

November 4, 2013  
Noon  
Newport, Oregon

## CITY COUNCIL WORK SESSION

Councilors present: Saelens, Beemer, Busby, Allen, Swanson, and Sawyer. Roumagoux was excused.

Staff present: Smith, Hawker, Tokos, Gross, and Rob Connell, General Legal Counsel.

Media present: Larry Coonrod from the Lincoln County Dispatch, Dave Morgan from News Lincoln County, and Wyatt Haupt from the Newport News-Times.

Others in attendance: Catherine Rickbone, Executive Director of the Oregon Coast Council for the Arts.

Sawyer called the meeting to order and roll was taken.

1. Sawyer asked whether there were other items, not on the agenda, that Council wished to discuss during this work session. Smith asked that Council discuss a health insurance matter.
2. Allen reviewed the negotiation process with Spencer Nebel. He distributed a copy of Nebel's e-mail and noted that there are two policy choices to be made. The first is in the third paragraph of the severance section, and whether 120 days is appropriate. He added that the more important issue is that of Nebel's desire to opt out of the city's retirement plan. It was reported that the best information from the actuary is that no one can opt out. Connell noted that the contract for City Manager is at-will and there is no reasonable expectation of employment, as this position serves at the pleasure of the City Council. Connell shared a similar retirement vesting issue that he experienced working for the Oregon Department of Justice. Allen noted that other managerial employees have left solid positions to work for the city. He added that the employee would get his/her own contribution back, if one was made. Connell noted that Council should avoid amending the contract to the point where it seems like a continued employment guarantee, as this involves buying into another process. Allen noted that Nebel had suggested a possible contribution into the deferred compensation program, and added that he hoped this was not a sticking point. Saelens stated that Council could have elected not to offer Nebel a starting salary at the top of the range. It was suggested that the retirement issue should have been on the table at the beginning of the negotiations which occurred informally on the day that Nebel was selected. Swanson stated that Council should hold the line on the retirement issue. Beemer agreed with Swanson. Busby suggested that Council could consider offering Nebel a separate severance. Beemer noted that the amount of additional annual compensation, that the city has offered, compared to Nebel's last job, over five years is \$90,000 and over ten years is \$180,000. Connell suggested waiting to hear the report from the actuary. Saelens stated that he is not excited to set up a special

situation regardless. Connell explained the severance section and how he ultimately arrived at 120 days. After a brief discussion, it was the consensus of Council to amend this section (third paragraph in Section 10) to read 180 days rather than 120 days. Connell reported on the initial contract drafts including an appeal to the municipal court. He noted that he had reviewed the statutes and City Charter and determined that the municipal court does not have jurisdiction over these issues. He added that the current language is solid in terms of enforceability. Allen stated that Connell had done a good job on the draft contract and that he had been helpful throughout the process. Connell noted that he could streamline this type of process.

2. Miranda distributed a handout and spoke regarding medical marijuana dispensaries. A discussion ensued regarding potential zoning restrictions for dispensaries. Busby asked whether Council should look at the bigger picture regarding marijuana being legalized in several states and the likelihood of that happening in Oregon in the next few years. Miranda asked whether Council is interested in limiting where dispensaries should be located. He reviewed the handout which contained information on the law, questions and answers, how the City of Medford is approaching the issue, and a photograph of the location where a dispensary is planned in Newport. Tokos recommended using care in zoning certain businesses out of zoning districts. He added that dispensaries will currently be handled as pharmacies. Tokos noted that Medford is refusing to issue the business licenses due to a violation of federal law. He added that Newport's ordinance states that it may not issue a business license if there is a violation of federal law.
3. A discussion ensued regarding the phone and internet service for the PAC and VAC. Smith reported that he meets with IT staff weekly, and that they are close to finishing the new phone systems for the city with the exception of the ARFF station and wastewater treatment plant. He stated that there is not sufficient money in this budget to install the new system at the PAC and VAC which is estimated to cost approximately \$20,000. He added that the cost to maintain the current Cisco system would be approximately \$90,000, and that there is no guarantee how long it will last. He stated that when the system fails, there will be no telephone or internet service to the PAC and VAC. He added that another option is to have the PAC/VAC shop for a phone system, but there would still be unresolved issues, i.e., who buys the equipment and pays the monthly bills. Busby asked whether the contract with the OCCA addresses which entity is responsible for phone and internet service. Allen noted that the past practice has been that the city pays for these services. Swanson noted that \$20,000 would be a good faith gesture. Smith noted that if \$20,000 cannot be found in this year's budget, the money could be budgeted next year. Rickbone reported that OCCA pays for its 800 line and a shared fax/credit card line. She added that the VAC has two simple phones, but that there are ten Cisco phones at the PAC. She stated that OCCA is responsible for the PAC utilities with the exception of the telephone, water, and sewer for which the city is responsible. Saelens asked whether the PAC needed that number of lines. Beemer suggested that staff obtain answers and have Dutton explain the need and costs. Rickbone noted that there might be other alternatives. Saelens added that there are presumably benefits to having all city-owned buildings on one system in the event of an emergency. Smith agreed to speak with Dutton regarding this matter.

4. Smith reported that in 2014 the Health Savings Account benefits will be distributed quarterly. He noted that if an employee begins the year with a serious medical issue, there will be a lot of out-of-pocket expenses for the employee if the benefit is paid quarterly. Gross stated that he had talked with Linda Brown who indicated that the city has the ability to pay the benefit entirely at the beginning of the year. A discussion ensued, and Smith agreed to bring to the next Council meeting a change to the benefit that would include a lump sum payment at the beginning of the year rather than quarterly payments.

Having no further business, the meeting adjourned at 12:08 P.M.