

July 16, 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, Beemer, Allen, Bertuleit, Brusselback, and Sawyer were present. McConnell and Roumagoux were excused.

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

### PLEDGE OF ALLEGIANCE

The City Council and audience recited the Pledge of Allegiance.

### CONSENT CALENDAR

The consent calendar consisted of the following items:

- A. Approval of City Council minutes from the work session and regular meeting of July 2, 2012, and special meeting of June 19, 2012;
- B. Report of accounts paid for June 2012.

Allen made several changes to the minutes. It was noted that the Kathryn Benfield expense on the list of accounts paid was for prosecutorial services in the municipal court. MOTION was made by Brusselback, seconded by Beemer, to approve the consent calendar with the changes to the minutes as noted by Allen. The motion carried unanimously in a voice vote.

### OFFICER'S REPORTS

**Mayor's Report.** Allen, on behalf of the Mayor, appointed Mary Peterson, Sally Houck, and Catherine Rickbone to the Public Arts Committee. Allen appointed, on behalf of the Mayor, Jennie Scarborough to the Parks and Recreation Committee. MOTION was made by Sawyer, seconded by Bertuleit, to ratify these appointments. The motion carried unanimously in a voice vote.

Allen reported that the next Town Hall meeting is scheduled for July 30, at 6:00 P.M., at the Carriage House at the Historical Museum. He noted that previous Town Hall meetings have been held in South Beach, Agate Beach, and Nye Beach. The final Town Hall meeting will be held in October on the Bayfront.

Allen reported that he received a telephone call from Georgia Pacific regarding a containerboard boat building contest that will be held on August 18. He asked Council to let Voetberg know if they wished to participate.

Allen reported that he would be standing in for the Mayor for the 100<sup>th</sup> Year Pathfinder anniversary celebration. He will be reading a proclamation on July 20 at 9:00 AM. at the Bayscapes Gallery on the Bayfront.

Allen noted that the Mayor had previously asked about an informational sheet that would be included with the August utility bills. Gross reported that this document is under development and will be included in the August utility bills.

**City Manager's Report.** Voetberg reported that the packet contains the updated suggestion/concern/complaint list; the departmental monthly reports; and the manager's report for the weeks of June 25 and July 2.

Voetberg reported that he had attended the recent OCCMA Conference. He reviewed the sessions that he attended during the conference.

Allen asked whether the attorney's invoice for June had arrived. He added that the Mayor would like to have this topic as an agenda item on the next work session. It was noted that Sawyer had requested a status of current litigation, and that this item will be on the next work session as well.

Sawyer stated that the Fire Department had done a great job with the fireworks display. He asked about the cost. Voetberg reported that the fireworks cost \$21,500, and that the barge rental cost \$1,500, and this was funded by TRT monies.

Sawyer wished the Police Chief luck in the negotiations with the hospital for handling security for mental health holds.

Allen asked Tokos about the final inspection for the water treatment plant, and Tokos noted that the inspection is imminent. Gross reported that the grand opening will be planned for October.

Allen asked Paige about the fireworks display, noting that it went well, but was a huge task. It was suggested that the roles of the Fire Department and the contractor should be better defined for next year due to liability concerns as pointed out in the Fire Department monthly activity report.

Allen referenced the Police Department report, item 8, and asked the status of the LINT officer. Voetberg noted that the Police Department is fully staffed, although some officers are still in training. He added that once training is completed, the Police Chief is free to reassign staff.

Allen noted that on the capital projects status update, the amount of the Naterlin Drive to Yaquina Bay State Park sidewalks project should be changed to \$182,000 rather than \$150,000. It was noted that this work should be completed by Labor Day.

Brusselback asked about the NW 3<sup>rd</sup> and 6<sup>th</sup> Street sidewalk project. It was reported that the bids had come in too high, and the project had been rebid with the 6<sup>th</sup> Street component eliminated, and the focus on 3<sup>rd</sup> Street. Gross noted that the city will do some 6<sup>th</sup> Street improvements as a part of the overlay program. He added that he would like to complete at least one section of sidewalk on 6<sup>th</sup> Street, and this could be done with a change order. A brief discussion ensued regarding the possibility of undergrounding utilities on these streets.

Allen thanked staff for the departmental reports.

## DISCUSSION ITEMS AND PRESENTATIONS

**Port of Newport Task Force.** It was noted that in addition to the draft resolution that was included in the packet, the Port had sent additional information for Council consideration at this meeting. It was requested that Council provide feedback prior to the July 24 Port meeting. Allen noted that after the Port passes its resolution, the city will adopt a resolution on August 6 regarding support for the Port and participation in the task force. He added that the information from the Port includes names of potential task force members. Brusselback stated that there is no question that this is an outright use for the Port, and there is very little that Council can do. Don Mann confirmed that the use of the facility for a log operation is an outright use. Mann stated that the names on the stakeholder list are names that were added at the City Council work session, plus names that the Port received as a result of advertising. A discussion ensued regarding staffing responsibilities for task force meetings. Voetberg recommended that the task force be staffed by the Port for continuity, but that the Port was welcome to use the Council Chambers if available. Allen noted that if there is an issue, Mann and Voetberg can work it out internally. Allen noted that the creation of minutes and staffing is primarily a Port responsibility, but the city will help in any way it can. Sawyer thanked the Port for creating a task force to discuss this issue. Mann confirmed that the company the Port is talking with exports logs and ships cut lumber. Allen noted that he is on the stakeholder list as a city representative, and that Tokos is listed as the city staff person. He added that since Gross and Miranda may need to provide input, that perhaps one staff person should be designated as the point person who will make sure the appropriate staff person is in attendance when needed. Allen noted that Council will decide on a its liaison and alternate in August. Mann reiterated that the Port will take input on objectives and representatives. It was noted that the channel is currently being dredged to accommodate the log ships.

**ESCI Recommendations.** Paige reported on a presentation by ESCI representatives on June 26. He noted that all fire departments were represented at this meeting, along with elected officials, citizens, and paid and volunteer fire staff from various agencies. He presented an overview of the study including: purpose of study; strengths, weaknesses, and opportunities; challenges and critical issues of each agency; and processes for collaboration. He reviewed the 33 specific recommendations for the Newport Fire Department. A discussion ensued regarding the records management system and cost, and Paige reported that it costs \$2,600 initially, and \$2,000 annually. He reviewed the recommended regional goals, and the merger strategies recommended. He recommended that Council authorize staff to develop a plan to: address the individual department recommendations; proceed with exploring options for improving the level of emergency services and/or providing for savings through regional cooperation; and begin discussions regarding the possibility of future consolidations with the Depoe Bay and/or North Lincoln Fire Districts. He also recommended that Council appoint a liaison and representative for any regional committee or stakeholder group that may be established to further study regional collaborative opportunities. MOTION was made by Beemer, seconded by Brusselback, to direct staff to further explore the possibility of sharing resources with the Depoe Bay Rural Fire District and/or North Lincoln Fire and Rescue. The motion carried unanimously in a voice vote. Beemer agreed to serve as Council liaison, with Sawyer as the alternate.

## PUBLIC HEARINGS

**Consideration of Petition to Restrict Mobile Food Vendors on the Bayfront.** Allen opened the public hearing at 7:19 P.M. to consider a petition to restrict mobile food vendors on the Bayfront. Tokos reported that the issue before Council is consideration of how best to respond to a petition filed by some of the Bayfront business owners objecting to catering trucks operating in certain areas along the Bayfront, and a request that the city further regulate this type of activity. Tokos stated that the notice of this hearing was sent to all petitioners; two catering truck operators; and fish processing plants, as these are parties that could be impacted. He added that the current codes authorize vending through an endorsement to the business license, although the code requires vendors to move every 15 minutes. Tokos read an e-mail that was received from Cris Torp. Tokos reviewed Council options. He suggested that if the code needs to be adjusted, the matter could be referred to the Planning Commission, adding that if Council deems the code to be adequate, the issue might be enforcement. Brusselback asked whether the 15 minute rule had been enforced. Miranda stated that the vendors are usually told to move on. Allen asked whether Torp's comments, and those of the petitioners, are related to enforcement or to the food vendors in general. Brusselback asked where fixed vending stands can be placed on public property, and it was noted that they can be placed at the Nye Beach Turnaround, areas on the Bayfront, and the City Hall parking lot.

Allen called for public comment.

Greg Morrow, managing partner of the Gear Shop, stated that there is a safety factor as the food vendors create a blind spot. He added the mobile vendors should have to participate in the parking district and pay applicable fees. He noted that if the 15 minute parking limit cannot be enforced, that an area could be established where mobile vendors are not allowed during certain times of the year. Sawyer asked whether the vendors might be allowed to park on fish plant property, and whether there had been outreach to vendors to explain the ordinances. It was noted that some outreach had occurred. Beemer noted that this issue might be something to send to the Planning Commission for a thorough review and determination as to whether the rules need to be changed.

Amy Pattison, a local vendor, reported that she rents a spot in front of the city's pump station on the Bayfront. She expressed a desire to clarify the vending ordinance, and suggested considering the boardwalk as a vending area.

Miranda reported that the city had received a complaint from the Bay Market regarding mobile food trucks. He added that this issue is a low enforcement priority for the Police Department due to logistics. He noted that the vendor's concern is that customers have only so much time to get lunch. He added that there are other issues associated with the requirement to move every 15 minutes, noting that this issue is difficult to enforce and needs to be addressed.

Leo Guitterez, a mobile food vendor, reported that he had a police visit for parking too long, but that there are so many customers, and each plate takes four or five minutes, that it is difficult to adhere to the time limit. He added that he parks on the sidewalk to help people avoid running into his awnings, and to avoid having his mirrors broken off. Allen asked whether, in Guitterez' experience as Bayfront food vendor, more

time would be beneficial, and whether having to move is disruptive, as there is not enough time to supply lunch to all customers. Allen noted that there are safety, parking, and time limit issues, with mobile vendors as well as fixed stands. Brusselback asked Tokos whether the code allows for vendors to park on private property which could permit the vendors to park in the fish plant driveways. Tokos noted that a different set of codes apply on private property, and that a temporary use permit would be required. Beemer asked whether the vending occurs mainly in the middle of the day, and Tokos noted that there are some shut off hours in the vending code. Bertuleit stated that this is a working Bayfront, and he would like some resolution to the issue as 15 minutes is not enough time. Allen stated that he wants to look at the time issue. Allen noted that if parking can be improved without disrupting business, it should at least be explored to accommodate all businesses, and that the private property issue could be looked at along with this.

Allen closed the public hearing for Council deliberations at 7:56 P.M.

Sawyer asked Gross whether there is sidewalk deterioration. Gross reported that the sidewalk is very sturdy, so much so that a 747 could land on it.

Allen noted that the issues that have surfaced this evening include: safety, parking, time element (parking time limits), the use of private property, and fixed stands. Brusselback suggested the possibility of limiting food vendors to specific areas. Tokos noted that the Planning Commission could take a comprehensive look at the vending ordinance. Tokos stated that the Planning Commission would appreciate feedback from Council regarding where to prioritize this issue among other issues that the Planning Commission is working on. Beemer noted that the issue is not critical, but that a timeline should be established. Bertuleit suggested that in the interim, staff should try to develop a short term fix to the problems. Allen agreed that staff should look for short term fixes while the Planning Commission deals with it more comprehensively over the next six months. Allen asked that staff obtain direct contact information for the three speakers, and to make sure that they know when this issue comes before the Planning Commission, and perhaps between meetings, staff can get ideas from them as the issue moves forward more comprehensively with the Planning Commission. Tokos suggested allowing the Planning Commission to work this issue into its schedule where it sees fit, recognizing that it may not be resolved for a number of months. Tokos suggested talking with the fish plant operators and vendors to see if they can come up with locations that work better for all.

MOTION was made by Brusselback, seconded by Beemer, to forward this petition to the Newport Planning Commission and request that they evaluate the issue, and provide a recommendation to the City Council on any proposed amendments to the city's vending codes, and that staff take a look at interim resolutions. The motion carried unanimously in a voice vote.

**Public Hearing on and Consideration of Resolution No. 3606 Regarding the Imposition and Categorization of Ad Valorem Taxes for the Fiscal Year 2012/2013 Budget.** Marshall noted that the issue before Council is to take public comment and consider the adoption of Resolution No. 3606. He noted that this issue had previously been discussed and Resolution No. 3599 adopted, but that Resolution No. 3599 was found to contain an error. He added that Resolution No. 3606 repeals Resolution No.

3599 and corrects the error. Allen reviewed additional changes. Allen opened the public hearing at 8:08 P.M.

Allen called for public comment. There was none.

Allen closed the public hearing for Council deliberations at 8:09 P.M.

MOTION was made by Bertuleit, seconded by Brusselback, to adopt Resolution No. 3606, imposing and categorizing ad valorem taxes for the Fiscal Year 2012/2013 budget. The motion carried unanimously in a voice vote.

## ACTION ITEMS

**Consideration of Ordinance No. 2041 Amending the Text and Map of the Newport Zoning Code.** Tokos reported that the issue before Council is consideration of Ordinance No. 2041 rezoning the Port of Newport's upland dredge disposal site and a portion of the South Beach Marina from W-2 ("Water Related") to W-1 ("Water Dependent") designation. He added that property east of the dredge disposal site, west of SE Marine Science Drive, north of the South Beach Marina, and south of the NOAA Pacific Marine Operations Center will be rezoned from W-1 to W-2, including the Yaquina Bay Fruit Processor's facility. He noted that the ordinance also amends Section 14.03.080 of the Municipal Code to include "Manufacturing in Conjunction with Uses Permitted Outright in a C-2 District" as a conditional use in the W-2 zone. He reported that the Planning Commission had voted unanimously to recommend adoption of the proposed changes. He noted that Council held a public hearing on this matter on June 18, 2012, and directed staff to prepare an implementing ordinance for consideration. Lon - W-1 no possibility of a conditional use. Allen suggested leaving the signature page blank as McConnell may return before the legal review is complete. MOTION was made by Beemer, seconded by Sawyer, to read Ordinance No. 2041, an ordinance that amends the text and map of the Newport Zoning Ordinance changing the zoning designation for certain Port of Newport properties in South Beach, and allowing "Manufacturing in Conjunction with Uses Permitted Outright in a C-2 District, as a conditional use in the W-2 zone, by title only and adoption by roll call vote, and further move to direct staff to coordinate with the City Attorney for a review of the ordinance as to form, and to incorporate any edits recommended by the City Attorney into the document prior to signature. The motion carried unanimously in a voice vote. Voetberg read the title of Ordinance No. 2041. Voting aye on the adoption of Ordinance No. 2041 were Allen, Sawyer, Brusselback, Bertuleit, and Beemer.

**Notice of Intent to Award Grant Consultant of Record Contract.** Gross reported that the issue before Council is consideration of a notice of intent to award a contract for grant consultant of record services. He added that qualifications were received on July 6, 2012, and were rated by a selection committee, and that Chase Parks Grants was selected as the consultant who could provide the best possible grant research and strategic planning services. MOTION was made by Sawyer, seconded by Bertuleit, that the City of Newport Public Works Department issue a notice of intent to award a contract for grant consulting services to Chase Park Grants, and contingent upon no protests being received within the statutory seven day protest period, authorize the City manager to award and execute the contract. The motion carried unanimously in a voice vote.

**Acceptance of SAFER Grant.** It was reported that the issue before Council is acceptance of a SAFER Grant award to help fund increases in shift stipend volunteer coverage for the city. He explained the purpose and benefits of the grant, and added that there is no local match requirement. MOTION was made by Bertuleit, seconded by Brusselback, to accept the regional SAFER Grant with the Depoe Bay Fire District, to help fund expansion of the volunteer stipend program. The motion carried unanimously in a voice vote.

**Establish Legislative Priorities to be Submitted to the League of Oregon Cities.** It was reported that the issue before Council is the development of a legislative priority list based on the LOC's 19 identified legislative objectives. Allen noted that Council submitted its top four legislative priorities which have been compiled and are: Community Development; Water/Wastewater; Finance and Taxation; and General Government. MOTION was made by Brusselback, seconded by Beemer, to move forward to the League of Oregon Cities the following legislative priorities, based on the LOC's 19 identified legislative objectives for the 2013 session (following are the Council's legislative priorities, but they were not read aloud):

1. **Community Development** Item A. (Jobs/Economic Development Initiative - support three policy option packages in the Oregon Business Development Department's budget that will create, retain, expand, and attract businesses that provide sustainable family wage jobs for Oregonians through public-private partnerships, leveraged funding and support economic opportunities for Oregon companies and entrepreneurs.)
2. **Water/Wastewater** Item Q. (Recapitalization of state municipal infrastructure funds to assist communities with investments required for compliance with environmental mandates, to meet capacity, or to implement economic development strategies. The Special Public Works Fund, Water Wastewater Fund, and the Clean Water State Revolving Fund should receive a level of funding of \$50 million. The Feasibility Grants Funds should receive \$2 million. Endorse the continued development of innovative finance tools that will allow communities to access loans for the lowest costs.)
3. **Finance and Taxation** Item C. (Allow local governments a more flexible use of transient lodging tax revenues.)
4. **General Government** Item G. (Amend the public contracting code to remove costly requirements that do not aid in the delivery of public improvements and defend against any new requirements that do not serve the public interest.)

The motion carried unanimously in a voice vote.

## COUNCIL REPORTS AND COMMENTS

Sawyer reported that Cheryl Atkinson had been volunteering at City Hall, and thanked her for donating her time.

Sawyer reported on a recent DNC meeting at which a policy was discussed regarding the attendance of vendors at DNC meetings. He reviewed current marketing efforts including KEZI in Eugene, and billboards. The DNC is discussing updating of its photographic images.

Sawyer asked to be excused from the August 20 meetings. MOTION was made by Bertuleit, seconded by Beemer, to excuse Sawyer from the August 20, 2012 meetings. The motion carried unanimously in a voice vote.

Brusselback reported on a recent meeting of the Bicycle/Pedestrian Committee. Issues discussed include the Highway 101 crosswalk consultant selection, final draft of the Coho/Brant Plan, three crosswalk projects on the Bayfront, sharrows for the South Beach jetty trail and on the bridge.

Bertuleit reported that he had attended a recent meeting of the Nye Beach Merchants Association. He noted that the group had done a nice job of clean-up.

Bertuleit noted that the barge at Agate Beach is almost like the Keiko days with lots of visitors, and folks spending the night because of the barge.

Beemer reported that there is encouraging development on the Corvallis/Coast trail project. He noted that he is trying to contact Hancock Forests to see if it is more amenable to a trail access across its property.

Allen asked that the roles between the contractor and Fire Department regarding the fireworks display and liability be more clearly defined and addressed between now and next year.

#### **PUBLIC COMMENT**

Marletta Noe talked about the proposed sidewalk projects on 3<sup>rd</sup> and 6<sup>th</sup> Streets. She suggested adding whimsical components to the 3<sup>rd</sup> Street sidewalk. Bertuleit noted that stencils add interest to sidewalks. Allen suggested contacting the Nye Beach art community.

Sawyer asked about the benches in Nye Beach. Brusselback noted that he has retired from bench making.

#### **ADJOURNMENT**

Having no further business, the meeting adjourned at 8:52 P.M.

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Margaret M. Hawker, City Recorder

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David N. Allen, Council President