

February 17, 2015
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, Allen, Roumagoux, Swanson, Sawyer, Engler, Saelens, and Busby were present.

Staff present was City Manager Nebel, City Recorder Hawker, City Attorney Rich, Community Development Director Tokos, Library Director Smith, Finance Director Murzynsky, Fire Chief Murphy, Public Works Director Gross, and Police Lieutenant Malloy.

PLEDGE OF ALLEGIANCE

Council, staff, and the audience participated in the Pledge of Allegiance.

PROCLAMATIONS, PRESENTATIONS, AND SPECIAL RECOGNITIONS

Presentation from Oregon State Library to the Newport Public Library for its Outstanding Children's Summer Reading Program. Hawker introduced the agenda item. Katie Anderson announced that the Library received the Ready to Read grant. Rebecca Cohen accepted an award from the Oregon State Library recognizing the Newport Public Library for its Children's Summer Reading Program.

Police Officer Oath of Office. Hawker administered the oath of office to Lindsey Litchfield, the city's newly-hired police officer. Her dad pinned the badge.

CONSENT CALENDAR

The consent calendar consisted of the following:

- A. Approval of City Council minutes from the joint City Council and Planning Commission work session of January 12, 2015; special meeting, executive session, and regular meeting of February 2, 2015;
- B. Approval of a recommendation to the Oregon Liquor Control Commission to grant a limited on-premises sales license for a new liquor outlet for Flashbacks Fountain and Grill;
- C. Approval of a recommendation to the Oregon Liquor Control Commission to grant a full on-premise sale liquor license for an increase in privileges for Green Gables Bed and Breakfast and Italian Café;
- D. Confirmation of the Mayor's appointments to:
 1. Destination Newport Committee of David Heater for a term expiring December 31, 2015;
 2. Airport Committee of Gary Baker for a term expiring December 31, 2015.

MOTION was made by Sawyer, seconded by Swanson, to approve the consent calendar with the changes to the minutes as noted by Allen. The motion carried unanimously in a voice vote.

PUBLIC HEARING

Public Hearing to Consider a Petition to Vacate Portions of NW 17th and NW 18th Streets. Hawker introduced the agenda item. Nebel reported that on January 26, 2015, the Planning Commission held a public hearing to consider a petition requesting the vacation of portions of NW 17th and NW 18th Streets which was submitted by Rex and Theresa Capri. He stated that Mr. and Mrs. Capri applied to vacate one half of the right-of-way of 17th Street adjacent to Lots 16,17, and 18, in Block 8, of the Beach Park Addition, as well as one half of a 60-foot right-of-way on NW 18th Street adjacent to Lot 7, Block 8, of the Beach Park Addition. He added that the vacation, if approved, would narrow the right-of-way width in these locations, adjacent to the Capri's property, to 30 feet. He noted that Mr. Capri stated the purpose for the vacation would be to help preserve the area which consists of wooded canyons. He stated that Mr. Capri emphasized the challenges the city would have in building a full width street within the existing right-of-way due to topography. Nebel reported that the question in front of the Planning Commission was whether the public interest is best served by maintaining the right-of-way in its present condition or vacating the right-of-way and turning the land over to the adjacent property owner. He stated that in reviewing this request, the Planning Commission expressed concerns about conducting a partial vacation; the impact that it would have on existing utilities that are located in this area; and whether such vacation would impede emergency access by preventing future expansion or extension of the existing streets. He added that it appears that the gravel roadways would continue to remain on the 30-foot section of right-of-way that would be retained by the city in front of the Capri's property if the right-of-way is vacated. He noted that it does not appear that a survey has been performed to identify exactly where the new right-of-way line would be in relation to the existing roads and utilities. He stated that the Capri's were the only party that testified at the hearing, and that the Planning Commission focused on whether it was in the public interest for the Planning Commission to recommend that this vacation go forward. He added that based on the Commission's evaluation of the requested vacation, it voted unanimously to recommend that the City Council deny the request for a partial street vacation as outlined in file no. 2-SV-14.

At 6:15 P.M., Roumagoux stated that the public hearing before the Newport City Council was open to consider a petition by Rex and Theresa Capri requesting that portions of NW 17TH Street and NW 18th Street be vacated adjacent to property that they own (File No. 1-UGB-14).

Roumagoux asked whether any Council members need to disclose any conflicts of interest, bias, ex-parte contacts, or site visits. Allen reported that he had driven by the site. Sawyer reported that he had also driven by the site and exited his vehicle for a look at the property. Engler reported that she had driven by and walked around.

Roumagoux asked whether anyone in the audience objected to any Councilor, or the Council as a whole, hearing this matter. There was no objection.

Roumagoux reported that Oregon land use law requires that several items be read into the record at the beginning of each and every public hearing. She read the following

land use statement for the record: “The applicable substantive criteria upon which the petition will be decided are found in Chapter 271 of the Oregon Revised Statutes. Those standards include a requirement that (a) consent is obtained from the owners of “two-thirds” of the land within a notification area that extends 200-feet to either side of the right-of-way being vacated, and a distance of 400-feet from the terminal ends of the right-of-way being vacated; (b) that notice of the vacation proceedings has been duly given; and (c) whether the public interest will be prejudiced by the vacation of such plat or street or parts thereof (ORS 271.120). Further, abutting property owners must consent to the street vacation and approval is required from the Port Commission when the right-of-way is located within 5,000 feet of the Port’s harbor or pierhead line (ORS 271.190). All testimony, arguments, and evidence presented must be directed toward these criteria or other criteria in the Newport Comprehensive Plan or Newport Municipal Code which the speaker believes to apply to the decision.

The failure of anyone to raise an issue accompanied by statements or evidence sufficient to afford the Council and the parties an opportunity to respond to the issue will preclude appeal to the Land Use Board of Appeals (LUBA) based on that issue.

An issue which may be the basis for an appeal to LUBA shall be raised not later than the close of the record at or following this evidentiary hearing. Such issues shall be raised and accompanied by statements or evidence sufficient to afford the city decision makers and the parties an adequate opportunity to respond to each issue.

The failure of the petitioner to raise constitutional or other issues relating to proposed conditions of approval, if any, with sufficient specificity to allow the city to respond to the issue precludes an action for damages in circuit court.

The Council may, at the request of a participant or on its own accord, continue the hearing to a date certain to provide an opportunity for persons to present and rebut new evidence, arguments or testimony related to the approval criteria.”

Roumagoux reviewed the order of the proceedings as follows: “Staff and the petitioner will be allocated up to 20 minutes each for presentations. The petitioner will also receive up to ten minutes for final rebuttal. All others wishing to testify will be given three minutes each. The order of the testimony is as follows: staff report(s) summarized for the record; communications received, entered into the record; and all who wish to speak have filled out a speaker card.

Roumagoux reported that the petitioner and others may speak as follows: spoken or written testimony received; state your name and address for the record; and provide copies of written testimony.

Roumagoux reported that those opposed may speak as follows: spoken or written testimony received; state your name and address for the record; provide copies of written testimony.

Roumagoux reported that the petitioner may offer rebuttal testimony, followed by further questions from the City Council. She added that if a request is made for an open record or continuance, the schedule must be established.

Roumagoux reported that the city is only required to hold the record open beyond the hearing date if new evidence is presented at the hearing and the parties did not have sufficient time to provide their responses to that new evidence. She stated that if the petitioner or members of the public submit new evidence at the hearing, and the petitioner or public requests that the record be left open to allow them to respond to the evidence, then the following schedule can be used: close the oral testimony portion of

the hearing; deadline for submittal of additional written evidence, argument, or testimony: 5:00 P.M., Tuesday, February 24, 2015 (Documents must be received by the Planning Office, not post marked); deadline for responses to new evidence: 5:00 P.M. Tuesday, March 3, 2015; petitioner's final argument, unless waived, due: 5:00 P.M. Tuesday, March 10, 2015; set March 16, 2015 at 6:00 P.M. in the Council Chambers as the time and place for deliberation and a decision; motion is discussed and amended, if necessary, to extend the timeline; and vote.

Tokos reported that the applicable criteria, as set forth in ORS 271.120, are: whether the consent of the owners of the requisite area has been obtained; whether notice has been duly given; and whether the public interest will be prejudiced by the vacation of such plat or street; and under ORS 271.190. No vacation of all or part of a street, alley, common or public place shall take place under ORS 271.180 unless the consent of the persons owning the property immediately adjoining that part of the street or alley to be vacated is obtained thereto in writing and filed with the auditor or clerk of the city or town. No vacation shall be made of any street, alley, public place of part thereof, if within 5,000 feet of the harbor or pierhead line of the port, unless the port commission, or other bodies having jurisdiction over docks and wharves in the port district involved, approves the proposed vacation in writing.

Tokos presented the staff report. He reported that petitioners Rex and Theresa Capri have requested that the city vacate a 30-foot by 120-foot portion of the NW 17th Street right-of-way and a 30-foot by 40-foot portion of the NW 18th Street right-of-way adjacent to property that they own to increase the size of their property by approximately 4,800 square feet. He stated that this would reduce the street rights-of-way at these locations from 60-feet to 30-feet. He noted that the Capri's property abutting the rights-of-way is identified as Tax Lot 7901, Assessor's Map 11-11-05-BA (Lots 7, 16, 17, and 18, Block 8, Beach Park Addition to Newport Oregon), and that the property is undeveloped and zoned R-1/"Low Density Single-Family Residential."

Tokos reported that the city maintains gravel streets and public water and sanitary sewer lines in both of the affected rights-of-way, and that private utilities located within the rights-of-way include natural gas, electricity, and telephone. He stated that the city owns property immediately east of the Capri's parcel, between that site and commercial property further to the east adjacent to Highway 101. He noted that the city's property, and the Capri's property, contains a steeply sloped, vegetated drainage that flows east to west between the two streets. He added that the Capri's have staked out what they understand to be the perimeter of the area proposed to be vacated, and also called in utility locates to identify the approximate location of underground utilities. He stated that no survey information has been provided, so the exact location of the rights-of-way relative to existing streets and utilities is not known.

Tokos reported that the ORS, Chapter 271, contains the standards that local governments must use to evaluate petitions to vacate public street rights-of-way. He added that those standards include requirements that: consent is obtained from the owners of "two-thirds" of the land within a notification area that extends 200-feet to either side of the right-of-way being vacated, and a distance of 400-feet from the terminal ends of the right-of-way being vacated; that notice of the vacation proceedings has been duly given; and whether the public interest will be prejudiced by the vacation of such plat or street or parts thereof. He noted that the question is whether or not the public interest will be prejudiced if the rights-of-way are vacated.

Tokos reported that the Capri's, in their written narrative, argue that the public interest will not be prejudiced by the partial street vacations because the terrain in the area will not allow the streets to be developed to a 60-foot width. He stated that the Capri's also appear to assert that it is in the public interest that the canyon situated between the two rights-of-way be preserved and that vacating the rights-of-way to enlarge their undeveloped property furthers that objective. He noted that at the Planning Commission hearing, the Capri's submitted testimony confirming their belief that topography in the R-1 zone supports the vacation; that utilities within the roadbed are well outside the area proposed to be vacated (except for overhead utility lines along NW 18th Street); and that the city will gain property tax revenue by adding land to the tax base.

Tokos reported that City Engineer Gross submitted a letter in opposition to the proposed street vacation in which he notes that the city has water and sewer infrastructure in both of the street rights-of-way and that the full 60-feet of right-of-way width is needed to maintain the utilities. He added that Gross reports that private utilities, including natural gas, electric, and phone services are also situated within the rights-of-way. He stated that Gross indicates that it is possible that NW 17th Street may be extended in the future to intersect with NW Grove Street, providing access to adjoining undeveloped properties. He noted that should NW 17th Street be extended to NW Grove Street in the future, it would create a looped street system that is desirable for the convenience of area residents and public safety providers. He stated that Fire Chief Murphy submitted two letters after the Planning Commission hearing in which he indicates that he is opposed to the street vacation petition because vacating the right-of-way could potentially restrict emergency vehicle access to the area.

Tokos reported that rights-of-way reserved for future uses, such as street expansions or new utilities, need to be wide enough to afford service providers some flexibility in addressing localized constraints such as terrain and mature foliage without having to incur the expense of acquiring easements from neighboring property owners. He stated that since Gross is a licensed engineer, who is responsible for maintaining and enhancing the city's street and utility services, his opinion regarding the amount of right-of-way needed can be accepted as expert testimony. He added that the city has adopted a Transportation System Plan establishing 50-feet as the minimum right-of-way width for a residential local streets, and that this petition would reduce the right-of-way width to 30-feet, which is well below this standard.

Tokos reported that after conducting a public hearing, the Planning Commission concluded that vacating the rights-of-way would be prejudicial to the public interest for the reasons noted. He added that the Planning Commission felt that "as-is" the rights-of-way were not impeding the Capri's use of their property and that they could continue with their intended use to park vehicles and plant landscaping within the right-of-way. He noted that the Commission also felt that vacating the right-of-way would potentially impede emergency access, or improvements to such access, which would be irresponsible. He stated that finally, the Commission pointed out that even if the right-of-way were to be vacated, utility easements would have to be reserved over the vacated area, meaning the petitioners wouldn't be able to use the property in a manner that is any different than how they are using the existing right-of-way, so they didn't see how the public interest is served in vacating the right-of-way.

Tokos reported that no ordinance has been prepared, and if Council wishes to approve the vacation, it should direct staff to prepare an ordinance.

Allen noted that Gross had mentioned a future potential road in this location, and he asked for a timeline in which the road might be constructed. Gross reported that it is feasible that 17th Street could be extended at any time, but noted that 18th Street is different. He added that the road construction would be developer driven. Allen asked Murphy whether at this point in time, given the road configuration, there is adequate fire service at this location, and Murphy noted that fire service is marginally adequate. He added that 17th Street is rather narrow and not straight, and that there is not a good turnaround, so the only way to get the trucks out is to back them out. He noted that a through street would be beneficial. Busby asked whether it is possible for the Capri's to get an encroachment permit. Tokos noted that an encroachment is a possibility, but that they are generally used for fences and retaining walls. He stated that the city is striving for the street standards defined in the TSP. Engler asked whether this property could be used for housing, and Tokos responded that there is an inventory of properties that might be suitable for workforce housing, but that there is no specific use intended for this property at this time.

Roumagoux called for public comment.

Rex Capri, representing himself and his wife, spoke in favor of the vacation, noting that his application met the city's nine requirements for a street vacation. He stated that it is his understanding from the Community Development Department staff that the real sticking point is on number 6 regarding whether the interest of the public is prejudiced. He requested clarification of the definition of "public interest would be prejudiced." He stated that it is his understanding that any time there is a street vacation, the public interest would be prejudiced because the street goes to the property owner. He asked whether there would ever be a time when the public interest is not prejudiced in a street vacation. Tokos noted that the public interest is typically not prejudiced if there is no need for that right-of-way at any point in time. He added that if the right-of-way is currently being used for utilities and streets that this would be a red flag. He noted that if it is needed for a street or a utility in future, this would be another red flag. Allen suggested that the city could always reserve an easement. He asked whether there is a way to vacate the property and reserve easements, noting that the statutes talk about vacating with appropriate reservations. Gross noted that if the limitations on the easement are same as on the right-of-way, the restrictions are essentially the same.

Capri reported that Tokos stated that he (Capri) and his wife were arguing that the right-of-way could not be developed to a full 60 feet, but that it could be, but at a great cost due to the topography and other reasons. He stated that the water all comes out on his property, and the sand washed down and filled everything in, and this area became a swamp. He added that he bought the property with the idea of possibly using the right-of-way. He stated that to adequately fix the property, it would be necessary to dig out all of Grove Street from 16th Street to his property. He noted that no structures could be put in that area because of the water. He stated that 16th Street has a 30-foot right-of-way, and has houses and businesses on both sides and the street seems adequate. He added that Grove Street going north from 16th Street has developable lots. He reported that the owners signed a consent form to vacate the right-of-way. Capri asked Council to consider the consent of two-thirds of the people in the area which took two and one half months to obtain. He added that this is just under 70 percent. He noted that city staff

does not know when the property might be used in the future. He stated that there are many smaller streets that do not have a 60-foot right-of-way for emergency access. He asked whether all the houses on those smaller streets are unprotected by the Fire Department. He added that he is not asking to close streets, but rather for a partial street vacation which would leave 30 feet which would still allow a street to be constructed there. Capri suggested that Council look at whether it is in the interest of the city to keep these properties. He asked Council to think about whether the public interest would be prejudiced, or whether the city is holding onto something with no idea whether it would ever develop.

Swanson noted that in reading the Planning Commission minutes, it was mentioned that Capri was interested in planting trees and berries, and possibly constructing a shed. She asked why Capri would need the vacation since he already has the land. Capri reported that the property drops steeply into a canyon. Tokos noted that there is a ten-foot setback unless a slope variance is obtained. Capri reported that a ten-foot setback would be in unbuildable territory. Swanson noted that Capri had indicated that 12 feet is all that is necessary for fire trucks. Murphy responded that 12 feet is needed to get a truck in, but not to turn it around. He added that the Fire Code requires a minimum of 20 feet with no parking on either side. Gross reported that Murphy needs 97 feet in which to turn the biggest fire truck around.

Allen referenced the City Council packet which noted that Capri mentioned creating additional parking spaces on the vacated property. Capri reported that he planned to create two additional parking spaces in the dirt and gravel, and possibly construct a parking structure - either a carport or garage. Capri noted that he also planned to grow fruit trees which could be planted soon. A discussion ensued regarding the possible construction of a tree house, and whether this might be constructed in a tree on the vacated property. Allen asked Capri whether all these items are things that he wants for the benefit of property as he currently owns it, or to a successor, if sold. Capri confirmed that the most important consideration is for the property now as he is not worried about a future sale. Allen asked Capri for his position if the vacation does not proceed due to public safety concerns, and given what he wants to do with two properties, whether he would consider an encroachment permit which would allow him to do some of these improvements if the city gave a date certain as to when the city would definitely not need this property. Capri stated that an encroachment permit was a possibility, but that he would be reluctant to invest in a building. Allen noted that the two graveled parking spaces, the tree house, trees, and berries would be an expense but would benefit Capri as the property owner. Allen asked Rich whether an encroachment permit is doable, pursuant to the Municipal Code, based on Capri's initial position, and what he needs and wants. Rich noted that it is doable, but that the City Council needs to deal with the vacation issue first. A discussion ensued regarding time limitations on encroachment permits, and it was noted that most are for an undetermined period of time, and that the permits are handled administratively by the Community Development Department. Saelens noted that there are lots of streets that do not go through, and that it is frustrating that, as the city grows, to not imagine that some of the streets will not be improved.

Busby stated that he supports the vacation over the encroachment because he does not think that, in the foreseeable future - 15 - 30 years, the land will require a 60-foot street. He added that the city would also be collecting some taxes. He noted that he

would rather grant Capri what he is asking for rather than go the other way. He stated that Council has an obligation to protect the public interest, and an obligation to accommodate our citizens.

Capri reviewed access on 16th, 17th, and 18th Streets, and potential connections. He stated that 17th and 18th Streets will never be connected. Gross reported that the discussion about the street extension is moot as there are utilities in the right-of-way. He added that Capri's drawings are inaccurate. He stated that it is not possible to vacate half of a right-of-way and operate a sanitary sewer. He added that there need to be provisions for providing public infrastructure, as the public right-of-way is meant for utilities as well as roadway. Gross reported that the city is upgrading gravel streets in an attempt to fix problematic roads. He added that if the right-of-way is vacated, the city will have vacated public right-of-way that contains infrastructure. Engler noted that one benefit of the request is to preserve the canyon, and that Capri stated that it is not economically viable to make it buildable. Rich noted that if there is a condition that creates liabilities, that liability would not be eliminated by vacating the property. Engler added that this property could become part of the community forest system. She stated that if the property fell into the hands of someone who wanted to cut down the big trees, the city would lose control of the canyon, and it could be cut and filled. Allen stated that Capri's input was needed on the encroachment issue before the public hearing is closed. Nebel reported that in Capri's original letter to the Planning Commission, he stated that the purpose of the vacation request was to help preserve the area as it is. Capri was asked whether his solicitation of support from the neighborhood mentioned the greenhouse, garage, trees, etc. Capri stated that he let the neighbors know about the parking and tree swings, and that he did inform them that he was not going to fill the canyon. Nebel noted that with a right-of-way vacation, the City Council has to determine whether the vacation is in the best interest of the public. He added that in this case, the property owners will benefit by getting additional property from the city at no cost, but that Council must determine whether the public interest is being prejudiced. Capri stated that the word "prejudice" was not included in the final decision of the Planning Commission. Tokos noted that parking in the right-of-way, planting trees, and installing swings would not require an encroachment permit. He added that construction of a carport or retaining wall would require an encroachment permit, and that construction of a treehouse may not be covered by an encroachment permit depending on how extensive it is.

Roumagoux closed the public hearing for Council deliberation at 7:26 P.M.

Allen stated that he is undecided on the vacation issue, but feels that there might be a way with an encroachment permit or agreement that might give Capri what he needs right now.

Busby stated that the utilities are there and access has to be guaranteed through easements. He added that the vacation would provide the city with additional revenue, and noted that he does not believe that the property will be developed by anyone in the near future. He stated that the city has an obligation to provide citizens what they request unless it is detrimental to the city. He added if the city needed the land back, there are means to make that happen.

Allen stated that the fire safety issue has more near term viability, as there may be adequate fire service now, but it could be better if the street was reconfigured. He added that it is the potential of improving the road that Murphy is focusing.

Roumagoux asked how the city would access utilities if there was a structure on the property. Gross noted that there could be easements, but if necessary, the encroachment would be removed by the city. Gross recommended not losing the space needed to maintain utilities.

Saelens stated that he does not have a complete understanding of what the vacation might mean, and asked whether Council was ready to vote on the issue tonight.

Swanson stated that the problem she sees is that the vacation benefits one person on a block, and it is designed to enhance one person's property. Allen noted that he understands Swanson's position, but the focus has to be on whether the public interest will be prejudiced. Swanson noted that in listening to Gross and Tokos, she believes that the public interest would be prejudiced if the vacation was approved.

Engler stated that she appreciates all the work Capri has done, but in terms of the vacation, she is concerned about green spaces. She added that she thinks canyons are a fantastic resource for the city and the Tree City USA designation, and is concerned that if the property falls into the wrong hands, the trees could be cut and the canyon filled. She stated that she is not comfortable granting the vacation. Busby noted that there could be a non-development stipulation attached to the vacation.

Sawyer reported that the bigger problem is how this vacation would impact the public in the future. He added that he has reservations about the vacation.

MOTION was made by Swanson, seconded by Engler, to accept the Planning Commission's recommendation and deny the petition for the vacation of the northern 30-foot wide portion of NW 17th Street abutting lots 16, 17, and 18, Block 8, Beach Park Addition and the southern 30-foot wide portion of the NW 18th Street abutting lot 7, Block 8, Beach Park Addition since the public's interest is not served by vacating this public right-of-way and conveying it to the neighboring property owner. Allen stated that his decision will be a close call, but that he will vote in support of the motion and would like to bring up encroachment issue. The motion carried in a voice vote with Busby voting no.

Allen stated that he would like to discuss the encroachment permit. He suggested directing staff to work out parameters with Capri for an encroachment permit that would achieve Capri's goals and protect the city's interest. Sawyer stated that he would rather have Capri start the process with Tokos. Nebel noted that staff would be happy to discuss an agreement with Capri and bring a report back to Council.

Public Hearing and Possible Adoption of Ordinance No. 2076 Amending the Housing Element of the Newport Comprehensive Plan.

Hawker introduced the agenda item. Nebel reported that on January 26, the Planning Commission voted unanimously to recommend the adoption of changes to the housing element of the Newport Comprehensive Plan to add policy and implementation strategies that the city can pursue to assist Oregon State University and others interested in developing multi-family housing. He stated that the modification reflects the recommendations included in a report funded with the \$7,500 grant secured by the city in conjunction with a contribution from Lincoln County for the same amount of money to fund a combined planning effort to evaluate the impacts that additional students and faculty would have on the existing rental housing inventory. He added that the recommendation addresses issues ranging from having a sufficient inventory of appropriately zoned land available for multi-family development; consideration of various incentives to promote multi-family

development within the city; and review of various incentive programs such as tax exemption or leveraging community block grant funds to help facilitate this type of development with the community.

Nebel reported that this is a good proactive measure that was initiated jointly by the city and county in order to address steps necessary for the community to accommodate the proposed development of a 100,000 square foot research education building that would accommodate 450 additional students along with 40 to 60 new faculty members and staff.

At 7:45 P.M., Roumagoux stated that the public hearing before the Newport City Council was open to consider the possible adoption of Ordinance No. 2076 amending the Housing Element of the Newport Comprehensive Plan.

Roumagoux asked whether any Council members need to disclose any conflicts of interest, bias, or ex-parte contacts. There were none.

Roumagoux reviewed the order of the proceedings.

Tokos presented the staff report. He reported that Oregon State University is constructing a 100,000 square foot research education building as part of its initiative to expand the Hatfield Marine Science Center campus to accommodate 450 additional students, along with 40 to 60 new faculty members and staff. He stated that the first phase of the expansion is estimated to cost approximately \$50 million, and that OSU has secured about half of the needed funding. He added that construction is anticipated to begin in 2017 and will be completed in 2018.

Tokos reported that current vacancy rates for rental units in Newport fluctuate between two and three percent. He stated that the City has a deficit of nearly 500 affordable housing units for households that earn less than \$25,000 and more than one-third of its households cannot afford a two-bedroom apartment at HUD's fair market rent level of \$759.

Tokos reported that recognizing the need to get ahead of the planned expansion to ensure adequate housing will be available to meet the anticipated demand, the city secured this \$7,500 grant and, in partnership with Lincoln County, contributed \$7,500 to fund a planning effort to evaluate the impacts additional students and faculty will have on the city's existing rental housing inventory; review the city's buildable lands inventory and housing policies; identify lands suitable for student housing; research public/private partnerships and incentives available to address student housing needs; and prepare policies and strategies that can be pursued to promote the realization of additional multi-family development, including student housing.

Tokos reported that a stakeholder group was formed to guide the planning process, and that it included representatives from OSU, the OCCC, the DLCDC, staff from local governments in Lincoln County, and individuals with direct experience in real property development and rental housing management. He stated that ECONorthwest was hired to assist the stakeholder group, which met three times from late October through mid-November. He noted that this effort culminated in a report, by ECONorthwest, containing findings and recommendations that confirmed there is adequate land in Newport upon which student housing can be constructed to meet the anticipated demand; identified strategies that OSU can take to ensure that student housing is developed to support the HMSC expansion; and outlined policies and strategies the city should pursue to support the development of student and multi-family housing. He stated that the report is titled, "Newport Student Housing: Expansion of the Hatfield Marine Science Center, dated November 2014.

Tokos reported that on December 1, 2014, the City Council adopted Resolution No. 3700, a resolution accepting the analysis and recommendations of ECONorthwest report. He added that the resolution directed the Planning Commission to evaluate the policy and implementation measures identified in the report and provide a recommendation for how they might be incorporated into the City of Newport's Comprehensive Plan.

Tokos reported that the ECONorthwest report calls for the city to encourage development of multi-family housing, including student housing, throughout the city in areas that allow multi-family development. He stated that this is to be accomplished by evaluating opportunities to incentivize such development through use of a multiple unit tax exemption, or by leveraging Community Development Block Grant Funds. He added that the report identifies a need for the city to work with individuals owning property in the vicinity of, and including the Wilder development, and the ODOT to ensure that an adequate amount of appropriately zoned land is available for multi-family development.

Allen asked why the document contains mandatory language when discretionary language would be sufficient. Rich noted that if the intent is there, it provides context. After a brief discussion, it was agreed that the goals would remain the same, but the mandatory language of "will" will be replaced by the discretionary wording of "may endeavor."

Roumagoux called for public comment. There was none. She closed the public hearing for Council deliberation at 7:55 P.M.

MOTION was made by Allen, seconded by Swanson, to read ordinance 2076, an ordinance amending the housing element of the Newport Comprehensive Plan, as amended this evening with the word endeavor inserted in those three places, by title only, and place for final passage. The motion carried unanimously in a voice vote. Hawker read the title of Ordinance No. 2076. Voting aye on the adoption of Ordinance No. 2076 were Allen, Sawyer, Engler, Saelens, Busby, Swanson, and Roumagoux.

Public Hearing and Possible Adoption of Resolution No. 3704 - a Supplemental Budget for Fiscal Year 2014/2015. Hawker introduced the agenda item. Nebel reported that at the February 2 City Council meeting, a six-month financial report was provided to the Council showing various revenues and expenditures that have occurred between July 1 and December 31 of 2014. He noted that, as he indicated at that time, Murzynsky was developing a supplemental budget to make several adjustments to the budget based on activity occurring during the first sixth months of the fiscal year and to address issues that were not contemplated at the time of the budget. He stated that one significant change is the creation of a City Attorney cost center to reflect the fact that the City Council has hired an in-house attorney instead of contracting out all legal services. He added that in order to make this budget adjustment, individual legal services line items are being consolidated from a number of budgets to create a city attorney department budget. He noted that these changes end up being a wash within each of the funds. He stated that the way costs for activities outside the General Fund will be handled by the City Attorney will be through estimated charges for services from that fund the General Fund to cover City Attorney time. He noted that in several line items, there remain contracted attorney services where Speer Hoyt is being utilized yet in this fiscal year. He noted that these changes simply shift already appropriated funds from individual department line items to a City Attorney departmental cost center without increasing the overall budget in any of the affected funds.

Nebel reported that there are several other actions recommended in the supplemental budget including transferring \$75,000 from contingency to material and services for the work authorized by the City Council for the emergency sewer repairs conducted on Highway 101 and NW 15th Street. He added that 175,000 remains in the contingency line item in wastewater, and that it is recommended that \$5,000 be shifted from police personnel services to police personnel and services for the purchase of body cameras for department personnel.

Nebel reported that there is a shift of \$100,000 from the SE Ferry Slip Road improvement project to the SW 35th and Highway 101 street improvement project to address ODOT's desire to move up preliminary work regarding the SE 35th Street and Highway 101 project for engineering costs.

Nebel reported that a final amendment addresses issues that became apparent after the Siletz intake station was shut down at the end of the season. He added that the city reservoirs contain sufficient water during the winter and spring to keep up with the demand for drinking water within the city. He stated that for the balance of the year, the city pumps water from the Siletz River into the reservoirs to supplement the natural flow of water in order to meet the water demands. He noted that this summer, one of the pumps began experiencing extreme vibration and was taken out of service, and at the end of the pumping season, a second pump was observed to have vibration problems, so the pumps were examined after they were shut down at the end of the season. He stated that since there have been two pump failures this season, it is Gross' recommendation that, prior to the required time to begin pumping from the Siletz, that all three pumps be rebuilt including new propellers and bowl wear rings. He added that based on a worst case scenario, new valves would need to be purchased in addition to the pump work for a total cost of \$120,000 to complete this rebuild. He noted that \$175,000 was budgeted in contingency for the Water Fund in fiscal year 2014/2015, and that he believes it is important to address these issues at this time based on the critical nature of having efficiently operating pumps at the Siletz intake station during the summer season.

Roumagoux opened the public hearing at 8:03 P.M. She called for public comment. There as none. She closed the public hearing for Council deliberation at 8:04 P.M.

MOTION was made by Swanson, seconded by Allen, to adopt Resolution No. 3704, with attachment A, a resolution adopting a supplemental budget for the fiscal year 2014/2015 and making appropriations and changes. The motion carried unanimously in a voice vote.

LOCAL CONTRACT REVIEW BOARD

The City Council, acting as the Local Contract Review Board, convened at 8:05 P.M.

Authorization to Purchase Three Vertical Turbine High Service Pumps and Three Check Valves for the Siletz River Raw Water Intake Station. Hawker introduced the agenda item. Nebel reported that as discussed earlier, staff is recommending replacement of three vertical turbine high service pumps and three check valves for the Siletz raw water intake station. He stated that quotes were solicited to have the pumps rebuilt, and based on the cost of rebuilding the pumps versus replacing the pumps, it is recommended that staff proceed with replacing the pumps for \$87,681, versus \$80,000

as a complete rebuild is needed including the propeller and bowl wear rings. He noted that staff would also recommend that Council authorize the replacement of valves if needed. He added that if all three valves cannot be repaired, then the cost to replace three valves would be \$28,824, and this would be the worst case scenario.

MOTION was made by Busby, seconded by Allen, to authorize staff to purchase three Fairbanks 12M 7-Stage Vertical Turbine Service Pumps from Granich Engineered Products, Inc. of Seattle, Washington in the amount of \$87,681.00. The motion carried unanimously in a voice vote.

MOTION was made by Busby, seconded by Allen, to authorize staff to purchase three APOC Slanting Disc Check Valves from Bay Valve Service in the amount of \$28,824. The motion carried unanimously in a voice vote.

RETURN TO CITY COUNCIL MEETING

The City Council returned to its regular meeting at 8:07 P.M.

REPORT FROM MAYOR AND COUNCILORS

Roumagoux had no report after having inadvertently left her written report with Senator Merkley.

Sawyer reported that he attended a recent meeting of the Destination Newport Committee at which the Committee interviewed several applicants for the vacant retail position. He added that the Committee endorsed David Heater for a Mayoral appointment to the Committee. He noted that the general manager of Ripley's flew into Newport on the corporate jet today. He added that there was a report from Lorna Davis regarding the Seafood and Wine Festival tent.

Sawyer reported that he served on the Leadership Lincoln panel on economic development for lower income families.

Sawyer reported that he attended a FEMA training for senior officials on all hazards event preparedness. He reviewed the session contents.

Sawyer reported the passing of Howdy Edelman, a long-time developer in the community. He noted that Edelman built the Belle of Newport and the waterwheel on the Bayfront.

Saelens reported that he attended the last aquatic center advisory group meeting earlier today. He noted that the plans look good and are consistent with the established goals. It was noted that Gross will be providing an update at the March 2 City Council meeting.

Swanson reported that she attended the ad hoc Sister City meeting at which the group discussed a potential student exchange in each country. She stated that the chair is communicating with representatives from Mombetsu.

Swanson reported that she attended Leadership Lincoln, the City Center Newport Association meeting, and the Town Hall meeting with Senators Merkley and Schrader earlier today.

Busby reported that he attended the memorial for Doug Nebert at the airport.

Busby reported that he plans to attend the Public Arts Committee meeting later this week, and that there are three new Committee members.

Engler reported that she attended the recent meeting of the Solid Waste Advisory Committee at which the emergency debris management plan was presented and discussed.

Engler reported that the Nye Beach Merchants Association is planning its annual Mystery Weekend in March. She added that the group is working on a new brochure, and a plan to clean up public rights-of-way. She suggested utilizing the services of the Angell Job Corps to help with clean-up on a regular basis.

Engler reported that she had visited the Neighbors for Kids program in Depoe Bay and suggested that this successful program be available county-wide. She noted that the Banner Project in Nye Beach raises money for art for kids, and proposed that this might be a good start.

Engler reported that MindMixer has the pedestrian crossing improvement project on its website for public comment.

Allen reported that after today's work session, he listened to the round table discussion on the Coast Guard litigation. He added that there were good updates on the legal and congressional fronts.

Allen reported that he plans to attend City Day at the Capital, and that he has made appointments to talk with Senator Roblan and Representative Gomberg on ocean related issues.

Allen reported that Secretary of State Kate Brown was a law school classmate of his, and he expressed hope that when she becomes governor that she keeps the current advisors in place for the near future.

Saelens recommended placing the siting for the wind feasibility study on an upcoming issue. Nebel noted that it would be helpful if Saelens could provide information that could be shared with staff, and a letter indicating what is being requested from the city.

Nebel reminded Council that the day-long goal setting session will be held on Tuesday, February 17, beginning at 9:00 A.M. He reviewed the process.

Allen asked Nebel what his anticipation is with the proposed visioning process as it relates to the City Council goal setting. Nebel noted that the goal setting notebook contains a section on the visioning process, and it will be a decision of Council to determine whether to move forward with the visioning process.

Nebel reported that he will be on vacation during the first meeting in March. He stated that during his absence, Library Director Ted Smith will be Acting City Manager.

PUBLIC COMMENT

Rex Capri stated that he wished to rebut and clarify statements made by Gross regarding the boundaries of the property requested to be vacated. He noted that they are not exact, but were measured off survey markers, and should be within a few inches of being accurate. Gross discussed construction locates noting that the sewer line is in the middle of the road, and that the water lines are more difficult to accurately locate.

ADJOURNMENT

Having no further business, the meeting adjourned at 8:35 P.M.

Margaret M. Hawker, City Recorder

Sandra N. Roumagoux, Mayor