach Inn. There will be a town hall meeting on August 20, from 7 – 9 P.M., where citizens can discuss local issues or programs.

Obteshka reported that there are three events scheduled to honor the Coast Guard. They will occur on August 22, from 11:00 A.M. – 4:00 P.M., at the Yaquina Bay lighthouse; August 23, at 1:00 P.M., at the Pacific Maritime and Heritage Center; and on August 23, at 3:00 P.M., at the Coast Guard station.

Obteshka reported that there had been several very successful fishing weekends, and that the Port might be asking for police volunteers to help with traffic control in the future.

Brusselback reported that he had attended a Water Treatment Task Force meeting, and that Ritzman will give a complete report later in the agenda.

McConnell reviewed the highlights and changes to the marketing grant application that was distributed to Council at the noon meeting. He reported that the Destination Newport Committee had reviewed and approved the document. A discussion ensued regarding final reports, and whether they had been received from all recipients. McConnell suggested that when the DNC forwards recommendations to Council, they appear on the consent calendar with a summary from the DNC. It was agreed to add to 6. in the instructions: “failure to provide a final report to the city shall jeopardize future applications.” MOTION was made by Patrick, seconded by McConnell, to adopt tourism grant fund application, approved by the DNC, and adding to item 6. that the “failure to provide a final report to city shall jeopardize future applications.” The motion carried in a voice vote with Bertuleit voting no. Staff was directed to post the revised version on the city’s website. McConnell will talk with Kate Rowland and Hawker about publicity.

## OFFICER'S REPORTS

**Report of the Mayor.** Bain reported that Council had been invited to attend the ribbon cuttings at the new Oregon Coast Community College facilities.

**Report of the City Manager.** Voetberg recognized the volunteer police force for providing vehicle and pedestrian control during the boat docking at Nye Beach last week.

Voetberg reported that the demolition of the drug house on SW 10<sup>th</sup> will begin Thursday.

Voetberg reported that the Bay Boulevard project is moving forward, and the contractor will begin underground work after Labor Day. He noted that the area will be congested and require patience. Ritzman has sent a newsletter to people on the Bayfront to keep them informed, and a press release will be sent near the start date of the project.

**Report of the City Attorney.** McCarthy updated Council on activities relative to the license agreement with Georgia-Pacific. She stated that with the support of the City Council, she contacted George Ragsdale, attorney for G-P and a member of the city's G-P Task Force, and asked that he and another representative of G-P meet with her and Brusselback, the City Council liaison to the G-P Task Force. She reported that she proposed a mid-September date at the Newport City Hall to discuss the license agreement and attendant issues. Ragsdale responded positively to the invitation and we are waiting to hear back with a firm confirmation. In anticipation of the meeting, the city offered to extend the date of the discontinuance of the south pipeline to September 30. She added that the city manager had received an invitation from Tom Picciano to participate in a meeting at G-P as a member of the G-P Community Advisory Forum, on Thursday, August 27. Bain noted that the Mayor is typically invited to this meeting.

## ACTION ITEMS

**Award of membrane filtration system to Pall Corporation in the amount of \$3,960,000 for the new water treatment plant.** Ritzman explained the request and responded to Council questions. He reported that the rating system is included in the packet. MOTION was made by Brusselback, seconded by Bertuleit, that Council accept a proposal from Pall Corporation for membrane filtration equipment for the new water treatment plant in the amount of \$3,510,000. The motion includes authorization for the city manager to sign a contract with Pall Corporation to provide the membrane filtration equipment, subject to approval of the contract as to form by the city attorney, and subject to no protests being received prior to the end of business on August 18, 2009. The motion carried unanimously in a voice vote.

## PUBLIC COMMENT

Ed Johnston addressed Council regarding civil and constitutional rights. He urged people to visit his website at [www.oregonrackers.com](http://www.oregonrackers.com).

Bain called for a five minute break.

**Public hearing on Construction Manager/General Contractor procurement for the water treatment plant construction.** Ritzman explained that this hearing is to take testimony and determine whether to utilize the Construction Manager/General Contractor procurement method, which is an alternative contracting process under the LCRB Rules, for the design and construction of the new water treatment plant and other water supply facilities. Lynn Iaquina made a PowerPoint presentation that further explained the process and the benefits. She noted that the ORS provides for this process. Ritzman responded to Council questions. McCarthy reported that the process is also provided for under the Newport Municipal Code. Bain opened the public hearing at 7:08 P.M. He called for abstentions, ex parte contact, or objections to the City Council, jointly or individually, participating in the hearing. There were none. Ritzman reported that the revised findings are included in the packet, with one version showing all changes recommended from the previous draft. Obtshka asked whether the Water Task Force would be involved in the selection process. Ritzman reported that they would be involved. Kilbride asked whether the city will ask for more than one construction manager/general contractor. Ritzman reported that proposals will be requested, and then, it is up to the city to make a selection based on criteria. He added that it is not just the lowest bid, as there is no total price at this point. Iaquina reported that the selection is based on the best value approach of quality and price. A selection panel chosen by the city will make the final selection. Ritzman reported that the RFP will be issued soon. McCarthy noted that the selection will have to be ratified by the Council. Bain called for proponents and opponents. Hearing none, he closed the public hearing at 7:15 P.M. for Council deliberation. McConnell asked whether there are any circumstances that may create a difficulty with any particular contractor relative to the site. Ritzman reported that all contractors will be aware of the site. Ritzman also reported that the city can opt out of the construction portion of the contract with a particular contractor and go out for bids. MOTION was made by Patrick, seconded by Bertuleit, to allow the use of the Construction Manager/General Contractor process as set forth in Section 10.105A of the Newport Municipal Code, as an alternative contracting process under the LCRB rules, for the construction of the new water treatment plant and other water supply facilities. She further moved to adopt the "Findings for Exemption from LCRB Rules for the New Water Treatment Plant and Other Water Supply Facilities." Brusselback noted that the CM/GC process is superior to a standard design build because the contractor is involved with the design from the beginning. McCarthy reported that there is an error in the motion in that 10.105A is in the Public Contracting Rules rather than in the Municipal Code. Both the motion maker and second agreed with correction, and the motion carried unanimously in a voice vote.

**Public hearing on the proposed business license surcharge for a Nye Beach Parking District.** Tokos reported that this is the second of three statutorily required public hearings at which Council can take public testimony in support or opposition to the business license surcharge that the Council set at its July 6, 2009 hearing to finance a Commercial Parking District for Nye Beach. He noted that five comment letters had been included in the previous packet, and there are two additional letters in the current packet. He reported that he had received letters, today, from Susan Trombato and the Chowder

Bowl in support of the parking district. Tokos made a PowerPoint presentation regarding Nye Beach and parking districts. He responded to Council questions.

Bain opened the public hearing at 7:40 P.M. and asked for abstentions and ex parte contacts. Obtshka reported that he is a past president of the Nye Beach Merchants Association, and has been active in parking alternatives. Brusselback reported that he has a business license and has been active in the parking issue in Nye Beach. Obtshka reported that he also has a business license and will be obligated to pay under this plan even though he is not currently required to pay. Patrick disclosed that she manages property in area, and had recused herself at the last hearing. She reported that she manages vacation rentals in Nye Beach. Bain asked whether there were objections, jointly or individually, to the City Council hearing this matter. There were no objections.

Bain called for public comment.

Linda Neigebauer stated that she likes the plan, but disagreed with the idea that vacation rentals should not be required to provide parking. She noted that there is usually one customer at a time with a home occupation. She expressed concern with the fee and accountability. She reported that she has heard that one business owes the city more than \$8,000 in payment in lieu of parking fees. She also reported that some businesses do not have business licenses. Kilbride asked whether Neigebauer believes that this issue has been adequately aired at the NMBA meetings and that there are more people in favor of it than opposed to it. She noted that she would not know. A discussion ensued regarding business licenses, existing parking agreements, and collection of delinquent accounts.

Kathy Cleary expressed support for the parking district. She added that accountability is necessary. She noted that she favors the parking district because it is fairer to everyone, and will allow merchants to have a say in district improvements.

Doug Fitts stated that he is hopeful that the parking district will be approved. He added that if someone provides parking, they should not have to kick in more.

Ulrike Bremer stated that she favors the formation of the parking district because it is fair to distribute the costs among all businesses.

Bain called for opponents. Jurgen Eckstein stated that the license fees will be nearly doubled. He asked who determined that there is a shortage of parking in Nye Beach. He added that there is plenty of parking available at the PAC. He asked who would decide what can be done with the monies collected. It was reported that an advisory group would perform this function. A discussion ensued regarding the advisory group.

Linda Neigebauer noted that the rest of the city is required to provide parking.

McConnell suggested that Council not lose sight of the fact that perhaps cars are not the best way to visit Nye Beach.

Wendy Engler reported that there are many ways the monies can be used. One way would be to install a sidewalk from the Elizabeth Street Inn to Don Davis Park. She added that the NMBA approved the parking district concept five years ago. Obtshka noted that this funding could be used for bike racks and lockers and signage.

Bain closed the public hearing at 8:35 P.M. for Council deliberation. McConnell asked whether Tokos anticipates other fee changes, and Tokos reported that he does not at this juncture. McConnell asked how to arrive at a final tabulation on the 33%. Tokos reported that if about 15 businesses were objecting that number would be in the 33% range, and currently, there are approximately five objecting.

MOTION was made by McConnell, seconded by Brusselback, to continue with the process of forming a Nye Beach Commercial Parking District, pursuant to Ordinance No. 1979, with a business license fee surcharges of \$250 per business license where no off-street parking spaces are provided; \$150 per business license where 1 – 3 off-street parking spaces are provided for the business; and \$100 per business license for all others operating in the district, and clarifications recommended by staff, and direct staff to prepare a final ordinance for Council consideration at a public hearing. The motion carried in a voice vote with Patrick voting no. Brusselback asked why Patrick voted no, and she noted that there were various reasons.

**Continued public hearing on the NE 56<sup>th</sup> Street Sewer Local Improvement District.** Ritzman explained that this is the continuation of a public hearing for the formation of a sewer LID on NE 56<sup>th</sup> Street. Bain opened the public hearing at 8:50 P.M., and called for abstentions, ex parte contacts, and objections to the City Council, jointly and individually, participating in the process. There were no objections. Kilbride asked whether the property owners will have to hook up to the sewer when this goes through, and Ritzman reported that they will not if their septic systems are functioning properly. A discussion ensued regarding property owners providing acceptable documentation that their septic systems are functioning properly. Bain closed the public hearing at 8:55 P.M. for Council deliberation. MOTION was made by Bertuleit, seconded by McConnell, to adopt Resolution No. 3478, a resolution of the Newport City Council forming the NE 56<sup>th</sup> Street sewer LID, Project No. 4-2009. The motion carried unanimously in a voice vote.

**Presentation and possible adoption of the City of Newport Addendum to Lincoln County Multi-Jurisdictional Natural Hazards Mitigation Plan.** Matt Spangler, Lincoln County Planner, appeared on behalf of Lincoln County. Tokos explained the need to adopt the proposed resolution, and various components of the plan. Spangler delivered a PowerPoint presentation. MOTION was made by Obteshka, seconded by Patrick, to adopt Resolution No. 3479 the City of Newport addendum to the Lincoln County Multi-Jurisdictional Natural Hazards Mitigation Plan and direct staff to distribute copies of the resolution to the appropriate agencies. The motion carried unanimously in a voice vote.

## ADJOURNMENT

Having no further business, the meeting adjourned at 9:11 P.M.

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Margaret M. Hawker, City Recorder

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William D. Bain, Mayor