

January 22, 2013
6:03 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, Library Director Smith, Parks and Recreation Director Protiva, Fire Chief Paige, and Police Chief Miranda.

PLEDGE OF ALLEGIANCE

Council and the audience participated in the Pledge of Allegiance.

ADDITIONS/DELETIONS AND APPROVAL OF THE AGENDA

Allen noted that a date needed to be set for a joint meeting, and public hearing, with the Port to hear comments regarding the proposed Teevin Brothers log exporting business. Voetberg reported that the Task Force will make a presentation to Council on February 4, and the hearing should be scheduled after that date.

PUBLIC COMMENT

Ronald Halverson addressed the proposed Teevin Brothers log exporting operation noting that it would create family wage jobs in the community potentially allowing some of the homeless population to find housing. He urged Council support of the proposal.

Allen Newell, representing the rental pool at The Landing, reported that rental pool members are disturbed by the proposal to bring logging trucks adjacent to The Landing, noting that it would cause major negative impacts to their rental business.

Yale Fogarty spoke in support of the proposed Teevin Brothers log yard. He reported that there are no pollutants (creosote or chemicals) created by the debarking process. He added that the speed limit on SE Moore Drive and Bay Boulevard is 25 miles per hour; and contemporary log trucks are quieter with cleaning burning fuel. He added that the operation would benefit the international terminal; and create family wage jobs. He noted that the majority of investments along the proposed route were built during the peak of a previous log shipping operation. He summarized by noting that the benefits of this operation will be huge and the impact minimal.

Sawyer stated that the street is actually SE Moore Drive.

Mike Peterson questioned statistics presented by Ronald Halverson. He stated that there are ten longshoremen who live in Newport who would realize jobs from the log exporting operation, and others would be commuters. He stated that he is a homeowner on the route and is not inclined to donate his home for the cause. He added that the trucks should have decibel testing. He stated that he hears jake brakes on SE Moore

Drive on a daily basis. He asked Council to choose between a few jobs and the loss of property value of homes in the area.

Allen reported that the Task Force is addressing issues and encouraged the audience to attend the City Council meeting on February 4, 2013, at 6 P.M.

Jackie Trahan distributed a letter to Council. She stated that she chose to move to Newport because of the quality of life, and expressed opposition to the Teevin Brothers proposal.

Peggy Sabanskas stated that she has lived in the area for 34 years, and was here during the previous logging operation. She noted that it was a great thing that created jobs in Lincoln County. She reported that SE Moore Drive was built by the Port for logging, and that it was constructed to higher standards to accommodate logging trucks. She added that she does not believe the operation will negatively impact home values in the area, and supports the proposal.

Katherine Howard suggested that the logs should be milled here rather than in Asia, adding that shipping raw logs is wrong.

CONSENT CALENDAR

The consent calendar consisted of the following items:

- A. Approval of minutes from the City Council work session and regular meeting of January 7, 2013;
- B. Report of accounts paid for December 2012.

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

OFFICER'S REPORTS

Mayor's Report. Roumagoux reported that she met with Dave Price, the new Director of the Small Business Development Center at OCCC, on January 9. He is replacing Guy Faust who has retired.

Roumagoux attended the Police Department's management meeting at the Boone Center on January 2. Miranda requested that Council sign up for police ride-alongs. She reported that she rode with Sergeant Real and it was quite informative.

Roumagoux reported that she gave the welcoming address to the Central Coast/Willamette Valley Lions meeting on January 19.

Roumagoux reported that she has been invited to the City Employee Committee meeting on February 12.

Roumagoux reported that she was a guest on the Chamber of Commerce news radio program on January 21.

Roumagoux reported that she met with the hospital board regarding the new health education building. She anticipates a presentation to Council will be forthcoming.

Roumagoux reported that she recently met with Representative Gomberg, Senator Roblan, and Senator Merkeley, with whom she discussed city issues.

Roumagoux appointed Autumn Belloni and Debora Chandler to the Library Board, and Neal Henning to the Destination Newport 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 updated suggestion/concern/complaint report is in the packet along with departmental reports. He noted that a draft overdue library letter (a last resort letter) is also included in the packet.

Allen asked that staff issue a press release regarding the ability to comment, and the comment period, for the Traffic Impact Analysis produced for the proposed Teevin Brothers project.

Sawyer asked how many satellite phones the city has, and which departments have them.

Sawyer asked when the OSU Extension Office will be moving to the Bayfront.

Sawyer complimented LINT for eradicating an issue near a public school.

Sawyer noted that a piece of the Japanese dock that washed ashore at Agate Beach after the Japanese tsunami is coming back to Newport. He thanked everyone who worked on this issue.

Voetberg reported that City Day at the Capitol is February 27, and to let staff know if anyone is interested in attending.

Voetberg reported that the tsunami dock will be returning to Newport tomorrow morning, and that it will be placed at the Hatfield Marine Science Center.

Voetberg reported that Marshall has developed a first draft of the business license administrative rules, and hopes to have a more refined draft by February 18. He added that Marshall will try to address any big issues.

Voetberg reported that an ad hoc wayfinding group has been meeting for years, and that while most of the wayfinding plan is in place, there will be ongoing issues. He asked whether Council was interested in formalizing the committee, and if so, staff will develop the general duties and scope of the committee and return to Council for action. Council concurred and staff agreed to develop the framework for the committee and bring it back to Council.

Allen asked whether the administrative rules for business licensing were being vetted through the City Attorney, and if so, would there be something more formal to review on February 18. He added that since there are interested parties, like Patricia Patrick-Joling, and others, they should have the opportunity to look at the draft before the meetings. Marshall reported that he has talked with Patricia Patrick-Joling, Loren Joling, and Lee Hardy, and they have reviewed the draft. It was noted that the term "owner" should be defined in the ordinance, and that will be a first big step toward developing the administrative rules. He added that another issue is to find a method for dealing with "hybrid organizations." Busby suggested providing a list of definitions at the beginning of the ordinance. A brief discussion ensued regarding what it means to do business in Newport.

Patricia Patrick-Joling stated that Marshall has been cordial, and that she would appreciate being involved in any kind of meeting or communication with the attorney so the issues can really be defined. She suggested staying with language that aligns with state statutes as much as possible. She added that the ORS clearly defines "owner,"

and would trump the city ordinance. She noted that she will save additional comments for the February meeting. Patrick-Joling stated that the other issue she wanted to discuss from the December 17 meeting is the memo that Voetberg sent to that other entity. Allen requested that Voetberg communicate with Patrick-Joling between now and February 18 to see if this matter can be addressed.

Allen asked about the scheduling of the joint meeting between the City Council and the Port. It was suggested that it occur on either February 20 or 21, and that staff share these dates with the Port.

DISCUSSION ITEMS AND PRESENTATIONS

Oath of Office of Fire Captains and Firefighters. Hawker administered the oath of office to the following fire personnel: Brian Haggerty, Doyle Helmricks, Tracy Cole, Richard Giles, and Tom Jackson.

Audit Finding No. 16: Monitoring Financial Activities by the City Council and Six Month Financial Review. Marshall presented a potential solution to the auditor's Finding 16 regarding the monitoring of financial activities by the governing body. He discussed the recommended review periods and the accounts to be reviewed. Allen noted that the underlying legal ability to spend does not necessarily pertain to budgets and must be met.

Marshall noted that Council should review the general fund, parks and recreation fund, and the airport fund on a quarterly basis. He added that Council receives a transient room tax report monthly. He noted that he will do a more thorough job of review throughout the year. Busby stated that this is progress, but that his expectations are a lot greater. Marshall noted that if the expectation is to review every expense and revenue on a monthly basis, it would require another half-time person.

PUBLIC HEARINGS

Continued Public Hearing on Ordinance No. 2047, Creating a New Municipal Code Chapter 4.30, Prohibiting the Distribution of Single-Use Plastic Carryout Bags by Retail Establishments. Roumagoux opened the continued public hearing on Ordinance No. 2047, creating a new Municipal Code Chapter 4.30, prohibiting the distribution of single-use plastic carryout bags by retail establishments. She noted that she had received two letters opposed to a ban on plastic bags; one from Darlene LaFollette, and one unsigned. She asked for public comment.

Matt Hawkyard, chair of the Newport Chapter of the Surfrider Foundation, and chair of the Plastic Bag Community Plan Task Force, reminded Council that this issue has been vetted through a long process. He added that the local Surfrider Foundation has provided hundreds of signatures opposed to plastic bags; there were six months of Task Force meetings where the Task Force listened to, and voted on, a range of different options; and the majority supported an ordinance similar to the one proposed this evening. He reported that there have been multiple public hearings, and he asked that as the issue moves forward; it is given a chance to succeed. Allen asked whether there is a difference between check-out and carryout bags. Hawkyard noted that these are

bags that are provided at the point of sale and not in the meat or produce departments, or for items sold in plastic bags.

It was noted that Allen and Saelens reviewed the proposed ordinance to see if any provisions needed clarification with the intent of making sure that this ordinance is a product the voters understand. Suggested changes include: the purpose statement end after the word "options" in the third line; that definitions be included for the terms "vendor" and "special event vendor;" that the term "violation" be defined; and the word "fine" in 4.30.050(C) be changed to "civil penalty;" and that the civil penalty be an amount not to exceed \$100; and that the timeline for implementation be six months from the date the ordinance is adopted by voters; and the addition of an extension of the six month implementation due to reasonable hardship.

Charlie Plybon, representing the Surfrider Foundation, noted that outreach in other communities had found that smaller stores have more of a hardship regarding turnover of bags. He stated that federal discrimination law prevents the ability to give away free bags to certain benefited folks, including SNAP recipients. He urged Council to spend time thinking about what an infraction event is and to define it as cleanly as possible.

Peggy Sabanskas, owner of the antique mall which is a smaller business, and a member of the Task Force noted that she only orders bags once a year, and that order lasts for a year. She added that it would take her a year to use the bags and research alternatives. It was suggested that a hardship exemption could apply, but that the exemptions be for no longer than a year in duration.

Saelens addressed the issue of special event vendors noting that it sends the wrong message to only apply the ordinance to one aspect of the community.

Alisha Kern stated that if the election is held May 21, it seems like a long time for implementation. It was noted that the implementation will be six months after the election if the ordinance is approved.

Roumagoux closed the public hearing at 7:40 P.M.

MOTION was made by Allen, seconded by Beemer, to direct staff to prepare a resolution calling for an election on the adoption of Ordinance No. 2047, as changed per the direction of the City Council this evening, which would create a new Municipal Code Chapter 4.30 regarding single-use plastic carryout bags and stating an effective date; and adopting a ballot title and explanatory statement, and bring this resolution to Council for consideration at its meeting of February 19, 2013. The motion carried unanimously in a voice vote.

ACTION ITEMS

Consideration of Teevin Brothers Appeal of System Development Charge Assessment. Roumagoux reported that she had received a letter from the Oregon Coast Alliance (ORCA) and asked that the letter be entered into the record. Allen stated that he would like to know who ORCA represents. Tokos reported that he received a letter from Christy Peterson that does not speak specifically to the SDC issue. Tokos delivered the staff report and reviewed what SDC's are and their categories. He noted that the funds are used for larger system wide projects. He added that state law is explicit in terms of how SDCs are developed and applied, and that a clear methodology is developed to ensure that SDCs are fair and based on clear criteria. He added that there was a comprehensive update to the methodology in 2007, which was developed

through a public process with broad representation. He added that the methodology is referenced in the Municipal Code. The SDCs applied to this project are for streets, water, sewer, and stormwater. He reported that the streets, water, and sewer SDCs have been credited out. He noted that the city's SDC credit system applies additional credits if there has been a use or structure on the property within the last 30 years, and that this property was used for a log exporting operation within the last 30 years. He added that Teevin Brothers will get full credit for transportation impacts. He stated that the city is not required to offer the credit, but chose to adopt credits; similarly with water and sewer. He noted that stormwater is different and is applied based on the amount of impervious surfaces. He stated that Teevin Brothers report that stormwater will be managed on site, and believe that because it will be managed on site, they should be able to pay a reduced fee and are requesting that it be reduced 50%. He noted that the issue before Council is a determination of whether the City Manager's decision to assess Teevin Brothers a stormwater system development charge fee in the amount of \$.30 per square foot of new impervious area associated with their planned log exporting operation is in accordance with the city's ordinance for collecting system development charges and state law. Tokos noted that SDCs are imposed on new development and are used to help pay for capital infrastructure improvements that all city residents and property owners benefit from. He added that the assessment is fair in terms of credit already taken by Teevin Brothers. He noted that the code is unclear in what triggers a decision. He stated that he has worked with Teevin Brothers, and believes the appeal is timely filed. He added that a reduction in the amount of impervious surface would cause a reduction in the SDCs. A discussion ensued regarding the City Attorney's memo, and it was noted that the memo can be interpreted to apply the credits. Allen asked what the legal options are based on the City Attorney's memo. Tokos noted that one would be to affirm the City Manager's decision, and the other is to allow an optional credit in the methodology, but that a formula would have to be established for determining that credit.

Paul Langner, representing Teevin Brothers, and Ralph Dunham, from Stuntzner Engineering and Forestry, addressed Council. Langner stated that the issue is fairness, and questioned the scale of the SDC assessment. He reported that Teevin Brothers will be restoring a lost stormwater management function, and will not add one drop of new water to the city's stormwater system; will reduce heavy run-off into bay; will be held to a higher level of stormwater management than the city; and will have to monitor, test and report on potential pollutants. He added that SDC assessments must be proportionate and relative to impacts, adding that Teevin Brothers believes that one half of the assessment would be an agreeable fee. Dunham noted that staff supports adopted rules and applies them across the board. He added that Teevin Brothers is trying to make this work for everyone in the best way possible. He stated that they are not connecting to the city storm system, and therefore not increasing flows into the city system, and they are reducing run-off from the site. He added that the premise is to deal with increased run-off on impervious surface, and that the SDC's are based on impervious surface area. He stated that Teevin Brothers do not need to pave the area, but paving provides cleanliness and containment, and to compensate for paving. Teevin Brothers is providing detention and retention facilities, and a bioswale, and since it is not impacting the bay or city system, believes it should qualify for an impervious surface credit. He added that the project will not increase traffic or flows into the storm system, but it will be

paying for 15 acres for which they are trying to be environmentally sensitive. He noted that the forgiven SDC's were for sewer, water, and transportation amounting to approximately \$42,000. He stated that Teevin Brothers has also paid approximately \$30,000 in building permit fees. He added that the SDCs could be reduced by installing gravel rather than asphalt.

Langner reported that Teevin Brothers plans to be here for many years and is a good fit for the community. He added that this operation will bring back business, and that the investment is in the millions of dollars. He stated that the business will create family wage jobs and that Teevin Brothers is philanthropic and involved in its communities. He added that the project does not fit neatly into the model. He stated that he believes it is right to pay some of the fees, but asked for consideration of the request of a reduction of fifty percent of the stormwater SDC assessment.

Dunham stated that if Council allows Teevin Brothers some relief from the SDCs, that it should be amending the rules to allow the same consideration for other entities. He added that what Teevin Brothers is asking for is a fifty percent reduction of the stormwater SDCs despite a zero impact and reducing runoff.

Allen noted that the City Attorney mentioned that the option for credit is available and discretionary, but if you go that route, you must justify what you are doing. He asked whether the suggestion to base the SDC assessment on half is an arbitrary number or whether there is an underlying factual basis. Dunham noted that the number is relatively arbitrary, adding that the impact per square foot of impervious surface is zero to the city system. He added that there are other impacts; traffic offsite and people traveling to and from the site; and that these numbers are difficult to assimilate. He noted that he looked at other stormwater fees and methodologies and believes that Teevin Brothers is being generous offering to pay half the assessed SDCs.

Allen asked what it would cost to gravel the site to eliminate the SDC charge. It was noted that gravel would cost approximately \$200,000 and paving would cost approximately \$2.1 million. A discussion ensued regarding the ongoing maintenance costs of gravel and asphalt. Allen noted that there are a lot of advantages to asphalt, and Dunham responded that environmental risk is the main advantage. Saelens asked why the payment of the assessed SDCs is such a big deal for such a small percentage of the overall investment. Langner stated that the issue is fairness, noting that they are used to offset the impact to city, and this project is not creating additional impacts. He added that Teevin Brothers has already spent a quarter million dollars on the project, and they want to be in Newport, but the overarching issue is fairness. He added that the city boxed itself in with the methodology. Dunham noted that the ordinance does not contain a provision for a reduction in flow.

Busby asked whether the city has any precedence and whether anyone else has constructed a self-contained drainage system. Tokos reported that this is the first appeal of SDCs under this methodology. He added that there are circumstances where stormwater is detained on other property but the SDCs were still paid. Tokos noted that Teevin Brothers are at the end of the system, and historically, the property has received runoff. He added that if the city starts exempting out properties, it will start to chip away at the city's overall capital program.

Allen asked whether the system Teevin Brothers is creating will have little impact on the city system. Tokos noted that he did not look at it that way, but added that Teevin Brothers are doing a lot to manage stormwater on their property, but that the project is

having impacts above and beyond what is going into the site. Allen noted that the credit being discussed is 5.83, and asked whether what Teevin Brothers has mentioned is consistent with this. Tokos noted that it is consistent, but the language is not perfect, and anything should be done in a thoughtful way, and relate to the calculation of stormwater fees generally. Allen asked whether the ordinance and methodology should be refined, and Tokos responded that they should be, specifically as they relate to stormwater. Busby noted that a reason to reduce the fees is because they are not discharging into the city system. Beemer agreed with Busby. Allen noted that the issue was whether that was a legally sufficient way to proceed.

Yale Fogarty stated that he believes the city needs to review this process and ordinance because it lacks flexibility and discourages economic development. He added that Teevin Brothers will be leasing the property that it will use for the water filtration system. He stated that Teevin Brothers deserves the credit.

Peggy Sabanskas stated that she served sixteen years on the City Council and worked on SDCs for five years. She suggested exercising caution before setting a precedent by adjusting the SDCs. She added that the fees need to be built into projects. She added that Teevin Brothers has the right to appeal, but that the City Council has to look at best interest of Newport.

Mike Peterson spoke in opposition to Council giving Teevin Brothers an additional stormwater SDC credit. He submitted a letter for the records.

Jackie Trahan and Larry Johnson commented from the audience.

Rob Halverson stated that he understands the system is already in place to establish the fee, but that this is a unique situation where the city is dealing with a company applying for a reduction based on putting zero back into the city system. He noted that what triggered this was the permit process. He suggested establishing a maximum of 50% reduction based on zero impact into the system determined by a sliding scale.

Allen asked Tokos whether, from a timing standpoint, Council is under a constraint to make a decision tonight or could the issue be continued to the next meeting. He added that tonight's testimony has clarified issues and he now needs time to think about it, and to come up with a methodology. Beemer agreed with Allen. Tokos noted that Council's scope of appeal is limited to a determination on whether the assessment is consistent with ordinance and state law. He added that if Council wishes to continue the issue and wants to see something more mathematical, it should advise Teevin Brothers to develop something other than an arbitrary 50% and continue the matter. Allen, Sawyer, and Busby concurred that a factual methodology should be developed. Voetberg suggested continuing the issue to a date no later than February 19. MOTION was made by Allen, seconded by Beemer, to continue this action item and matter to no later than the second regular City Council meeting in February which will be February 19. The motion carried unanimously in a voice vote.

Recommendation from the Destination Newport Committee to Utilize a Vinyl Wallscape for Advertising Newport in the Portland Market. Lorna Davis, executive director of the Greater Newport Chamber of Commerce, and a member of the Destination Newport Committee, reported that the issue before Council is whether to approve a building wallscape at SW 4th and Oak Streets in Portland. She added that a proposal was submitted by OnDisplay Advertising, and reviewed and recommended by the Destination Newport Committee. MOTION was made by Swanson, seconded by

Sawyer, to approve the promotion of Newport by advertising on a billboard (building wallscape) located at SW 4th and Oak Streets in Portland, through a contract with OnDisplay Advertising. The billboard advertising will occur over two separate 12 week periods at a cost of \$27,995 per twelve week period for a total cost of \$55,990. The first advertising period will occur prior to June 30, 2013, and will be charged against the FY13 budget, and the second advertising period will occur after July 1, 2013, and will be charged against the FY14 budget. The motion carried unanimously in a voice vote.

COUNCIL REPORTS AND COMMENTS

Sawyer reported on a recent meeting of the Destination Newport Committee at which the above approved advertising opportunity, and other billboards, was discussed. He noted that Neal Henning, who was appointed to the DNC earlier this evening, will be a great asset to the committee.

Saelens reported that he has been actively involved in working on the plastic bag ordinance. He expressed appreciation for the Council Orientation session held earlier today.

Swanson also expressed appreciation for the Council Orientation and requested a list of department heads and telephone numbers.

Busby reported that he attended a recent City Center Newport Association meeting, and also presentations by state and US legislators.

Beemer reported that he has spent time on Safe Haven Hill watching the clearing, noting that the homeless camps were removed, and most of the rotten logs and brush were burned on site.

Allen reported that the Port Task Force met on January 9, and that short-term recommendations will be coming to Council. He noted that he and Beemer will exchange places as liaison and alternate to this Task Force. Allen noted that PMEC selected Newport for its site. He thanked Tokos for playing a prominent role in the presentation to the PMEC site selection team. Allen noted that he and Saelens had attended a recent Depoe Bay City Council meeting on separate issues. Allen added that there will be quite a few ocean policy meetings over the next few weeks, adding that LCDC will hold its final meeting to adopt TSP amendments for wave energy siting. He noted that this is the culmination of a five year process.

ADJOURNMENT

Having no further business, the meeting adjourned at 10:07 P.M.

Margaret M. Hawker, City Recorder

Sandra Roumagoux, Mayor