

March 4, 2013
6:27 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. Roumagoux was excused.

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

PLEDGE OF ALLEGIANCE

Council and the audience recited the Pledge of Allegiance.

ADDITIONS/DELETIONS AND APPROVAL OF AGENDA

Action Item No. C. was added so that Council could act on the OMSI memorandum of understanding that was approved by the Urban Renewal Agency.

PUBLIC COMMENT

Oly Olson reported that the original draft agenda for the Port and City Joint Forum did not have a public comment section, but after several communications, the current draft contains this section. Allen indicated that more than the allotted time might be necessary at this forum.

CONSENT CALENDAR

The consent calendar consisted of the following items:

- A. Approval of minutes from the City Council work sessions of February 19 and 20, 2013, and the regular meeting of February 19, 2013;
- B. OLCC application for Bridges Restaurant and Lounge.

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

OFFICER'S REPORTS

Council President's Report. Sawyer reported that he had attended a ribbon cutting for the South Beach boat ramp renovations.

Sawyer reported that the tsunami dock placement occurred at HMSC last Friday, and that a formal dedication is scheduled on March 10.

Sawyer reported that the boat debris cleanup at Yaquina Head is this weekend.
Sawyer reported that the Mayor's office hours will be tomorrow from 3 - 5 P.M.

City Manager's Report. Voetberg reported that the Public Works Department has submitted a request to ODOT to move the speed zone signs coming into Newport, on Highway 20, based on the recommendations of the Port's Pedestrian/Vehicle Safety Task Force.

Voetberg reported that local gas tax money was inadvertently identified as a funding source for the purchase of roadway surfacing material. He noted that the Finance Department will make necessary changes to ensure that this does not occur in the future.

Voetberg reported that the CIS 2012 Annual Report is included in the packet.

Voetberg reported that the draft agenda for the joint Port of Newport and City of Newport public forum, regarding the proposed Teevin Brothers log exporting project, is included in the packet, and the most recent version includes a public comment period.

Voetberg reported that the packet contains a letter from the Greater Newport Chamber of Commerce thanking the city and city staff for their partnership in this year's Seafood and Wine Festival.

Voetberg reported that the packet contains a capital projects update.

Voetberg reported that he will be out of the office next week visiting his daughter in Virginia.

Voetberg reported that the total cost of the pool repair is approximately \$34,000.

Allen suggested that as a matter of course, the city should issue periodic RFP's for various services. He recommended that an RFP be developed for insurance agent of record.

It was noted that the business license administrative rules had been enacted and a letter was issued.

Allen reported that he had looked at the Port Task Force agenda for March 12 on which there was a new request for Phase 1. He asked whether this is new as it was his understanding that Phase 1 was complete and the Port had moved onto Phase 2.

Allen asked for an update on the TIA analysis. Tokos noted that if his decision is appealed, it will be appealed to the Planning Commission and work its way up. He added that he had posted information from Teevin Brothers on the city website. He noted that the comment period closes at the end of the day on March 7, and that staff will issue a decision by Monday.

DISCUSSION ITEMS AND PRESENTATIONS

Tourism Facilities Review Grant Task Force Recommendations. Margaret Dailey, chair of Task Force, reported that there were three requests for funding. The first was replacement of the sea lion dock which has a known history of benefiting tourism, and the Task Force recommended funding in the amount of \$50,000.

Another request was from OMSI for its coastal science camp. OMSI applied for \$300,000, and the Task Force recommended funding in the amount of \$150,000.

The final applicant was the Oregon Coast Aquatic Park. She reported that the application had not been refined since last year, and that the Task Force believed the

numbers were seriously flawed. She noted that the project is very preliminary and not at the point of funding for construction.

Busby asked where the issue of only funding construction came from. Dailey reported that the Task Force was not satisfied that this project would move far enough along to viably use the money. Voetberg reported that Council had previously identified these funds for construction. Allen suggested that before Council makes a final decision on funding that it should see the six page document containing funding criteria.

Allen stated that facilities recommended for funding must fall within the definition of a tourism related facility as defined by state law. He asked whether the OMSI camp falls within the ORS definition of a tourism related facility. Tokos reviewed an e-mail he had sent to Council on March 2 in response to questions from Busby. Allen stated that he had followed the transient room tax bill during its development, and that substantial purpose was what people were trying to figure out. He added that if Council is going to try to define whether OMSI applies, then it must define substantial purpose. He expressed the need for consistency in how these monies are allocated, noting that otherwise, it is an arbitrary exercise. Busby noted that OMSI is in the same position as the Aquatic Park. Dailey reported that there are radical differences between the proposed OMSI project and the Oregon Coast Aquatic Center project. She added that OMSI is transferring programs here; have purchased land; and is working on community involvement. She noted that OMSI has experience, and the Aquatic Park is not as far advanced.

Allen stated that the money has been set aside for tourism related facilities, and if it is unclear whether something is a tourism related facility, then it is problematic. He asked whether the city can give these funds to OMSI under the parameters of state law. Voetberg noted that the agreement would be tailored to a specific project and would undergo legal review. Allen noted that this is a policy decision and parameters should be established for this and future Councils.

Julie Hanrahan and Randy Getman, members of the Task Force, appeared before Council. They noted that the application contains specific tourism related questions that each applicant had to answer. Hanrahan noted that the Aquatic Park does not own the land where the facility is proposed to be located. She added that the Task Force worked hard and tried to do the right thing for the community and tourism.

Jamie Hurd and Erin Graham appeared on behalf of the OMSI application. It was reported that approximately 30 different groups would be coming to Newport during the summer, and that usage would continue to expand. It was reported that family weekends would be planned allowing lots of opportunity for families to use Newport as its home base for coastal discovery. Allen stated that he would like to see the connection of how the facility has a substantial purpose in providing tourism related activities. Graham noted that one objective of the camp is to serve Oregon and this local community. She added that people would be drawn to this camp from across Oregon. It was also noted that OMSI has deep and rich networks with schools districts, libraries, families, and parents which is a part of OMSI's core mission, and it is substantial.

Jeff Bertuleit appeared on behalf of the Oregon Coast Aquatic Park. He noted that larger projects take time. He added that a local match is important in garnering other grant monies, and without that it is nearly impossible to obtain funding from outside the area. He stated that he hoped the Task Force decision was not based on the water table issue. He noted that the Friends of the Oregon Coast Aquatic Center is well organized

and has a website. He reported that tourists visit Newport during the winter, and that this demographic should be targeted. He noted that the Aquatic Center could co-market with the Aquarium and OMSI. He reiterated that tourists would visit Newport if there was something for the children to do, and that this facility is an economic development opportunity.

Stan Pickens and Bob Ward appeared on behalf of the Newport Sea Lion Dock Foundation. Pickens noted that the figure had doubled, adding \$50,000 for a viewing dock to provide separation between fishing and viewing. Susan Armstrong, Chris Burns, and Jim Rice were also in attendance in support of this project. Busby asked whether the Port had offered financial or in-kind assistance with this project, and Ward noted that the Port has not been asked. Ward indicated that the Sea Lion Dock Foundation would pay for maintenance through fundraising, and that he was confident of the ongoing viability of the project.

Allen asked whether Council desired formal presentations from the applicants.

Graham stated that OMSI would appreciate guidance on substantial purpose toward tourism related activities.

Allen suggested developing follow-up questions, and noted that this is ultimately a Council decision.

Allen suggested that OMSI look at the statute and provide further information.

Getman reported that the Task Force meetings were taped and that Council can see the level of detail and questions asked of the three applicants. He noted that the tape may answer some of questions that Council has. Allen stated that he supports asking follow-up questions; having the answers before Council; and having the decision appear as an action item on a Council agenda. Voetberg reported that last year, questions were directed only to those groups recommended by the Task Force. It was agreed to focus questions on the groups recommended for funding by the Task Force. Busby stated that he would like to see all three applicants at this time. Swanson stated that she wants to follow the precedent set last year and go with the Task Force recommendations. Voetberg noted that the agenda would contain an action item to consider granting funds as recommended by the Task Force. He noted that the agreements will not be ready, but that Council should provide direction regarding the draft agreements. It was agreed that follow-up questions will be submitted to Hawker by close of business on Friday.

Replacement of the Municipal Pool. Voetberg reported that the municipal swimming pool is near the end of its useful life. He added that the drain system is probably going to fail; the roof system will have problems; and various other systems will probably fail. He noted that it will take approximately three years to get through the bond vote, gather all the information, take public comment, and break ground. He added that a few years ago, the swimming pool bond failed, but the city still has the initial concepts and cost estimates for building a pool next to the rec center. He recommended pulling out the conceptual design study for discussion, and if the decision is to go forward with a bond measure vote in November, details must be worked out by August.

Saelens suggested taking a look at the past information and obtaining an overview of how reasonable those costs might be in today's dollars. He noted that the city would have the costs of the facility versus what is being proposed in South Beach. Busby agreed with Saelens that the issue be looked at broadly. It was suggested that there

might be a middle ground in whether to build a municipal pool or a commercial facility. Beemer agreed with Busby.

Julie Bobo-Shisler and her daughter appeared before Council in support of a new municipal swimming facility. Her daughter displayed medals she had won at various swim meets. Bobo-Shisler urged Council to place the issue on a ballot as soon as possible.

Katherine Howard distributed and read a written statement. She encouraged a municipal pool, noting that there is difficult access to South Beach for folks without a car.

Russ Thacker spoke in support of placing a pool measure on the ballot. He stated that he believes the pool is a necessity.

Stephanie Simpson read letter from Susan and Dr. Richard Fox in support of a new pool.

Stephanie Simpson, Newport Swim Team President, spoke in support of a pool, and asked that the issue be placed on an upcoming ballot.

Sawyer stated that he would like to have information on what other communities have done, how those pools are being operated, and whether they require a city subsidy. He noted that building a facility is one thing, but managing and operating it is another issue. He added that it is essential to have clearly defined numbers regarding the operating budget and subsidy, and how a subsidy would impact other city services over time. Gross suggested looking at the existing facility, its operational costs, and anticipated costs for keeping the facility running. Beemer noted that people voted against the bond measure the last time because they did not have all the numbers.

Protiva reported that the rec center was designed to have the pool located next to it so that the existing locker rooms and control desk could be used for both the rec center and pool. Protiva reported that an architect had been hired when this matter first arose several years ago, and that the numbers can be refreshed.

Allen noted that he is inclined to wait another election cycle so as not to rush it. He suggested striving for the November ballot, but that it not be a hard deadline.

Busby suggested studying the possibility of involving private investors.

Voetberg noted that this issue could be a top priority for the Parks and Recreation Committee.

Allen suggested setting direction tonight for the Parks and Recreation Committee to return to Council with information at a date certain.

Voetberg suggested giving the Parks and Recreation Committee until the second City Council meeting in April to come back to Council with information.

Marletta Noe spoke in support of a municipal swimming pool for locals.

Katherine Howard asked Council to attach Margaret Dailey's testimony to her statement.

Hawker was asked to develop an election timeline.

Bertuleit suggested using a research firm to conduct a survey to determine the likelihood that the measure will pass.

Franz Cosenza noted that a municipal swimming pool is a quality of life issue. He expressed appreciation for efforts to determine whether a bond issue is in order for the pool.

ACTION ITEMS

Appeal of and Decision on Azar Abatement. Voetberg reported that he received a request by Azar's attorney last Friday asking that this matter be postponed for 30 days or until the first meeting in April. A discussion ensued regarding when this matter was set for a hearing date and when the attorney and his client knew about the date. Voetberg responded that the Municipal Code provides that any protest must be heard at one of the next two Council meetings after a decision is made. It was asked whether the attorney had given a reason that he was unable to attend this evening.

Sawyer disclosed that he worked on these two properties when he was employed by the Police Department, and that he had talked to Ms. Azar on many occasions. He reported that Azar had called him at home this afternoon, and that he had referred her to Miranda. He stated that despite these contacts, he believes that he can act responsibly in this matter.

Beemer noted that the dates on the photographs are three and four years old, and this entire messy area on Nye Street predates those pictures. He added that the length of time this process has continued is disturbing.

Sawyer asked whether Council would like to consider a postponement of the matter based on the attorney's request.

Saelens noted that he was shocked to see this matter continue so long, adding that the most untenable problem that arises is the inability to utilize the existing law quickly. He noted that to delay the matter would be another step in that direction.

Allen noted that if this was a new file for the attorney, he would be inclined to defer the matter for another 30 days, but that information in the packet shows that this attorney has been representing Azar for more than two years. He added that based on this, he is inclined to move forward.

Miranda reported that the issue before Council is whether Council should affirm the City Manager's decision to declare the structures located at 645 and 655 NW Nye Street to be a nuisance. He reviewed the history of the matter and responded to Council questions. He noted that abatement would cost about \$25,000 due to hazardous material abatement, and it would have to be budgeted.

Beemer stated that he supports proceeding, noting that a health issue exists.

MOTION was made by Swanson, seconded by Beemer, that, after review of the facts of the case, a nuisance does exist at 645 and 655 NW Nye Street. And, further that the owner of the property shall abate the nuisance within six months. If the owner fails to abate the nuisance within six months, the city will follow the Municipal Code process and abate the nuisance. The motion carried unanimously in a voice vote.

Allen asked Voetberg to share the facts, with Azar's attorney, as to why Council moved forward without the attorney present. He reiterated that there had been two years involvement by the attorney, and no reason given as to why he wanted it set over.

Volunteer Firefighter Family Use of Recreation Facilities. Voetberg reported that the issue before Council is whether to allow the families of volunteer firefighters to use the city's recreational facilities at no cost. He noted that, among the volunteer firefighter family ranks, there are no annual members, but three have ten-punch passes. He added that these are a different class of volunteers due to what they are asked to do. Allen noted that since volunteers and paid firefighters work closely together, and the paid

firefighters have that benefit, and the potential revenue loss is insignificant, that he is inclined to make this benefit consistent with the paid firefighters. Saelens added that it cannot be over-emphasized that this is a special class of employees and volunteers that require physical ability and the capability to be called to duty at any time. He noted that the rationale has been well presented, and that it is a smart move not to make it a general benefit for all volunteers. A brief discussion ensued.

Yale Fogarty spoke in support of offering this benefit to volunteer firefighter families.

MOTION was made by Busby, seconded by Beemer, to direct staff to develop a policy that allows families of volunteer firefighters free use of the city's recreational facilities. The motion carried unanimously in a voice vote.

MOU with OMSI. MOTION was made by Allen, seconded by Swanson, that the City Council enter into a non-binding memorandum of understanding with OMSI, as presented. The motion carried unanimously in a voice vote.

COUNCIL REPORTS AND COMMENTS

Saelens reported that he had attended the ad hoc Wayfinding Committee meeting. He noted that the group has been involved a long time, and the timing is right to make this a standing committee.

Swanson reported on a recent meeting of the Senior Advisory Committee. She noted that issues discussed included the new logo on the van; the potential acquisition of a new defibrillator; visibility of the Center from Highway 101; AARP tax preparation; reader's theatre; wish list items; siding maintenance; and planned trips and activities.

Busby reported that he attended a meeting with ODOT staff regarding replacement of the bridge.

Busby reported that he had participated in a ride-along with the Police Department which was informative and enjoyable.

Busby reported that he will be out of town from Wednesday through Tuesday.

Beemer reported that he had attended a recent Port meeting at which a report on the terminal project was given.

Beemer reported that he plans to attend a meeting at the library at which the state parks folks will discuss the Ona Beach Park. He noted that he is attending partly due to his interest in the Corvallis to Coast Trail.

Allen reported that he had attended the annual Fire Department banquet, and that it was a good event and well-attended.

Allen reported that at the last Council meeting, a resolution was adopted to move forward with the plastic bag issue. He noted that unlike state issues, the actual language of the measure cannot be placed in the voter's pamphlet. He noted that he had checked with Saelens and Hawker, and asked that language be included that the full text of the measure will be available at City Hall and on the website. He noted that language was also included regarding an extension up to 180 days.

Beemer reported that he visited the Tillamook Air Museum a few days ago, and that there is no update as to where the Museum will move.

ADJOURNMENT

Having no further business, the meeting adjourned at 9:22 P.M.

Margaret M. Hawker, City Recorder

Dean Sawyer, Council President