

January 3, 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, Roumagoux, and McConnell were present.

Staff present was City Manager Voetberg, City Recorder Hawker, Community Development Director Tokos, Library Director Smith, Public Works Director Gross, Finance Director Marshall, Fire Chief Paige, and Police Chief Miranda.

### PLEDGE OF ALLEGIANCE

Council and audience participated in the Pledge of Allegiance.

### ADDITIONS/DELETIONS AND APPROVAL OF AGENDA

It was agreed to remove Action Item G. until the next work session at which an executive session will be held with the Judge before going public with the new contract.

### CONSENT CALENDAR

The consent calendar consisted of the following items:

- A. Approval of City Council minutes from the work session of November 21, 2011, and the work session and regular meeting of December 5, 2011;
- B. Police and Fire Department Reports;
- C. OLCC license application - Hoover's Pub and Grill, LLC.

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

### OFFICER'S REPORTS

**City Manager's Report.** Voetberg reported that the monthly departmental reports are included in the packet. McConnell reported that he and Ted Jones would be on the KCUP radio show in the morning to provide a project update. Allen noted that there are more specific timeframes for the Territorial Sea amendment process. Voetberg noted that a flow chart, showing how the Municipal Code addresses nuisance abatements, is included in the packet. He added that the city is following this process on the hedge issue. Miranda reported that a "step two" letter will be sent. A discussion ensued regarding nuisances and the abatement process.

Voetberg reported that he, Miranda, and Paige will present an update on Lincom and the discussions with the Willamette Valley Communications Center at the February 6 meeting.

Voetberg reported that the packet contains the weekly manager's reports for December 12 and 19, 2011.

## DISCUSSION ITEMS AND PRESENTATIONS

**Single-Use Plastic Bag Discussion.** Allen reviewed the history of the single-use plastic bag discussion, and reported that this issue is a follow-up to a discussion that occurred at the December 5, 2011 Council meeting. He reviewed the potential list of stakeholders for an advisory task force that include: Surfrider Foundation, Newport Chapter; OLCV, Lincoln County Chapter; Lincoln County Solid Waste District; Thompson's Sanitary Service; Lincoln County waste hauler from outside Newport; Northwest Grocery Association; JC Thriftway Market; Newport Farmer's Market' Greater Newport Chamber of Commerce; larger retailer (non-grocery); smaller retailer (non-grocery); fishing community (commercial/sport/recreational); public at-large (two members). He reviewed a potential time frame noting that if a task force is established by the first Council meeting in February, and appointments are made by the first meeting in March; the task force could review the matter and bring a recommendation to the first Council meeting in September. Roumagoux, Sawyer, and Allen agreed to be the Council liaisons to this task force. Sawyer suggested including the perspective of the disabled and homeless constituents. McConnell noted that the citizen at-large membership could be increased.

Charlie Plybon recommended that the resolution creating the task force include a clear and strong focus regarding specific outcomes. He added that the Surfrider Foundation has actively advocated for a single-use plastic bag ban. He noted that the Surfrider Foundation wants an outcome that makes a measurable impact. He stated that he feels like Beemer and Sawyer are the reason we are here today, and believes that their input on this task force is important. He stated that the proposed stakeholder group is a giant group comprised of worthy folks, but he thinks it will be difficult to have that many people. He advocated for expanding the fisherman group to include a marine tourism representative. He suggested that the Port might be another stakeholder.

Rob Thompson thanked Council for inviting the haulers to participate on this task force, and added that the Lincoln County haulers' representatives could be interchangeable.

Matt Hawkyard added that the direction is up to Council, but suggested that the task force could be charged with developing three policy options. One option would be legislative; one a community plan; and one could be something in between like an opt-in policy. Allen noted that there is nothing that would prevent Council from giving the task force the ability to have a public forum so there is public input throughout the process.

Further discussion ensued regarding the composition of the task force. McConnell noted that the first part of the task would be the goal of trying to reduce the impact of single-use plastic bags. Allen and Roumagoux agreed to work on a draft resolution creating a task force. This item will be discussed at the next meeting.

**Business License Draft Update Discussion.** Marshall reviewed the history of the business license ordinance revision process. He noted that the contents of a proposed ordinance are outlined in attachment one included in the packet. He stated that the ordinance is based on a few basic precepts including: simplicity; fairness; and balance. He added that administrative rules will ultimately be drafted that include the application, enforcement, and processing of applications. He asked that Council consider three decision points: (1.) Revenue - should this be a flat fee or based on number of employees; (2.) Residential Rentals - should owners of residential rentals be required to obtain business licenses when renting one single family rental for greater than 30 days and/or renting one room in a residence; (3.) Multiple Locations - does this require multiple business licenses, or a single business license with a fee determined by the number of employees. A discussion ensued regarding the interpretation of the ordinance and the need for administrative rules.

Lee Hardy stated that the process was very frustrating, adding that there was a lot of communication within the Task Force, and near the point of substantive progress, it was stopped. She added that early on the Task Force asked for policy and legal guidance. She stated that the drafting group was developed, and that got to the substantive point, and then that process was cut off. She stated that it appears that there is a policy decision that has created another protected class. She asked who would be responsible for the protected class that does not have licenses. She asked whether it costs more to process an application for a business with two employees as it would for 20 employees. She added that if it is arbitrarily decided that persons owning one residential rental would be excluded from the license requirement, it creates another protected class. She suggested determining whether the definitions are complete and adequate, adding that without a good holistic policy, she is not sure that the ordinance will be consistent or sustainable over the long term. McConnell acknowledged Rob Oberbillig and Steve Beck for their work on the Task Force.

McConnell suggested asking the legal staff to point out areas of the ordinance that require policy decisions.

Steve Beck asked whether the Council thought the business license ordinance was broken. McConnell noted that copies of the proposed ordinance will be available to the public for review. He asked that the document be posted on the city website.

Voetberg reported that with a flat fee at \$75, the city would have to add 500 new businesses to achieve the same revenue stream as now. He added that the current business license revenue is approximately \$126,000 annually, and that with the flat fee of \$75, the city would have a shortfall of approximately \$26,000. Voetberg recommended leaving the fee structure as it is noting that he has not received complaints. He added that if a flat fee is selected, an increase should be considered. He noted that the new business license ordinance will prescribe that business license fees be set by resolution. Lee Hardy stated that the drafting group took a different turn from the task force regarding fees. Allen, Sawyer, Brusselback, Beemer, Roumagoux, and McConnell agreed with the flat fee concept.

A discussion ensued regarding whether residential rental owners should be required to obtain a business license for tenancies of 30 days or more. Beemer and Sawyer declared potential conflicts of interest. Marshall agreed to obtain additional information and come back with a recommendation on this issue.

A discussion ensued regarding multiple businesses with a single owner. Marshall noted that if simplicity is the driving precept, one license is the most logical conclusion.

## PUBLIC HEARINGS

Public Hearing on a Request to Vacate a Portion of SW 12<sup>th</sup> Street. McConnell opened the public hearing at 7:45 P.M. He asked for conflicts of interest and declarations of bias or ex parte contacts. Beemer and Bertuleit reported that they had driven by the site. He asked whether there were any objections to any member of Council, or Council as a whole, in hearing this matter. There were none.

Tokos reported that the issue before Council is consideration of whether it is in the public interest to vacate the eastern 10-foot wide portion of SW 12<sup>th</sup> Street, between Case Street and Bay Street. He noted that there is a memo of opposition from the Public Works Department. He reported that the Planning Commission had recommended that Council vacate the right-of-way with the stipulation that a public utility and sidewalk easement be reserved over the vacated area. He added that the Planning Commission felt that by vacating the right-of-way, the setback issue would be resolved. He reviewed three options, noting that Council could accept the Planning Commission recommendation; vacate the right-of-way without the stipulation recommended by the Planning Commission, or impose other requirements to ensure that the public interest is not prejudiced; or deny the request if Council believes that vacating the right-of-way is contrary to the public interest. Tokos noted that the city's code has an encroachment process, and that the encroachment permit is an administrative process that involves the recording of a legal agreement and binds the property owner. Tokos reported that the applicant for this street vacation wanted to do some work prior to the vacation, and applied for, and received, an encroachment permit.

McConnell asked for proponents.

Cheryl Huff reported that she began the vacation process in February. She stated that the city's street width requirement is 50 feet, and that the street was platted in 1880 at 60 feet. She noted that the vacation would provide a cushion between the road and the houses. She stated that no one has specific plans for expansion; but the vacation would simply provide more room. She added that there is not much traffic on street, and no utilities on her side of the road, although an easement for the water meters and line would make sense.

Bill Lalach reported that when his house was constructed, he received a zero setback variance and his driveway is totally into the encroachment. He noted that if the vacation is granted, it would eliminate the need to come back with further requests.

Allen asked Gross to list the reasons why the Planning Commission decision is not conducive to what is in the best interest of the public. Gross stated that, at a minimum, a utility easement is needed. He added that if the right-of-way was vacated, all meters would be on private property. He noted that, at a minimum, the city would need the ability to maintain the meters unless they are moved off the private property. He stated that his biggest concern is setbacks, and that by vacating, it makes future improvements difficult. He added that any decision made today is for perpetuity. Tokos noted that if an easement is reserved, building cannot occur in the easement area. He added that the Planning Commission understood that it is appropriate to reserve a utility easement, and difficult to construct sidewalk on that side of street. Gross stated that easements and

rights-of-way are treated almost identically. He added that he is concerned with committing for the long term without knowing what will happen. Beemer stated that his major concern is whether it is in the public interest to vacate this property. Lalach reported that when the lot was vacant, he paid \$800 in property taxes annually, and now that it is developed, he pays \$7,500 annually. He added that the north end of 12<sup>th</sup> Street is totally vacated, and the south end will never be a major street. Beemer noted that the likelihood of sidewalks on both side is minimal or less.

McConnell closed the public hearing at 8:28 P.M. for Council deliberation. Bertuleit stated that he supports the encroachment. Allen asked Gross what his major concern is with the Planning Commission's recommendation. Gross stated that the city would not be able to do street improvements. He added that the road with parking and sidewalks would be 50 feet exactly, and this would limit the ability to use the space. MOTION was made by Allen, seconded by Beemer, that the Council forego vacating the easterly 10 feet of SW 12<sup>th</sup> Street within Block 9, Plan of Newport, because the right-of-way is needed for future public use. Brusselback noted that it is not in that much conflict and agrees with the Planning Commission. The motion carried in a voice vote with Brusselback and McConnell voting no.

### **ACTION ITEMS**

**Consideration of Resolution No. 3567 Approving an Intergovernmental Agreement with Tillamook County, City of Lincoln City, and City of Newport to Share Common Library Management Software.** Smith reported that the issue before Council is the consideration of adoption of Resolution No. 3567 which approves an intergovernmental agreement between Tillamook County, the City of Lincoln City, and the City of Newport for the sharing of library management software. MOTION was made by Roumagoux, seconded by Beemer, to adopt Resolution No. 3567 which creates an intergovernmental agreement between Tillamook County, the City of Lincoln City, and the City of Newport for the sharing of library management software. The motion carried unanimously in a voice vote.

**Appointment of Committee Members.** McConnell appointed the following Committee members:

<b><u>Committee</u></b>	<b><u>Expiration Date</u></b>
<b><u>Planning Commission</u></b>	
Mark Fisher	12/31/14
Rod Croteau	12/31/14
Jim McIntyre	12/31/14
<b><u>Budget Committee</u></b>	
Oly Olson	12/31/14
<b><u>Airport Committee</u></b>	

Mark Watkins	12/31/13
Jim Hawley	12/31/13

**Library Board**

Curt Fewkes	12/31/15
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**Parks and Recreation Committee**

Jimmy Rodriguez	12/31/13
Sandra Surber	12/31/13
Nancy Steinberg	12/31/13

**Destination Newport Committee**

Lill Patrick	12/31/12
Lorna Davis	12/31/12
Gabe McEntee-Wilson	12/31/12
Raquell Teague	12/31/12
John Clark	12/31/12
Ric Rabourn	12/31/12
Carrie Lewis	12/31/12

**Senior Citizen Advisory Committee**

Diane Pinkerton	12/31/13
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**Bicycle/Pedestrian Advisory Committee**

Chuck Forinash	12/31/13
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McConnell noted that there are vacancies on the Budget Committee, Airport Committee, Pedestrian/Bicycle Committee, and the Senior Advisory Committee. He noted that the committees, with the exception of the Budget Committee vacancy, will interview applicants and forward a recommendation to the City Council. He asked that a note of appreciation be sent to folks who have served on committees.

MOTION was made by Brusselback, seconded by Beemer, to ratify the Mayor's appointments. The motion carried unanimously in a voice vote.

**Election of Council President.** It was reported that the issue before Council is the annual election of a Council President as prescribed by City Charter. MOTION was made by Bertuleit, seconded by Beemer, to elect Allen as Council President. Roumagoux nominated Brusselback, but there was no second. Allen stated that he was happy to serve. The motion carried unanimously in a voice vote.

**Consideration of Extension of Lease for Transfer Station Property to Thompson Sanitary Services.** Tokos reported that the issue before Council is consideration of whether it is in the public interest to extend the lease for the transfer station site for a term of ten years, expiring January 2, 2011. He noted that Thompson's Sanitary Service is requesting this extension so that it can recover the cost of repairing the waste transfer station building. He added that in extending the lease, Council would also need to authorize the repair work which is estimated at approximately \$19,700. Allen stated that he has never seen an order created by a motion without the actual order document being prepared. Brusselback asked what the lease amount is, and Tokos reported that it is \$1 per year, but the value of the lease is the service provided by Thompson's. MOTION was made by Beemer, seconded by Allen, that by order of the Newport City Council, a new 10-year term be established for the lease between the City of Newport and Thompson's Sanitary Service for operation of the waste transfer station located at 8096 and 8098 NE Avery Street because extending the lease is in the public interest. Staff is further directed to coordinate with Thompson's Sanitary Service on the preparation of a new legal description for the existing transfer station site, and authorizes the Mayor to sign the lease once a legal description is available. The new expiration date for the lease will be January 2, 2022. Council further approves the repair work proposed by Thompson's Sanitary Service as necessary improvements that Thompson's Sanitary must undertake as the lessee to maintain the premises in good order. The motion carried unanimously in a voice vote.

**Consideration of a Special Event Fee Waiver Request - 2012 Seafood and Winter Festival - Greater Newport Chamber of Commerce.** It was reported that the issue before Council is whether to approve a special event permit fee waiver request by the Greater Newport Chamber of Commerce for the 2012 Seafood and Wine Festival. It was noted that the total fiscal impact to the city is \$14,140, and if the same percentage as applied last year was used, the waiver would be \$4,949. MOTION was made by Allen, seconded by , to approve the special event permit request by the Greater Newport Chamber of Commerce for its 35<sup>th</sup> annual Seafood and Wine Festival to occur on February 23, 24, 25, 26, 2012, as the event complies with special event permit criteria and guidelines, and to transfer \$4,949 from the Transient Room Tax Fund to the General Fund representing a contribution by the city of 35% of the estimated total city costs, the balance of which will be invoiced to the Chamber. A condition of approval is that the Community Development Department authorizes the temporary structure permit, and the temporary signage request, and that signs not be placed to create a hazard to pedestrian or vehicular traffic such as obstructing sight distance or other views. A further condition is that where public or emergency access could be blocked or impeded, event organizers are required to consult with the Fire and Police Departments prior to the event. The motion carried unanimously in a voice vote.

**Consideration of Non-Profit Funding Review Task Force Grant Application Materials.** It was reported that the issue before Council is the consideration of a non-profit funding application and a request to authorize staff to advertise the grant. MOTION was made by Bertuleit, seconded by Roumagoux, to approve the non-profit funding application materials as prepared by the Non-Profit Funding Review Task Force, and authorize staff to advertise the application. The motion carried unanimously in a voice vote.

**Consideration of SAFER Grants.** Paige reported that the issue before Council is whether the staff should commit the time to complete the application process for Safer grant opportunities. He recommended that three SAFER grant opportunities be pursued, and they include: (1.) The modification of an existing regional SAFER grant awarded last year to Depoe Bay Fire District so that the city is included in this year's funding; (2.) Apply for a new SAFER regional grant (with Depoe Bay) to help fund expansion of the volunteer stipend program; and (3.) Apply for a SAFER grant to fund three new career firefighter positions. He noted that for option three, the cost in year three, and ongoing, is approximately \$192,000 annually. MOTION was made by Roumagoux, seconded by Allen, that the Fire Chief be authorized to prepare and submit the following SAFER grant applications for the purpose of increasing volunteer and career firefighter staffing levels: (1.) The modification of an existing regional SAFER grant awarded last year to Depoe Bay Fire District; (2.) A new regional SAFER grant, with Depoe Bay Fire District, to help fund expansion of the volunteer stipend program; (3.) A SAFER grant to fund three new firefighter positions with the understanding that the grant will pay for two years of compensation and the city is obligated to pay for at least one additional year. The motion carried unanimously in a voice vote.

**Consideration of Award for CBS Outdoor Poster Campaign.** It was reported that the issue before Council is the consideration of a poster campaign targeting the Corvallis/Albany and Eugene/Springfield areas. It was noted that the proposed was submitted by CBS Outdoor and reviewed and recommended by the Destination Newport Committee. MOTION was made by Sawyer, seconded by Bertuleit, to approve the poster advertising campaign in Corvallis/Albany and Eugene/Springfield locations with CBS Outdoor Advertising in the amount of \$45,575. The motion carried unanimously in a voice vote.

**Consideration of Resolution No. 3568 - Adopting a Supplemental Budget for Fiscal Year 2011/2012.** It was reported that the issue before Council is the re-adoption of Resolution No. 3568 which would amend the city's Fiscal Year 2011/2012 annual budget to address increased appropriation changes in the following funds: General Fund; Water Fund; Airport Fund; Building Inspection Fund; and Water Fund. It was noted that this resolution appeared on the agenda of the December 5, 2011 City Council meeting, and was adopted, however, the resolution was inadvertently omitted from the packet. MOTION was made by Sawyer, seconded by Beemer, to adopt Resolution No. 3568, adopting the city's Fiscal Year 2011/2012 supplemental budget and making appropriations. The motion carried unanimously in a voice vote.

## **COUNCILOR REPORTS AND COMMENTS**

Roumagoux on the recent League of Oregon Cities Regional Solutions meeting, adding that the Regional Solutions team is eager to help. It was noted that the central coast is more aligned with the central valley area, and that the regions will be changed to reflect this.

Roumagoux reported on a recent meeting of the Parks and Recreation Advisory Committee at which the expanded committee and foundation were discussed. She also noted that the group heard a presentation by Tokos on the Tree City USA program.

Sawyer thanked the city staff for their work on the awards banquet. He thanked the Mayor for allowing Council to distribute some of the prizes. He reported that he had responded to an e-mail regarding things to do in Newport at Christmas, and that the response was appreciated. He stated that a local bed and breakfast presents a special high tea. He thanked the Police Department for its response to the robbery at the South Beach Grocery.

Allen stated that he will send a written recap of the Marine Science Center review by OSU.

Allen reported that he attended a Grant Review Task Force meeting at which it was concluded that the monies could not be used for feasibility studies.

Allen stated that the awards banquet was great.

Allen stated that he attended the screening of the film, "Bag It," at the Library.

Allen reported that the marine spatial planning and working group of OPAC met in Astoria. He stated that on January 20, the working group will meet to receive input from local governments regarding how to start the second round.

McConnell stated that the meeting schedule calendar does not include the town hall meetings, and asked that it be updated. He also asked for an updated department head contact list.

Brusselback reported on a recent meeting of the Port of Newport. He noted that the Port had received an unqualified audit report. He added that the Port is working on a strategic business plan, and the draft should be ready for the next meeting. He noted that Mt. NOAA will begin moving on January 19. He reported that the Yaquina Bay Fruit Processors spoke during the Port meeting, and that the company is now producing chocolate covered cherries.

## ADJOURNMENT

Having no further business, the meeting adjourned at 9:32 P.M.

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Margaret M. Hawker, City Recorder

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Mark McConnell, Mayor