

February 6, 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, Brusselback, Beemer, Allen, Sawyer, Bertuleit, and Roumagoux were present. McConnell was excused

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

PLEDGE OF ALLEGIANCE

Council and audience participated in the Pledge of Allegiance.

PUBLIC COMMENT

Allen stated that he was presiding as Council President because Mayor McConnell was participating in a Sister City visit to Mombetsu, Japan.

Allen welcomed the audience and asked how many folks wished to speak on corporate personhood. There were approximately 12 who wanted to speak.

City Attorney, Christy Monson, introduced herself.

Allen stated that he would allow approximately 15 minutes of public comment, on the corporate personhood issue, at the beginning of the meeting, and noted that there is another public comment period at the end of the meeting.

Doug Fitts thanked Gross for the excellent job he did in resolving the Nye Beach flooding problem.

The following people spoke in support of the "Move to Amend Resolution," (corporate personhood) and urged Council to adopt a similar resolution: Steve Farish, Rio Davidson, Matthew Gray, Katherine Howard, and Ernest Brown.

Brusselback requested a copy of the draft resolution. Allen asked whether the group had approached other City Council's in Lincoln County, and it was noted that Newport was the first. Allen informed the audience that, unlike larger cities that have a lobbyist, Newport is a member of the League of Oregon Cities, and lobbying is conducted by this group. He added that this issue is not on the list of priorities of the League of Oregon Cities or the National League of Cities at this time.

CONSENT CALENDAR

The consent calendar consisted of the following items:

- A. Approval of City Council minutes from the work session and regular meeting of January 17, 2012;
- B. Approval of minutes of the joint work session with the City Council and Lincoln County Commissioners of January 11, 2012.

Allen noted that approval of the executive session minutes from January 17, 2012, will appear on the next agenda. MOTION was made by Roumagoux, seconded by Bertuleit, to approve the consent calendar as presented. The motion carried unanimously in a voice vote.

OFFICER'S REPORTS

Mayor's Report. Allen reported that the Council's annual goal setting session will be held on February 21, beginning at 8:30 A.M., and that everyone is welcome.

Allen noted that Town Hall meetings will be scheduled on the fifth Monday's during 2012.

City Manager's Report. Voetberg reported that the departmental monthly reports will be in the packets for the second monthly meeting to allow for final statistics from the previous month.

Voetberg reported that the packet contains a capital projects update. He noted that the packet also contains an initial assessment of storm damages submitted by Lincoln County. He added that the water line break is included in this assessment. A sample of the broken water line was displayed in the Council Chambers. He noted that FEMA was in Newport today and toured the area with Gross. Gross updated Council on the South Beach water service, noting that it should be back in service on Thursday. He stated that the pipe displayed in the back of the room has an accumulation of manganese in it, and that the new plant will remove manganese from the water. Allen thanked Gross for issuing press releases regarding the water leak; and the Port employee who located the leak.

Voetberg reported that negotiations have begun with two of the three city bargaining units. He noted that the next negotiating session is scheduled for March 26, and that he will schedule an executive session with Council on March 19, to review the status of negotiations and seek direction.

Voetberg reported that staff has begun the budget process. He added that the Council's goal setting session is scheduled for February 21. He noted that he included a draft budget schedule in the packet. He reported that he attended a City Center Newport Association meeting and asked about the Deco Park pylon project. A work session will be scheduled to discuss this matter with CCNA members. Voetberg reported that the weekly manager's reports are included in the packet.

Allen reported that Dr. Steven Brown passed away last week, and that a public service is scheduled for February 12, at the Atonement Lutheran Church. Beemer spoke about Dr. Brown noting that he was a great veterinarian and people person.

DISCUSSION ITEMS AND PRESENTATIONS

Lincom Update. Miranda and Paige updated Council on the status of Lincom. It was noted that there are four options: 1. do nothing; 2. create a taxing district; 3. ask all Lincom users to fund repairs to the system; and 4. Contract with Willamette Valley Communications for dispatch services. A discussion ensued regarding costs to repair the Lincom system, and the pros of contracting with the Willamette Valley Communications. Miranda noted that the Lincom user's group meeting will be held on February 15 in the City Council Chambers. A discussion ensued regarding the timeline for contracting with Willamette Valley Communications, and when Council could expect to take official action on this issue.

Business License Ordinance. Monson presented a brief background of the ordinance revision process; a description of her role in the process; and noted that she would review the draft ordinance section by section. She thanked the interest groups, City Council, and staff for their work on this revision.

Monson reviewed and discussed each section of the ordinance. The review included the purpose and scope; definitions; fees and exemptions; multiple locations or businesses; the application process; issuance, display and transfer of the license; disclosure and delinquency; administration; denial and/or revocation of a license; violations and penalties; and appeal. Staff was asked to develop options for reasonable fees, penalties, and delinquencies. A discussion ensued regarding exemptions for folks working as babysitters, for example. Monson encouraged Council to solicit the opinion of Dustin Kittel regarding his reasoning for recommending that the definition of "Doing Business" include a 20 hour limit. Allen noted that questions and issues could be revisited as part of formal public hearings.

Lee Hardy, Yaquina Bay Property Management, and Patricia Patrick-Joling, Dolphin Real Estate, appeared before Council. Hardy noted that there is one remaining issue, and that is that it appears that Council has made a policy decision regarding establishing protected classes. She stated that she would like to see the rationale showing how it protects health, safety, and welfare. She noted that since there is no application or business license requirement for vendors on public property, this ordinance would violate the vending on public property ordinance. She noted that similar issues could occur with special events and special event vendors. Allen asked whether this is a legal perspective or a policy matter. Monson noted that who and how the Council wants to exempt is a policy call. Monson noted that there are other ordinances that interact with this ordinance, and the goal is to ensure that these amendments do not contradict other ordinances. Hardy noted that if event organizers, or consignment store owners, were totally liable for the actions of individual vendors, the issue would be resolved. Hardy noted that the basic goal of the task force was to establish a level playing field, fairness, and enforceability. Patrick asked whether Council had read a recent letter from the Oregon Association of Realtors.

Dennis Bartoldus addressed Council regarding inequitable treatment; fairness; enforcement; fees; and exemptions. He discussed the exemptions for public agencies and their potential impact on similar private businesses. He suggested that Council look at all these things carefully. He stated that he would like a level playing field; uniform

enforcement; and clearly stated exemptions. Allen noted that there is a lot of discussion that still needs to occur with respect to rationale.

ACTION ITEMS

Establish Minimum Sale Price for Property at 761 SW Bay Boulevard. Tokos reported that the issue before Council is the determination of a minimum price and terms for the sale of city-owned property at 761 SW Bay Boulevard. He noted that the property includes two tax lots that constitute a portion of a fish processing facility. He added that Pacific Shrimp Company operates a fish processing facility at this location, and have advised city staff that they are considering making improvements to their operations to grow the business. He noted that Pacific Shrimp is weighing whether this site is one that they want to improve and/or expand, and the city's intentions regarding the portion of the facility it owns plays a significant factor in Pacific Shrimp's decision.

Tokos reported that Council previously determined that the property is not needed for public use and directed staff to have the property appraised. The appraisal establishes \$170,000 as the market value for both tax lots. He noted that once the Council sets a minimum sales price, the process for accepting sealed bids is outlined in the Municipal Code.

Allen noted that at the December 5 meeting, there were Port officials who asked that the property stay in marine related uses. A discussion ensued regarding a possible deed restriction that would require the property be used for marine related uses.

MOTION was made by Beemer, seconded by Brusselback, that Council establish \$170,000 as the minimum sales price for the sale of city-owned property at 761 SW Bay Boulevard, and direct staff to initiate the process for soliciting sealed bids as outlined in the Newport Municipal Code. Proceeds from the sale shall be dedicated toward property maintenance or the acquisition of property for public use. Allen stated that he cannot vote for the sale of the property without having a restriction. The motion carried in a voice vote with Allen voting no. A discussion regarding possible restriction language ensued. Tokos noted that one option is a deed restriction requiring that the property remain a water related use.

Dave Wright, from Pacific Shrimp, stated that the company's intent is to modernize the entire facility and install a state-of-the-art whiting facility. MOTION was made by Beemer, seconded by Roumagoux, that the property be restricted to a water-related industrial use. The motion carried in a voice vote with Allen voting no because it may not be in the public interest to sell the property.

Consideration of Resolution No. 3576 Creating a Plastic Bag Task Force. Allen reported that the resolution findings show the history of this issue. He added that the title of the task force will be the "Plastic Bag Community Plan Task Force." He reviewed changes from the last meeting. MOTION was made by Roumagoux, seconded by Brusselback, to adopt Resolution No. 3576 establishing a task force to study and recommend a community plan for single use plastic checkout bags. The motion carried unanimously in a voice vote. Allen reviewed the composition of the task force, noting that the city will be seeking a non-grocery larger and a smaller retailer, and at least two public at-large to serve on the Task Force.

Consideration of a Tourism Marketing Grant Request from the Celtic Festival. It was reported that the issue before Council is consideration of a tourism marketing grant request from the Celtic Heritage Alliance for assistance with marketing for the 2012 Newport Celtic Festival and Highland Games to be held on June 8 - 10, 2012. It was noted that the Celtic Heritage Alliance requested \$15,000 for assistance with marketing this program, and that the Destination Newport Committee was recommending award of \$8,000. Pete McKeeman appeared on behalf of the Celtic Heritage Alliance. MOTION was made by Beemer, seconded by Sawyer, to approve the tourism marketing grant fund application, submitted by the Celtic Heritage Alliance, for assistance with marketing and advertising for the Newport Celtic Festival and Highland Games, in the amount of \$8,000. The motion carried unanimously in a voice vote.

Consideration of a Tourism Marketing Grant Request from the Oregon Coast Jazz Festival. It was reported that the issue before Council is consideration of a tourism marketing grant request from the Oregon Coast Jazz Festival, in the amount of \$6,600, for assistance with marketing through publications, posters, and advertisements on websites, for the Jazz Festival to be held on October 5 - 7, 2012. Catherine Rickbone appeared on behalf of the Oregon Coast Jazz Festival. MOTION was made by Beemer, seconded by Bertuleit, to approve the tourism marketing grant fund application from the Oregon Coast Jazz Festival, in the amount of \$6,600, for assistance with marketing and advertising the 2012 Oregon Coast Jazz Festival. The motion carried unanimously in a voice vote.

Consideration of a Contract with KEZI. It was reported that the issue before Council is consideration of a television commercial campaign, in the amount of \$16,000. It was noted that a proposal was submitted by KEZI and reviewed by the Destination Newport Committee, and the Destination Newport Committee is forwarding a positive recommendation to the City Council. MOTION was made by Bertuleit, seconded by Sawyer, to approve the television commercial campaign with KEZI advertising in the amount of \$16,000. The motion carried unanimously in a voice vote.

Consideration of a Contract with Today in America. It was reported that the issue before Council is the consideration of a national television segment, in the amount of \$24,800, proposed by Today in America, and reviewed and recommended by the Destination Newport Committee. Lorna Davis, executive director of the Greater Newport Chamber of Commerce, explained the program. MOTION was made by Sawyer, seconded by Beemer, to approve the national television segment with Today in America in the amount of \$24,800. The motion carried unanimously in a voice vote.

Consideration of Adoption of Ordinance No. 2027 Regarding Loading Zones. It was reported that the issue before Council is the amendment of Ordinance No. 1927 for the purpose of clarifying the use of curb markings associated with parking restrictions. MOTION was made by Brusselback, seconded by Bertuleit, to read Ordinance No. 2027, by title only, and place for final passage. The motion carried unanimously in a voice vote. Voetberg read the title of Ordinance No. 2027. Voting aye on the adoption of Ordinance No. 2027 were Allen, Beemer, Bertuleit, Brusselback, Roumagoux, and Sawyer.

Consideration for Ground Lease for Electric Car Charging Station at the 9th and Hurbert Streets Parking Lot. It was reported that the issue before Council is whether it is in the public interest for the city to execute a ground lease with Aerovironment, Inc. for the installation of an electric vehicle charging station at the public parking lot located at the intersection of SW 9th and SW Hurbert Streets. MOTION was made by Roumagoux, seconded by Beemer, that by order of the Newport City Council, the city manager is authorized to execute a ground lease with Aerovironment, Inc. for the installation of an electric vehicle charging station at the public parking lot at the intersection of 9th and Hurbert Streets, because doing so is in the public interest. The motion carried unanimously in a voice vote.

Consideration of Adoption of Resolution No. 3577, a Budget Transfer for the Water Treatment Facility. It was reported that the issue before Council is consideration of Resolution No. 3577, which would transfer \$301,275, from the Contingency Account of the Water Fund to Capital Construction within the same fund. Gross explained the need for this funding to be transferred, and any remainder will be transferred back to contingency when the project is complete. MOTION was made by Bertuleit, seconded by Roumagoux, to adopt Resolution No. 3577, transferring appropriations for Fiscal Year 2011/2012. The motion carried unanimously in a voice vote.

PUBLIC COMMENT

The following people spoke in support of the “Move to Amend Resolution,” and urged Council to adopt a similar resolution: Makalea Napoleon, Alisha Kern, Bill Montgomery, Ann Miller; Katherine Howard, Claire McGee, Steve Farish, and Matthew Gray. Allen read an e-mail message from Derek Helt in which Helt noted that this issue is not in the city’s purview to address.

COUNCIL REPORTS AND COMMENTS

Sawyer reported that a fire in Toledo had displaced 20 folks, and that fundraisers to assist these individuals will be planned.

ADJOURNMENT

Having no further business, the meeting adjourned at 10:04 P.M.

Margaret M. Hawker, City Recorder

David Allen, Council President