

January 19, 2010
(TUESDAY)
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, Bain, Bertuleit, Brusselback, Kilbride, Obteshka, and Patrick were present. McConnell was excused.

Staff present was City Manager Voetberg, City Attorney McCarthy, Community Development Director Tokos, Public Works Director Ritzman, Interim Finance Director Schultz, Parks and Recreation Director Protiva, Police Chief Miranda, Lieutenant Teem, and Executive Assistant Atkinson.

CONSENT CALENDAR

The consent calendar consisted of the following items:

- (A) Approval of minutes from work session and regular meeting of January 4, 2010
- (B) Account of claims paid for December 2009,
- (C) Fire & Police monthly reports, December 2009
- (D) Ratification of amendment to City Attorney's contract.
- (E) OLCC license approval for Champagne Patio Restaurant and Fine Wine.

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

COUNCILOR'S REPORTS AND COMMENTS

Obteshka reported on the OCZMA quarterly meeting he had attended last week, and shared many of the agenda items from the meeting, i.e. tsunami update, marketing campaign for the Southern Oregon Coast, and the prohibition against oil and gas exploration has expired.

Brusselback reported on the League of Oregon City's Strategic Planning Session he attended last Friday, January 15th. He said it was interesting and he had gleaned some useful information from the session. He indicated he would be sharing one of the handouts on goal setting with Council members as their goal setting session was soon.

Brusselback further reported on the Blue Ribbon Committee. They are honing in on a fair grounds and what all that entails. There will be two public meetings on January 26th in Newport, and then again on January 27th in Lincoln City, both beginning at 7:00 p.m.

Kilbride reported on the most recent numbers provided on the City room tax collections. He stated they are a little higher than this time last year, but based on the current year's budget and collection schedule, we are behind by \$75,000. For the previous three years we are behind by \$51,000, per Kilbride. He indicated that his figures agree with the Interim Finance Director's current year's transient room tax collection, but they are a little different on the past three years. He said he would meet with Mr. Schultz on these numbers.

Kilbride reported the Seaport airline ridership had decreased this past week, and this was the first time our ridership had dropped below Astoria's. He commented that we are using up the subsidy fairly quickly, and we lost approximately \$5,000 last week with the low ridership.

Kilbride reported that he had requested at the noon work session a property tax comparison for the past three years, and Schultz had provided the information for the evening meeting. He said if the numbers are accurate, we have collected 89.4% this year, which indicates our collections are up over the past two years.

Bertuleit reported on the Airport Advisory Committee meeting he had attended last week. They had reviewed information being gathered for fees and leases, and indicated these fees would be further reviewed when the new airport manager arrives. He also reported the committee had reviewed the draft Airport Business Plan prior to it being presented to the Council this evening.

Bertuleit reported on the recent Bicycle & Pedestrian Committee meeting he attended. The go ahead for new bike signage was given; they are interested in purchasing new stainless steel bike racks; they are pleased to see new curb cuts occurring in different areas of the city; and are still interested in a better bike route along Ocean View Drive. He reported he had met with Lee Ritzman and they reviewed the bike route to try and find where the route could be expanded.

Bertuleit reported he had attended the Fisher Poets event over the weekend, and it had been well attended. He noted the City had given tourism grant funds towards this event. He further reported that Councilor Brusselback had participated in the event by reading some of his poetry.

Bertuleit reported that work has begun on creating the bike route map.

Patrick reported that NOAA has arrived and construction has begun on their site. Two local contractors were awarded the job – Road & Driveway and Western States Electrical Construction. She reported that the Port is meeting with NOAA personnel every two weeks.

Patrick reported she had attended Gene Bateman's celebration of life on Friday. Our sister city of Mombets had sent many condolences to be shared, as Gene was very active with our sister city program over the years. Patrick indicated when Councilor McConnell returns from vacation the Council can determine what they would like to do with regards to a memorial in Gene's name.

Mayor Bain reported on the annual meeting of the Airline Consortium. He indicated the Port of Portland had rejected the request from Seaport to exclude the passenger facility charges (PFC) from their fares. The consortium received a good marketing report. The Mayor further reported on survey cards, the progress of e-ticketing, and inter-line ticketing agreement, and possible schedule changes.

A brief discussion ensued on why the Newport passenger count may have dropped last week.

OFFICER'S REPORTS

Report of the City Manager. Voetberg reported he had included a 6-month review in the Council's packet. He commented many major personnel changes have occurred over the past six months, but staff was still able to accomplish many tasks. He praised City employees for helping that to occur.

Voetberg stated he was recommending the \$250 donation received recently be given to “Meals on Wheels”, and unless Council had any objections that is where the city would send the \$250 donation.

Voetberg requested Lieutenant Teem come forward to speak on the “Pharmaceutical Take Back Program” that our Police Department is initiating. Teem and Barb Dougherty, Director of the Lincoln County Commission on Children & Families, spoke briefly about the program and explained how it will work. Dougherty demonstrated how easy it is to dispose of expired pharmaceuticals through this program. Dougherty reported that Newport is the first city in Oregon to offer this program, and we should be proud. Teem commented they will be doing a soft rollout at the City and County offices with regards to this program, and will be spreading the word more heavily to our community in about a month.

Patrick asked if this program had been communicated to Hospice, as they recommend flushing medications once the patient has passed. Dougherty said they had. Teem indicated the Police will also be changing their procedures with regards to disposal of pharmaceuticals following a death.

Bertuleit asked if the Rx container could be placed at Fred Meyer or Wal-Mart. Teem explained that it has to be where the Police can monitor it and have surveillance.

Bain asked if this program would be taken to the schools, and Dougherty said yes. She also indicated they will get the word out to as many places as possible.

Obtshka stated we should encourage other communities near us to participate. Teem noted that Toledo has already checked with Newport about the program.

The Council took a break and recessed at 6:43 p.m. They resumed their meeting at 7:00 p.m.

PUBLIC HEARINGS

Public hearing on obtaining a USDA Rural Development Loan/Grant to be used for Improvements to the City’s Wastewater Collection System. Bain opened the public hearing at 7:00 p.m. He called for abstentions and declarations of ex parte contact. He asked whether there were objections to any of the Councilors, or the Council as a whole, hearing this matter. There were none. Ritzman explained the USDA Rural Development Loan/Grant and how it will benefit the City’s wastewater collection system. He stated the city has a series of pump stations that need to be increased, as well as new force mains. USDA Rural Development requires a public hearing on the application process. He further explained because of the income of our general population, the loan/grant may not have to be paid back. He indicated we will not need to sign the agreement, until we know all the details.

Brusselback asked if these “fixes” would help to stop the sewer spills. Ritzman responded that it should.

Kilbride asked if the City has to pay back any money on this project, be it a loan or grant, where would we take it from in our budget. Ritzman said it would have to come out of our sewer rates, and the payback would not begin until after the last project is completed.

Hearing no further comments or questions, Bain closed the public hearing at 7:04 p.m.

MOTION was made by Obtshka, seconded by Bertuleit, that City Council give authorization for the Public Works Department staff to continue with the process of

obtaining \$5.24 million of USDA Rural Development Funds through a loan/grant process, with these funds to be used to upgrade the City's wastewater collection's system in the Agate Beach area. The motion carried unanimously in a voice vote.

Bain reported that he resides in one of the areas being proposed for this project.

ACTION ITEMS

Council initiation of street vacation for S.W. 12th Street & S.W. Case

Street: Tokos explained the issue before the Council is whether or not they wish to initiate the street vacation process for SW 12th Street and SW Case Street. He described the area. He indicated Council had adopted a new policy on Council initiated street vacations in October of 2008. He read the seven considerations within the policy. He indicated at this time, the request does not satisfy the Council policy for a City initiated right of way vacation, as the owner has not demonstrated a good faith effort to obtain written consent from neighboring land owners, nor have they proven the attempts to obtain consent would be futile. Tokos stated the property owner's Attorney, Dennis Bartoldus, had provided Council with a letter at their noon work session responding to the staff's recommendation.

Tokos explained there could be a trade off on SW Harbor Drive for property the City could acquire for a sidewalk from the property owners who are requesting the SW 12th street vacation. He noted the legalization of SW Harbor Drive was the next item on the Council's agenda.

Tokos stated this is the first time Council has had the opportunity to apply the City initiated street vacation policy, since it was adopted in 2008. He said the question before the Council is whether they think the applicant being required to notify 70 property owners would be futile. Tokos said if the Council thinks this vacation meets their policy for being a Council initiated street vacation, and gives approval, he would like to see the legalization of Harbor Drive be approved and have it occur first. Tokos stated he would also recommend the applicant pay the filing fees.

Councilors discussed the policy and both Brusselback and Obteshka indicated the applicant should contact the 70 property owners. It was noted that the owners of 2/3rds of the affected property within the notice area would need to respond affirmatively for the applicant to attain the street vacation. The applicant would still have to go through all the public hearings and the neighboring property owners would have opportunity to speak either for or against the street vacation.

Kilbride stated he had read Bartoldus letter from the noon work session and agreed that contacting a large number of property owners could prove difficult.

Attorney Dennis Bartoldus and applicant, Mike Ruckus, came forward. Bartoldus stated this street vacation request is very much tied in with the legalization of Harbor Drive. He does not see this as an ordinary street vacation. Bartoldus commented that the City needs a portion of the Rickus property along Harbor Drive to complete the legalization of Harbor Drive. Bartoldus spoke about the topography of S.W. 12th and Case Streets, and Harbor Drive. He addressed the property owner notification, and how difficult that could be with this type of street vacation, and the numbers of property owners involved. He indicated from past experiences that attaining signatures from many property owners is very difficult, and can drag on for a very long time. He stated it is a heavy burden placed on the applicant. Neighboring property owners will be contacted, and will have the opportunity to speak at more than one public hearing. He

stated Council would not be setting a bad precedent. He also commented that paying the filing fees had never been an issue.

The applicant, Mike Rickus, reported he had purchased his property in September of 2009 with the intent to build townhouses. He had contracted with a geologist and a surveyor for the property, and through that process discovered Harbor Drive had never been legally accepted by the City. He had contacted the City early on about the problem with Harbor Drive, and expressed his willingness to work with the City, since a portion of his property will be needed when legalizing Harbor Drive. Rickus shared a power point depicting his property and the surrounding area.

Bartoldus said it would be a substantial benefit for the City to clear up the problem with Harbor Drive.

Brusselback stated it would definitely be more expeditious for the applicant if the City initiated the street vacation.

Bertuleit inquired which tax lots the City owned.

Kilbride explained if the City does initiate the vacation, there will still be public hearings, and it would follow the same process of going before Planning Commission before coming to the Council. He commended Mr. Rickus for obtaining the needed information before proceeding with his project.

Obtshka asked if the property was zoned correctly for townhouses. Tokos stated the property was zoned R-3 or R-4, which is the correct zoning.

Bain inquired if the alleyway will be retained for access. The answer was yes.

Brusselback stated one burden on persons seeking to vacate property is that they must notify the owners of neighboring properties. Brusselback said he did not want to see this democratic process sidestepped when Council initiates the street vacation process.

Tokos stated that if the owners of 2/3rds of the property within the notification area agree to the vacation through the applicant initiated process, you know it is a go. However, they get the same hearing notice at their homes with either an applicant initiated or Council initiated process.

Obtshka commented there are no utilities in 12th street, but there is a water line. He also asked if there would be space left for a 5 foot sidewalk, and Rickus responded there would be.

Kilbride stated if you look at the basic policy with regards to Council initiated street vacations, one factor may outweigh all others. Kilbride indicated the public benefit outweighed the other factors, and further commented how the applicant had met most all other factors in the policy.

MOTION was made by Kilbride, seconded by Patrick to initiate the request to vacate portions of SW 12th Street and SW Case Street with the property owner paying the application fee.

Bertuleit said he appreciated the applicant doing his homework before bringing it before the Council. Obtshka indicated he would be voting against the Council initiated street vacation as he wants the property owners notified by the applicant. Brusselback said he was fine with Council initiating the vacation, as he had been assured the democratic process would still occur. The motion carried in a voice vote, with Obtshka voting nay.

Initiation of a Process to Legalize S.W. Harbor Drive: Tokos indicated this topic was discussed during the Council initiated request for a street vacation of SW 12th.

He further explained how the City had received a request from Julia and Mike Rickus to vacate a portion of the undeveloped SW 12th Street right-of-way, where the right-of-way intersects with SW Harbor Drive. When the Rickus' were doing research for this request, they discovered the right-of-way for SW Harbor Drive was never dedicated. Tokos indicated the Rickus' would like to work with the City to resolve the location of SW Harbor Drive, as it pertains to their property. In the meantime, State law provides a process for legalizing roads. If the City proceeds with this process, it will help to resolve the location of SW Harbor Drive along its entire alignment rather than just where it is adjacent to the Rickus property. Tokos listed the compelling reasons the City would want to have Harbor Drive become legal.

Tokos stated if the City does decide to go forward with road legalization, the City would: (1) survey the property, (2) prepare a report, and (3) provide notice of a public hearing to abutting property owners. He also reported the County Surveyor would provide a free survey as long as the process goes forward and Harbor Drive becomes a legalized street.

The standard size for a public right of way was discussed. Ritzman said it varies, but is usually 50 to 60 feet. Public Works has looked at this property and they have no concerns with the legalization of Harbor Drive. Ritzman further reported the right of way for Harbor Drive will be 50 feet.

MOTION was made by Patrick, seconded by Kilbride to direct staff to initiate the statutory process to legalize SW Harbor Drive. On call for vote, all members present voted aye, motion carried.

An Ordinance Amending Newport Municipal Code, Chapter 4.15 Governing Taxicabs. Attorney McCarthy explained this amendment is being proposed to address the issue of persons who solicit riders attending the Seafood & Wine Festival, and other related partygoers for donations or tips. She mentioned Council had given her direction from their last meeting to bring an amendment to the taxicab ordinance back for consideration to address prohibiting the solicitation of riders for tips. Subsequently she was contacted by a local night club owner who was very concerned about prohibiting the solicitation of riders – from a public safety and liability perspective. McCarthy explained that she and Chief Miranda met with the Chamber and a representative of the Seafood and Wine Festival and came up with the idea of a temporarily permitting process to address this issue. McCarthy said that the Council could adopt the entire amendment to the taxicab code to address both issues or just Section 1 or Section 2. McCarthy said she is recommending Council adopt the amendment of the Newport Municipal Code, Chapter 4.15 to address this issue. She also noted the verbiage changes recommended from the noon work session had been incorporated into the ordinance. McCarthy said she spoke with Mark Collson, the City's Insurance Agent of Record, regarding the \$1,000,000 coverage, and he was comfortable lowering it to \$500,000.

Obtshka stated he did not want to discourage designated drivers, especially during this event. Mayor Bain commented that the paramount concern is the safety of the citizens and the liability for the City.

Patrick asked if the temporary permit is good only for the Seafood & Wine Festival, and McCarthy responded it was.

Marie McQuaw read a statement with regards to the proposed ordinance. She stated she had been hired by Apollo's Restaurant to provide customers with a safe ride

home after they leave the restaurant, and in her opinion this tactic works to keep people safe. They use the local taxi cab, when it is available. She thanked the City for dealing with this issue. The only deterrent she could see was the requirement that drivers having to be 21 years or older.

MOTION was made by Brusselback, seconded by Patrick to adopt Ordinance No. 1997 -- an Ordinance amending Newport Municipal Code, Chapter 4.15 Governing Taxicabs. Voting aye on the adoption of Ordinance No.1997 was Brusselback, Bain, Bertuleit, Kilbride, and Patrick. Obtshka voted nay. Ordinance No. 1997 was duly adopted.

Presentation of the Airport Business Plan by the Airport Committee.

Voetberg explained the Airport Business Plan had been deferred to this meeting, but no action will be required this evening. Voetberg explained the plan had been developed by an airport working group over the past couple of months for presentation to the Airport Advisory Committee. The advisory committee had received a draft copy of the business plan at their January 12, 2010, meeting. The committee had suggested a few changes and those had been incorporated into the plan.

Mark Watkins and Richard Larson, Airport Advisory Committee members, came forward to speak. Watkins reviewed highlights of the plan. He stated it is a good idea to have a business plan in place to help the Airport run more efficiently and to be more fiscally responsible.

Watkins indicated that page 2 lists specific goals for the Airport. Watkins stated he has lived in Newport since 1981 and in his opinion it has never been marketed properly. It is a beautiful facility, and we need to work with the Chamber of Commerce and all other agencies that can assist in helping to market the Airport.

Watkins reported that he and Larson had worked on the fuel marketing plan. It was not their plan to necessarily make money, but to at least keep the doors open and the airport operating. He indicated the plan before the Council is not the final copy and it is open for editing.

Kilbride thanked the group for all the time they had put in pulling this plan together. He further commented that he had received an e-mail from Sheldon Hunt. He stated that Mr. Hunt had gone through the plan and had indicated some of the areas are misleading. Watkins stated he had not received a copy of Mr. Hunt's e-mail. Kilbride said Hunt raises several issues in his e-mail that concern him. Watkins said Mr. Hunt had more than a week to respond to the plan prior to it coming to the Council. He said he would like to look at this e-mail and respond to it. Kilbride said Mr. Hunt was concerned enough with the accuracy of the plan, that he requested his name be removed from the document. Watkins said he would like to respond to his concerns.

Obtshka asked if we could have a third party review the plan once we have a final draft.

Watkins stated that City Manager Voetberg had provided the city's budget figures with regards to the airport.

Brusselback asked what is the time crunch, and how long will it take for input. Watkins stated he thought the time was this evening.

Bain stated in all likelihood the new airport director that comes on board February 1st will want to be involved with the business plan. Watkins concurred. Bain asked how a major golf course, which has not been built as yet, could provide revenue to

the Airport. Watkins said if and when the golf course was built, it would be on Airport property and it would be a land lease. It is something that could happen.

Brusselback asked how speculative do you want to be in a business plan. Watkins said the idea of the golf course could be moved and included as an additional potential resource. Discussion of when the draft business plan should come back before Council was discussed. Patrick stated she would like to have it before the Council's goal setting session.

Watkins said if Council has any input or questions to please contact him as soon as possible. It was noted that City staff will provide the contact information for Gene Cossey to Mr. Watkins.

MOTION was made by Bertuleit to pay Mr. Cossey an hourly wage to begin working on the business plan right away. Motion died for lack of second.

Patrick thanked Watkins for all the work done to date on the plan, and reminded him that this is a working document. Watkins thanked city staff for instituting some of the new ideas that the group came up with, as it has helped.

Consideration of the Parks & Recreation Business Plan. Voetberg stated the proposed Parks & Recreation Plan is back before the Council for adoption. He reminded Council they had adopted a resolution setting the fees for Parks & Recreation at an earlier meeting, and adopting the business plan was a separate issue. He indicated that he and staff have attempted to meet the Council's objectives as laid out at the Council's December 19th meeting. He explained that staff levels have been reduced; revenue has been adjusted to reflect the projected increase in user fees collected, and that the hours of operation at the Parks & Recreation facilities have not been adjusted.

Obtshka stated it was a great improvement over what they had received earlier. He indicated he would still like staff to institute an electronic card check-in system to save on staffing levels. Obtshka said it would be good to try and have some Parks & Recreation events be shown on Channel 4.

Bertuleit indicated we need a better marketing plan for the center, and the sooner the better. He said if you don't promote your business, it does not promote itself. He further stated if we need to budget more for marketing to let him know.

Bertuleit requested the 30% savings to families for the swimming pool be included in the business plan. He said you could include it in the plan, and then add it to the resolution. Another suggestion was to indicate it is a goal in the pool section of the plan.

MOTION was made by Bertuleit, seconded by Patrick, directing staff to bring back a resolution including the 30% discount for families for our swimming pool. The motion carried in a voice vote, with Bain voting nay.

Brusselback stated most troubling to him in the Business Plan was the lack of a good marketing plan. He could not see that any substantial changes had been made, and marketing is the key element to this whole process. It was his opinion that marketing had not been addressed.

Protiva responded his staff has met, and are coming up with new and inventive ideas, using electronic, newspaper, and all forms of media. He said they are looking at new ways to access new markets. Brusselback requested that this marketing information be included in the plan.

Patrick said she also had concerns about marketing in the plan, and that Councilor McConnell had also expressed his concerns.

Bain suggested approving the plan this evening, but to request that the marketing information be updated. Bain asked if more personnel would need to be cut in the Parks & Recreation Department. Protiva stated at this date, no, but if the revenues do not come in, we will have to cut more personnel.

Bertuleit suggested cutting hours at the Recreation Center by opening an hour later and closing an hour earlier. Protiva responded that would change the service level for our patrons, and it was his understanding the Council did not want that to occur.

Kilbride asked if the Recreation Center would be within budget at the end of the fiscal year, and Protiva said it would. Kilbride stated if it looks otherwise near the end of the fiscal year that more action will need to be taken to bring it within budget totals.

MOTION was made by Brusselback, second by Bertuleit to direct staff to analyze the existing marketing plan within the business plan and rewrite it to the satisfaction of Council. Under discussion once the revised marketing plan is accepted by Council it will be added to the adopted business plan. The motion carried in a voice vote, with Bain voting nay.

MOTION was made by Brusselback, seconded by Obteshka to adopt the 2010 Parks & Recreation Plan. On call for vote, all members present voted, motion carried.

PUBLIC COMMENT

Walter Sherman, representing “The Depoe Bay Beacon” stated that he had turned in a public records request last Thursday to our City Recorder. He understood she was going to be out of the office for a couple of weeks. Sherman indicated the request had asked for any e-mails and/or written correspondence between Council members, the Mayor and or staff relating to performance reviews for the City Attorney and City Manager. Sherman asked where the completed forms were. Bain said he has not received any.

Sherman then spoke on the ratification to delay the evaluation of the City Attorney. He asked if it would be delayed and to when. He also asked when the Council met to delay the contract evaluation of the City Attorney. Bain responded that issue was dealt with in the consent calendar at tonight’s meeting. McCarthy indicated the ratification of the change in her contract was needed, or the City would have been in breach of her contract.

Sherman asked the entire Council where the completed evaluation forms were. Bain once again indicated none had been returned to him. Brusselback stated the documents do not exist. Obteshka said he had done nothing on the forms. Larry Coonrod, from the “News-Times” spoke up and stated that a couple of Councilors had those forms at their last meeting, and said they were filling them out. Sherman asked if anyone had finished those forms. Patrick said she had completed hers, and Obteshka said he had not completed his.

ADJOURNMENT

Hearing no further public comment, and having no further business, the meeting adjourned at approximately 9:29 P.M.

Cheryl Atkinson, Executive Assistant

William D. Bain, Mayor