

June 3, 2013
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, Roumagoux, Sawyer, Saelens, Swanson, and Busby were present.

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

PLEDGE OF ALLEGIANCE

Council and the audience recited the Pledge of Allegiance.

ADDITIONS/DELETIONS AND APPROVAL OF AGENDA

Allen asked that the executive session minutes of the May 20, 2013 be added to the consent calendar.

PUBLIC COMMENT

Roumagoux read a letter from John Davies, owner of an Embarcadero Resort unit, requesting a reversal of the city's requirement that owners of units being leased through the hotel need an individual business license.

Mark McConnell spoke in support of the proposed economic development director position. He urged Council to consider keeping this position in the adopted budget.

Linda Neigebauer spoke in support of budgeting monies for transit services. She urged Council consideration of an additional \$10,000 to assist in marketing the city loop shuttle.

Alisha Kern spoke to Council regarding the stop signs by the high school that were installed to calm traffic during school hours. She asked why the signs are still there since the reason for having them no longer exists.

Alisha Kern reported that she had observed the Teevin Brothers log operation debarking process in Crabtree, and noted that it is extremely noisy. She suggested Council visit the operation in Crabtree.

Marletta Noe suggested creating poster-sized bus route signs and placing them in local lodging establishments.

PROCLAMATIONS, RECOGNITIONS, AND SPECIAL PRESENTATIONS

Roumagoux proclaimed the week of June 23 - 30, 2013 as American Legion Week in the City of Newport. Shirley Gilmore received the proclamation and addressed Council regarding the upcoming 95th annual convention to be held in Newport.

CONSENT CALENDAR

The consent calendar consisted of the following items:

- A. Approval of City Council minutes from the executive session, work session, and regular meeting of May 20, 2013;
- B. OLCC Application - Walgreens;
- C. OLCC Application - Oregon Coast Aquarium.

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

OFFICER'S REPORTS

Mayor's Report. Roumagoux reported that she attended the YBEF annual dinner at which the speaker was from the state's small business development center.

Roumagoux reported that she helped serve pizza, provided by the Savory Café, to graduating seniors from Newport High School.

Roumagoux wished outgoing City Manager Voetberg well in his new endeavors and welcomed Interim City Manager Ted Smith.

Allen noted, for the record, that Council did not receive notification that Voetberg was not going to be in attendance at this meeting. He added that the agreement with the Interim City Manager has not been finalized and signed, and that Voetberg cannot delegate someone else to sit at the dais during City Council meetings. He added that since Smith is not the City Manager, Voetberg should have given Council an excuse regarding why he was not going to be in attendance at this meeting. Allen noted that the Charter has certain requirements, and there are inconsistencies in Voetberg not showing up tonight and what the Charter requires.

PRESENTATIONS

Briefing on the Police Accreditation Process. Miranda introduced Ed Boyd, Executive Director of Oregon Accreditation Alliance. Boyd briefed Council on the status of the police accreditation process. He presented the Police Department with its certificate of state accreditation. Miranda noted that this is a milestone for the agency, and that Newport is the first department on the Oregon coast to attain accreditation.

ACTION ITEMS

Decision to Hold an Evidentiary Hearing on the Teevin Brothers Traffic Impact Analysis or to Uphold the Planning Commission Decision. Tokos reported that the issue before Council is a discussion on how Council wants to proceed with an appeal of the Planning Commission's decision to approve the Teevin Brothers Traffic Impact Analysis. He noted that the appeal was filed by the Oregon Coast Alliance (ORCA), Michael Peterson, and The Landing at Newport Condominium Association.

Tokos reported that the city received a complete application from Teevin Brothers Land and Timber Company for a traffic impact analysis associated with a proposed log yard on 15 acres of property located at 1650 SE Bay Boulevard. He noted that the purpose of the analysis is to establish that the transportation facilities, namely SE Moore Drive and SE Bay Boulevard, can safely accommodate the proposed log truck traffic. He added that the application was reviewed by staff and that he issued findings of fact and a final order approving the analysis on March 11. Tokos stated that his decision was appealed to the Planning Commission, and on April 22, the Planning Commission held a full evidentiary hearing to consider the application, and on May 13, issued findings of fact and a final order approving the Teevin Brothers application. Tokos reported that on May 28, the Planning Commission's decision was appealed to the City Council.

Tokos reviewed Council options, noting that it may hold a full evidentiary hearing; an on-the record hearing; or deny the appeal without a hearing. He stated that staff recommends Council forego hearing the appeal and affirm the Commission's decision as the city's final decision.

Roumagoux asked for public comment. There was none.

Roumagoux asked for Council comment. Allen asked Tokos why he was recommending adopting the Planning Commission decision, noting that an "on the record" hearing would allow the appellant to argue the evidence before Council, and Council could make its own independent decision. He added that he is willing to go with an "on the record" review. Swanson and Beemer noted a preference to accept the Planning Commission decision. Sawyer agreed that the Planning Commission has done a good job, but agreed with Allen to give the appellant another opportunity. MOTION was made by Allen, seconded by Sawyer, to hear the appeal. Voting aye in a voice vote were Sawyer and Allen. Voting no were Swanson, Saelens, Roumagoux, Busby, and Beemer. MOTION was made by Beemer, seconded by Busby, to adopt Order #2013-1 accepting the Planning Commission's Final Order and Findings of Fact approving the Traffic Impact Analysis for the Teevin Brothers Log Yard (File #1-TIA-13) as the city's final decision and that the appeal fee of \$792 be refunded to the appellant. Allen noted that by voting no, it does not necessarily mean that he disagrees with Tokos and the Planning Commission, it is simply more procedural. The motion carried in a voice vote with Roumagoux, Saelens, Busby, Beemer, and Swanson voting yes; and Sawyer and Allen voting no.

Consideration of Resolution No. 3632 Regarding the De-Annexation of the Lettenmaier from the City of Newport. Tokos reported that the issue before Council is consideration of Resolution No. 3632 regarding the de-annexation of the Lettenmaier from the corporate limits of the city, as requested by the owner, Terry Lettenmaier. Tokos noted that the property is a part of the larger 668 acre Wolf Tree Destination Resort site. Filing fee brought in.

Tokos noted that the city received a letter, on January 25, 2013, from Terry Lettenmaier requesting that his property be withdrawn from the city. He added that Lettenmaier wants to construct one dwelling unit on the property, and withdrawing the property from the city will help achieve this objective by allowing the Lettenmaier's to approach the county to rezone the site to a designation where that use would be permissible.

Tokos reported that the process for withdrawing property from a city must be initiated by Council resolution, followed within 30 days by a public hearing. He added that, after taking testimony, if Council desires to proceed, it must prepare an order to that effect and schedule a second hearing within 20 - 50 days. He stated that if Resolution No. 3632 is adopted, the first public hearing would be held at 7:00 P.M., on July 1, 2013.

Roumagoux asked for public comment. There was none.

Roumagoux asked for Council comment. There was none. MOTION was made by Sawyer, seconded by Beemer, to adopt Resolution No. 3632, initiating the statutory process for withdrawing the subject property from the city limits. The motion carried unanimously in a voice vote.

Consideration and Possible Adoption of Ordinance No. 2054 Regarding Clear Vision Requirements. Tokos reported that the issue before Council is consideration of whether it is in the public interest to change the effective date of revisions to the Newport Municipal Code relating to clear vision standards contained in Ordinance No. 2031 that establishes a program for managing the city's urban tree canopy. He added that Ordinance No. 2031 was adopted as part of the city's effort to obtain a Tree City USA designation from the National Arbor Day Foundation, and the ordinance will only become effective upon preparation and adoption of a tree plan which is currently under development by the Parks and Recreation Committee. Tokos noted that this ordinance would change the effective dates of Sections 9, 10, and 11 of Ordinance No. 2031, and the remainder of the ordinance would become effective on adoption of the tree plan.

Tokos reported that the changes to Section 9 include a cross reference to 8.10.060 of the Municipal Code. He added that this provision is part of the city's nuisance code and requires further revision as part of Ordinance No. 2054 to make it clear that vegetation, walls, fences, or structures within a clear vision area constitute a safety hazard. He reviewed the language changes to Section 9.

Tokos noted that Section 10 would delete all of Chapter 9.25 of the Municipal Code and incorporate provisions that do not conflict with other standards into Chapter 14.17 of the Municipal Code.

Tokos noted that staff recommends Council adopt Ordinance No. 2054 because the proposed changes to clear vision requirements are not dependent upon the existence of a tree plan unlike the other provisions of Ordinance No. 2031.

Tokos reported that the change to Ordinance No. 2031 primarily affects the nuisance code, rather than the land use code to which there were no material changes. He added that in discussion with the City Attorney, it was deemed unnecessary to produce land use notices again.

Tokos reported that Council has the option of adopting this ordinance as an emergency. He added that, either way, the City Attorney needs an opportunity to review the ordinance as to form. Allen asked about Section 5 which indicates the effectiveness on the signature of the Mayor, and noted that Sections 1 and 5 need to match.

Roumagoux read into the record a letter from Gregory Carpenter and Catherine Pavlish. Allen noted that Miranda had provided a written report that reviewed what happened with the Carpenter/Pavlish matter in Municipal Court.

Roumagoux asked for public comment.

Rennie Ferris recommended that the ordinance be adopted. He questioned the ability of the Mayor and City Manager in overruling the Municipal Code.

MOTION was made by Allen, seconded by Saelens, to read Ordinance No. 2054, amending provisions of the City of Newport Municipal Code relating to clear vision standards, by title only, and place for final adoption and that the ordinance be deemed an emergency effective immediately following review by the City Attorney and signature by the Mayor. The motion carried unanimously in a voice vote. Hawker read the title of Ordinance No. 2054. Voting aye on the adoption of Ordinance No. 2054 were Roumagoux, Allen, Beemer, Swanson, Busby, Sawyer, and Saelens. Sawyer stated that he believed the City Manager was not truthful in this matter.

Authorization to Proceed with Real Property Exchange in the Nye Beach Neighborhood. Tokos reported that the issue before Council is consideration of an exchange of approximately 525 square feet of city-zoned property immediately south and upslope of the Nye Beach Pump Station for 150 square feet of property owned by Will and Tara Devenport adjacent to the staircase accessing the Visual Arts Center from NW 3rd Street. He added that the Devenport's will also dedicate a six foot sidewalk easement along their NW Beach Drive frontage and will pay surveying and permit expenses.

Tokos reported that the Devenport's property fronts both NW 3rd Street and NW Beach Drive and is developed with a single family dwelling. He added that the property is configured so that two developable lots could be created. He stated that a new lot containing the existing home would have access from NW Beach Drive while the other new lot would be accessed from NW 3rd Street. He noted that the property is approximately 175 feet short of possessing enough land area for both lots to meet the 3,000 square foot minimum lot size that applies to Nye Beach. He stated that in order to secure enough land to divide the property, the Devenport's have requested the city agree to a land exchange as previously discussed. Tokos added that the Municipal Code allows the city to trade property with private entities provided it receives equivalent value in return.

Roumagoux asked for public comment. There was none.

Roumagoux asked for Council comment. There was none. MOTION was made by Swanson, seconded by Beemer, to authorize the Devenport's to include the subject, city-owned property in a partition plat and for the Mayor to sign said plat in order to implement the property exchange discussed at this meeting. The motion carried unanimously in a voice vote.

Consideration of Awarding a Tourism Marketing Grant for the Newport Symphony. Lorna Davis, Executive Director of the Greater Newport Chamber of Commerce, appeared before Council and explained the request was for consideration of award of a tourism marketing grant to the Newport Symphony Orchestra in the amount of \$5,000 for assistance in marketing the 2013-2014 season expansion. It was noted that the award was recommended by the Destination Newport Committee. MOTION was made by Beemer, seconded by Swanson, to approve the tourism marketing grant fund application, submitted by the Newport Symphony Orchestra, for assistance with marketing and advertising for the expansion of the FY2013-2014 season, in the amount of \$5,000. The motion carried unanimously in a voice vote.

Consideration of an Agreement with the Oregon Coast Council for the Arts for the Operation of the Newport Performing Arts Center and Visual Arts Center. It was reported that the issue before Council is consideration of an agreement with the Oregon Coast Council for the Arts for the operation of the Performing Arts Center and Visual Arts Center. Catherine Rickbone, Executive Director of the Oregon Coast Council for the Arts, distributed a management and marketing report, and reported on the history of the management of the PAC and VAC and statistics for the preceding year. She responded to Council questions. MOTION was made by Beemer, seconded by Swanson, to approve the agreement with the Oregon Coast Council for the Arts for the operation of the Newport Performing Arts Center and Visual Arts Center. Staff was asked to ensure that all the requisite statutory provisions are included in Exhibit A of the proposed agreement. The motion carried unanimously in a voice vote.

Appointment of Ted Smith, Interim City Manager, to the Lincom Executive Board. It was reported that the issue before Council is the official appointment of Ted Smith, who will be the Interim City Manager when Voetberg leaves, to the Lincom Executive Board. It was noted that while Lincom is in the process of being phased out, there may still be a need for one or more meetings. MOTION was made by Allen, seconded by Sawyer, to appoint Interim City Manager, Ted Smith, to the Lincom Executive Board. The motion carried unanimously in a voice vote.

Consideration of Resolution No. 3628 Increasing Water Rates. Gross addressed Council regarding methodology and the definition of an enterprise fund. He noted that enterprise funds are financed and operated in a manner similar to private business; financed and recovered through user charges. Gross stated that he is concerned about trying to offset capital improvement costs through various funds. He stated that staff will be relentless in looking for other funding resources for capital improvements. He added that it is critical for the community for the utility rate increases to occur, and reviewed the revenue generated by the increases.

Roumagoux asked for public comment.

Lou Limbrunner spoke in opposition to the proposed utility rate increases. He suggested a comprehensive review of water policies.

Roumagoux asked for Council comment. Allen reported that at the last City Council meeting, and a recent meeting of the Budget Committee, a discussion occurred regarding the establishment of a task force to look for alternative funding sources for capital improvement projects. He added that the task force members will be: Allen, Busby, Saelens, Patricia Patrick-Joling, and Fred Springsteen. Allen suggested that former Mayor Mark McConnell, would be a good addition to the task force, and bring a different perspective. He noted that a resolution will be created, establishing the task force, for action at the next City Council meeting. He added that the scope of work will be straightforward.

Busby stated that he believes the city has the ability, within the existing budget, to tighten belts and contribute to the water and wastewater funds. He added that one item that stands out is the dam study, as it is not an immediate requirement and could be postponed.

Sawyer noted that the increases need to be limited to the extent possible.

Beemer cited the tenuous condition of the dams as the reason that the dam study is high on the priority list.

Swanson noted that when staff presented an interactive chart, it showed that some utility users are charged less than 15%, and this was helpful in justifying the proposed increases.

Saelens noted that this year's budget process has been difficult. He stated that it is his hope that in the future, the mistake of having a formal body agree to organize a subcommittee, and never allowing the subcommittee to make a report to the organizing body, will not occur. He added that it was unfair to Busby, Patrick-Joling, and him to spend hours looking for things for the Budget Committee to review this year, and not be allowed an opportunity to present that material. Allen suggested beginning the budget process in mid-April, so there will be sufficient time if multiple meetings are needed.

Allen stated that he voted no on the five-year utility increase scenario because he wanted to look at bonds, and that the task force will do that next year. He added that he is hesitant to increase utility rates by 15%, noting that his preference is an 8% water increase; a 10% wastewater increase; and the understanding that this is not the end of the discussion. He noted that he does not have an issue with the stormwater and infrastructure fee increases.

Gross stated that if the proposed rate increases are decreased, it would mean removing projects from the CIP.

Consideration of Resolution No. 3628 Increasing Water Rates. MOTION was made by Beemer, seconded by Swanson, to adopt Resolution No. 3628, setting rates for water utility charges, fees, deposits, and penalties, and repealing Resolution No. 3592. The motion carried in a voice vote with Beemer, Roumagoux, Saelens, Swanson, and Sawyer voting yes; Allen and Busby voted no.

Consideration of Resolution No. 3627 Increasing Wastewater Rates. MOTION was made by Beemer, seconded by Swanson, to adopt Resolution No. 3627, setting wastewater utility rates and repealing Resolution No. 3593. The motion carried in a voice vote with Beemer, Roumagoux, Swanson, and Sawyer voting yes; Allen, Busby, and Saelens voted no.

Consideration of Resolution No. 3630 Increasing the Infrastructure Improvement Fee. MOTION was made by Beemer, seconded by Swanson, to adopt Resolution No. 3630, increasing the infrastructure improvement fee and repealing Resolution No. 3595. The motion carried unanimously in a voice vote.

Consideration of Resolution No. 3629 Increasing the Stormwater Utility Fee. MOTION was made by Beemer, seconded by Swanson, to adopt Resolution No. 3630, increasing the stormwater utility fee and repealing Resolution No. 3594. The motion carried unanimously in a voice vote.

Appeal of Special Event Fee Waiver Denial for the Celtic Festival. It was reported that the issue before Council is consideration of an appeal filed by the Celtic Heritage Alliance regarding the denial of a special event permit fee waiver for the upcoming Newport Celtic Festival and Highland Games. It was noted that the Celtic Heritage

Alliance had applied for a special event permit and that it had been denied pursuant to the Chapter 9.80 of the Newport Municipal Code which states that recipients of tourism promotion grants are ineligible for special event fee waivers, and the Celtic Heritage Alliance had received a \$5,000 tourism promotion grant for this event.

Belinda Goody and Jill Lyon, representing the Celtic Festival, appeared before Council. Goody reported that she is not requesting an appeal of the fee waiver, as she was not requesting any city services. A discussion ensued regarding the intent of the ordinance as there is conflicting language. Allen noted that he is inclined to go with the overall purpose of the ordinance, although the ordinance should be revisited in the future.

MOTION was made by Allen, seconded by Beemer, to uphold the decision of staff that because the Celtic Heritage Alliance has received a 2013 tourism promotion grant, in the amount of \$5,000, it is ineligible for a special event fee waiver pursuant to 9.80.020(F) of the Newport Municipal Code. I further move that once payment in the amount of \$1,863.12 is received by the city for police services to be rendered during the Newport Celtic Festival and Highland Games, the City Recorder be directed to prepare a special event permit for signature by the Interim City Manager. The motion carried unanimously in a voice vote.

COUNCIL REPORTS AND COMMENTS

Sawyer reported that he and Tokos had attended a recent COG meeting, and it appears that the city is well positioned to receive grant funding from the COG for the South Beach project.

Sawyer reported that he and Protiva had appeared on the community forum radio show to discuss the swimming pool. He noted that an open house is scheduled tomorrow evening, at the Recreation Center, to discuss potential plans for the pool.

Saelens stated that he plans to attend the open house on the pool issue.

Busby stated that he plans to attend the open house on the pool issue.

Beemer reported that the Newport Marathon was quite successful.

Allen reported that he had attended a recent meeting of the Port's Task Force on Pedestrian and Vehicle Safety and had forwarded the notes to Council.

Allen reported that he and Saelens had met with Thompson's Sanitary Service on recycling and other issues, and that they will make a report to Council at a future meeting.

Saelens reported that he had been contacted by NOAA, through his position at the Lincoln County Solid Waste District, regarding recycling.

Beemer reported on a recent Port of Newport meeting, noting that the improvements on the international will be completed in the near future.

PUBLIC COMMENT

Linda Neigebauer reported that the Lincoln County Transit District buses were used to transport Marathon participants. She added that the city was very busy during Marathon weekend.

ADJOURNMENT

Having no further business, the meeting adjourned at 8:17 P.M.

Margaret M. Hawker, City Recorder

Sandra N. Roumagoux, Mayor