

February 19, 2013
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, Roumagoux, Sawyer, Saelens, Busby, and Swanson were present.

Staff present was City Manager Voetberg, City Recorder Hawker, Community Development Director Tokos, Finance Director Marshall, Public Works Senior Projects Manager Jones, Parks and Recreation Director Protiva, Fire Chief Paige, and Police Chief Miranda.

Roumagoux noted that the public hearing before the City Council and Port Commission of the Port of Newport will be held on March 19, 2013, at 6 P.M., at the Oregon Coast Community College.

PLEDGE OF ALLEGIANCE

Council and the audience participated in the Pledge of Allegiance.

PUBLIC COMMENT

Roumagoux read the public comment rules.

Valerie Patterson addressed Council regarding the South Willamette Valley Honor Flight. She reported that this is a program that honors World War II veterans by taking them to Washington, D.C., to visit the World War II Memorial at no cost to them. She requested financial support of the program from the city.

Oly Olson distributed a letter to Council with recommendations regarding the upcoming joint public hearing between the City Council and Port of Newport on the proposed Teevin Brothers log exporting project. He suggested a panel discussion with the major players and adequate time for individuals to be heard. Voetberg noted that it is his intent to let the Port take the lead, but that he will share this discussion with Don Mann so that he is aware of Olson's comments. Allen stated that he would like to see what the Port has in mind at the first meeting in March.

Mike Peterson distributed a letter to Council regarding the potential need of Teevin Brothers to obtain a geologic permit. Tokos noted that Teevin Brothers would not be required to obtain a geologic permit, nor could the city require a geologic permit under the existing code. He added that the Teevin site is outside the geologic hazard area. Allen suggested that Peterson contact Tokos.

CONSENT CALENDAR

The consent calendar consisted of the following items:

- A. Approval of City Council minutes from the work session and regular meeting of February 4, 2013;
- B. Report of accounts paid for January 2013;
- C. OLCC application for the Nye Beach Wine Cellar.

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

OFFICER'S REPORTS

Mayor's Report. Roumagoux reported that the date for the joint meeting with the Port of Newport to hear comment on the proposed Teevin Brothers log exporting operation will be Tuesday, March 19, 2013, at the Oregon Coast Community College.

Roumagoux requested an excused absence from the City Council meeting of March 4, 2013. MOTION was made by Swanson, seconded by Allen, to approve the Mayor's request. The motion carried unanimously in a voice vote.

Roumagoux reported that, on February 5, she had met with Don Mann and Joann Barton for a complete tour of Port facilities.

Roumagoux reported that on February 6, Chief Miranda was her radio guest on KCUP.

Roumagoux reported that on February 7 she attended a meeting regarding the proposed business retention and recruitment position that would be housed at the Chamber of Commerce.

Roumagoux reported that she participated in the tsunami walk at Safe Haven Hill on February 7.

Roumagoux reported that she attended the City Employee Committee meeting on February 12.

Roumagoux reported that she had attended a Port meeting on February 13 as Beemer and Allen were at other meetings.

Roumagoux reported that on February 15 she was invited to lunch with the District Commander of the Coast Guard. She added that Admiral Taylor presented the city with a special coin to be framed and displayed in the foyer. She noted that Newport is one of only 14 Coast Guard Cities in the nation.

Roumagoux reported that due to the upcoming Council goal setting session, her office hours will be from 3 - 5 P.M., on Thursday.

Roumagoux appointed Thomas Knott and Jeff Bertuleit to the Airport Committee. MOTION was made by Allen, seconded by Beemer, to ratify the Mayor's appointments. The motion carried unanimously in a voice vote.

City Manager's Report. Voetberg reported that the packet contains the updated suggestion/concern/complaint log and the departmental monthly reports.

Voetberg reported that a draft scope of duties has been developed for a potential formalized Wayfinding Committee, and will be reviewed by the ad hoc Wayfinding Committee prior to coming to Council for consideration.

Voetberg reported that the Fire Department is stepping up its efforts to get the firefighters in better physical condition, and that the free use of the Recreation Center, by both career and volunteer firefighters, is a good step in that direction. He

recommended extending the free use of the Recreation Center to the families of volunteer firefighters. Allen noted that he is not ready to decide this issue tonight as the firefighters are not the only volunteers in the City of Newport. He also inquired as to how much revenue would be lost. It was agreed to postpone a decision on this matter until the next meeting.

Voetberg reported that an update on potential violations reported by Gregory Carpenter is included in the packet.

Voetberg reiterated that the joint meeting with the Port of Newport to hear public comment on the proposed log exporting operation is scheduled for March 19, 2013, at the OCCC.

Voetberg reported that the packet contains a road crash analysis for SE Moore Road as requested by Sawyer at the last meeting. Sawyer recommended that a copy be given to Mike Peterson and Oly Olson as it deals with Teevin project.

Voetberg reported that the packet contains an updated budget calendar with Budget Committee meetings to be held on May 7, 14, and 28, if necessary.

Voetberg reported that Council will hear an appeal from Myrna Azar regarding two nuisance houses on Nye Street at the March 4 meeting.

Voetberg reported that both Toledo and Lincoln City have offered the use of their pools for Newport pool passholders. Protiva updated Council on the status of the pool. He noted that the pool will likely open Saturday, but that there are several unknowns. He added that there were no chemical spills during the flooding of the swimming pool basement. Protiva reported that an insurance claim has been filed.

DISCUSSION ITEMS AND PRESENTATIONS

Bicycle/Pedestrian Committee PowerPoint Presentation. Ken Dennis, representing the Bicycle/Pedestrian Committee made a brief PowerPoint presentation that included: a history of the Committee; its members; what the Committee does; priorities for the upcoming year; and special events that the Committee supports. He stated that the Committee appreciates the City Council's commitment to bike and pedestrian safety.

Six-Month Financial Update. Marshall reviewed the water and wastewater funds which are the city's two entrepreneurial funds. He also reviewed the savings the city anticipates from the new health insurance program that the majority of employees are participating in. He responded to Council questions. He explained the delay in production of audit. Allen stated that he hoped the city would re-approach the police union regarding health insurance, as he would like to see all employees treated the same. Voetberg noted that it will be an uphill battle with the police union.

Business License Administrative Rules. Marshall reviewed a draft of two administrative rules regarding timeshares and condominium rentals. He noted that unless otherwise directed by Council, the City Manager will implement the administrative rules immediately. He added that it is the owner of the unit being rented that needs to obtain a business license if other criteria are being met. If an owner is renting out a unit, no license is required, but if there are two or more units, a business license would be required,

Patricia Patrick, Dolphin Real Estate, LLC., noted that Marshall's comments are good and she appreciates his work. She restated that Marshall meant that Embarcadero owners who rent their units for less than 30 days should get a business license, but if the rental is for more than 30 days, a business license will only be required if there are two or more units. She stated that the Embarcadero was planned as a condominium apartment complex and moorage berths as a part of a planned four phase hotel development. She added that just because the property is in a commercial zone does not mean it is a hotel, noting that there are other properties in commercial zones with a business below and rentals above. Tokos noted that the issue is the building code under which the building was constructed. Busby asked Patrick whether she was happy, and Patrick noted that she just wants fair and equitable treatment across the board. She added that it will be interesting to see how the city is going to track down owners of these units. It was noted that this action would reverse the prior memo from October. Patrick asked for a copy of the memo retraction. Allen asked Voetberg whether he understood what Council intends in order to implement this administratively. Voetberg acknowledged that he understood and reported that he had a conversation with Swanson and she believes otherwise.

City Manager's Authority to Settle State and Federal Lawsuits. It was reported that Council had requested clarification from the City Attorney regarding the City Manager's ability to settle state and federal lawsuits. It was noted that the City Attorney provided a memo on this matter that is included in the packet. A discussion ensued regarding whether to have the City Attorney attend a work session to further discuss this issue. Voetberg reported that training is available from CIS on settlement and litigation, and from the League of Oregon Cities on charter and authority questions. He added that the City of Salem has been sent a request for a copy of its resolution on City Manager authorities. Allen noted that the City Attorney had given Council a memo which is mostly just her opinion and there are other opinions out there. He added that in light of that, he would like to schedule a work session with Christy Monson to further clarify her position and possibly provide Council more oversight and accountability. He added that he would also like to bring up the communication model that Council has in place which limits the ability of City Councilors to contact the attorney. He noted that this rule has been used for two years is and worth opening up again. Allen asked Roumagoux how much contact she has had with the City Attorney, noting that the previous Mayor used to disclose this information. Roumagoux stated that she spent 15 minutes with the City Attorney when she was recently here, and that she asked Monson about the protocols of being Mayor and reviewed the City Attorney's contract. Roumagoux stated that she usually relies on the City Attorney's memos due to the cost of contact. Sawyer noted that the City Attorney works for Council but that he does not know what she does on a regular basis. Busby reported that he sent a note to Council a few days ago, and was insulted by Monson's memo. He noted that he believed that she stated that Council could not be trusted; he does not agree with her interpretation of conflict of interest; and does not agree that monies can be transferred by the City Manager. He also noted that the City Manager should consult with Council prior to taking personnel actions at higher levels. He added that he would like the settlement authority defined for a clear path as he does not think it was handled properly before. He stated that Council needs to make sure it does not happen the way the Reno case happened. Beemer agreed with Busby. It was

recommended that Monson attend a work session and that training with CIS be pursued later.

Presentation by Fire Chief Paige regarding the Department's Standard of Cover Policy and Annual Report. Paige reported that the annual report is included in the packet. He thanked the City Council and City Manager for helping make progress over the past year. He made a PowerPoint presentation regarding the Department's Standard of Cover Policy and responded to Council questions.

PUBLIC HEARINGS

Public Hearing and Possible Adoption of Ordinance No. 2049 Repealing and Replacing the "Public Facilities" and "Urbanization" Elements of the Newport Comprehensive Plan. Roumagoux opened the public hearing at 8:35 P.M. Tokos delivered the staff report, noting that the issue is whether it is in the public interest to rewrite the Urbanization and Public Facilities elements of the Newport Comprehensive Plan. He reported that the revisions would update the city's standards for evaluating proposals for Urban Growth Boundary amendments so that they comport with current state law. He explained the criteria. The PC endorsed the changes. The changes to the Public Facilities element outline strategies for addressing structural deficiencies in Big Creek Reservoirs No. 1 and No. 2. He noted that collectively the changes will facilitate an expansion of the Newport UGB to include the reservoirs so that it will be easier for the city to undertake needed upgrades to these facilities.

Roumagoux asked for public comment.

Patrick Wingard, North Coast field representative for DLCD, stated that he supported the changes that Tokos outlined in his staff report.

Roumagoux closed the public hearing at 8:43 P.M. for Council deliberation. Allen asked whether the Planning Commission had made any recommendations. Tokos noted that the issue is straightforward. Allen asked whether the Planning Commission had comments about the HDR report. Tokos noted that the Planning Commission had the draft and had questions of the Public Works Director regarding the nature of the analysis.

MOTION was made by Beemer, seconded by Sawyer, to read Ordinance No. 2049, by title only, repealing and replacing the Urbanization and Public Facilities elements of the Newport Comprehensive Plan, and place for final passage. The motion carried unanimously in a voice vote. Voetberg read the title of Ordinance No. 2049. Voting aye on the adoption of Ordinance No. 2049 were Saelens, Allen, Swanson, Beemer, Sawyer, Busby, and Roumagoux.

Public Hearing on Resolution No. 3621 to Consider Adoption of a Supplemental Budget for Fiscal Year 2012/2013. Marshall explained the use and need for supplementary budgets, and this particular supplemental budget. He reported that he had run the required legal advertisement. Roumagoux opened the public hearing at 8:47 P.M. Marshall explained that the issue is to take public comment on Resolution No. 3621 regarding a supplemental budget for Fiscal Year 2013/2013. He reiterated the reasons for the supplemental budget.

Roumagoux asked for public comment. There was none.

Roumagoux closed the public hearing at 9:00 P.M. for Council deliberation.

MOTION was made by Beemer, seconded by Sawyer, to adopt Resolution No. 3621, a resolution approving a supplemental budget and making appropriations in the city's Fiscal Year 2012/2013 budget to address increased appropriation changes in the General Fund. The motion carried unanimously in a voice vote.

ACTION ITEMS

Continuation of the Teevin Brothers SDC Appeal. It was reported that, at the request of Teevin Brothers, the SDC appeal has been postponed to March 18, 2013.

Consideration of the Adoption of Resolution No. 3619 Calling for an Election on a Measure Creating a New Municipal Code Chapter 4.30 Prohibiting the Distribution of Single-use Plastic Carryout Bags by Retail Establishments. It was reported that the issue before Council is consideration of Resolution No. 3619 calling for an election on the creation of a new Chapter 4.30 of the Newport Municipal Code which would prohibit the distribution of single-use plastic carryout bags by retail establishments and impose a fee for paper bags. MOTION was made by Allen, seconded by Swanson and Saelens, to adopt Resolution No. 3619 calling for an election to be held on May 21, 2013, to refer to the voters of the City of Newport, Oregon, a measure that would create a new Municipal Code Chapter 4.30 regarding single-use plastic carryout bags with the changes as amended previously. The motion carried unanimously in a voice vote.

Consideration of Adoption of Resolution No. 3620 Adopting a Budget Transfer for the 2012/2013 Fiscal Year. It was reported that the issue before Council is the consideration of the adoption of Resolution No. 3620 which would transfer revenue from the Parks SDC Contingency account to Land Acquisition, and transfer expenses between police expense accounts. MOTION was made by Beemer, seconded by Allen, to adopt Resolution No. 3620 transferring appropriations for the 2012/2013 Fiscal Year. The motion carried unanimously in a voice vote.

COUNCIL REPORTS AND COMMENTS

Sawyer reported that he will be volunteering at the Seafood and Wine Festival this weekend.

Sawyer reported that he, Beemer, and Roumagoux participated in the tsunami walk. He stated that he likes the informational boards.

Sawyer reported that he had attended a recent school board meeting and distributed a funding flyer that the school district compiled. He noted that there are four funding scenarios depending on how much funding comes from the state.

Sawyer reported that Lincoln County School Safety Officer, Sue Graves, received a three million dollar grant from FEMA to tear down the Waldport school and renovate the property into a park.

Sawyer reported that he had attended a recent meeting of the Tourism Facility Grant Review Task Force. He reported that applications had been received from the sea lion dock foundation, OMSI, and the Friends of the Oregon Coast Aquatic Center. Sawyer noted that the Task Force had done a lot of work. Allen stated that he is curious about

the OMSI camp and whether there is any question that the proposed facility falls within the statutory guidelines for use of transient room taxes. Voetberg reported that this will be a discussion for the City Council. Tokos suggested the possibility of getting something, in writing, from OMSI, regarding how they will manage their program so that parents are required to come out here so that there is at least a connection with people staying in hotels in association with the operation. Allen asked whether there is criteria regarding how much a facility has to be tourist-related. It was noted that all three applicants had been invited to attend the next Council meeting.

Saelens reported that he has toured the Public Works Department, Parks and Recreation Department, and the Library and that they were all fascinating. He noted that he is looking forward to the remaining departmental tours.

Saelens reported that he missed the Bicycle/Pedestrian Committee meeting because the doors were locked.

Swanson reported that the Senior Advisory Committee will meet Monday, and that the Library Board will be meeting on March 6.

Busby thanked the department heads for the departmental information and tours.

Busby reported that he will be volunteering for the Master Gardener's during the upcoming Seafood and Wine Festival.

Beemer reported that he will be volunteering at the Seafood and Wine Festival on Thursday, Friday, and Saturday.

Beemer reported that he participated in the tsunami walk in South Beach, and that there had been an article in the Sunday Oregonian regarding the informational signs.

Allen reported that he has been in Salem regarding ocean planning issues. He added that there has been a lot of discussion, and that there may be information to disclose within the next three or four weeks.

ADJOURNMENT

Having no further business, the meeting adjourned at 9:26 P.M.

Margaret M. Hawker, City Recorder

Sandra Roumagoux, Mayor