

October 18, 2010
6:43 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, Bain, McConnell, Bertuleit, Patrick, Brusselback, Kilbride, and Obteshka were present.

Staff present was City Manager Voetberg, City Recorder Hawker, City Attorney McCarthy, Community Development Director Tokos, Finance Director Marshall, Public Works Director Ritzman, and Police Lieutenant Teem.

PUBLIC COMMENT

JoAnn Barton, speaking as a citizen and Port of Newport Commissioner, reported that an issue has arisen regarding fishermen parking on the Bayfront. She encouraged Council and staff to talk with the Port and fishing community regarding this issue. She displayed a banner commemorating the centennial of the Port of Newport, and asked that staff let the Port know when someone is available to hang the banners on Bay Boulevard. Patrick requested a banner to hang in the City Hall.

Ginny Golbrisch asked that Council remember that we have a working waterfront and to be vigilant not to erode the services that keep it a working waterfront. She noted that the Port issues parking stickers to fisherman for parking on the east end of the Bayfront, so the city and Port could get together to find a simple solution to the problem. It was noted that signage is part of the issue. It was suggested that Bain, Voetberg, and several commercial fisherman, and other Bayfront stakeholders meet on this matter.

Mark Watkins, business owner and Airport Committee member, stated that a letter had been received complimenting Terry Durham on his good work at the airport. He stated that he would like access to some of the surveys commissioned by the city. He asked that the City Council demand an interline agreement from SeaPort Airlines.

Ken Dennis, citizen and bicyclist, spoke about the Naterlin Drive sidewalk project. He asked whether there would be cost overruns since the estimate is more than two years old.

Walter Sherman expressed concern regarding the cost overruns of capital projects. He asked what steps were being taken to address these issues.

CONSENT CALENDAR

The consent calendar consisted of the following items:

- A. Approval of minutes from the regular City Council meeting of October 4, 2010, and the work sessions of October 4 and 11, 2010;
- B. Fire and Police Department monthly reports for September 2010;
- C. Report of accounts paid for September 2010.

Hawker reported making a minor amendment to the minutes. Obteshka asked whether the supplemental DEQ project is complete. Ritzman reported that some planting still needs to take place during the rainy season, but otherwise, the project is ready to go. MOTION was made by McConnell, seconded by Patrick, to approve the consent calendar as presented. The motion carried unanimously in a voice vote.

COUNCILOR'S REPORTS AND COMMENTS

Obteshka reported on a meeting and activities of the Senior Center Advisory Committee, including fees, the Senior Health Fair, financial assistance program, and Generations magazine.

Obteshka reported that the recent Nye Beach Murder Mystery was a success.

Obteshka reported that a sustainability workshop will be presented by Duke Castle on October 22.

Obteshka reported that the Lincoln County Extension Office is presenting natural resource classes at OCCC.

Brusselback reported that he had volunteered at the recent Homeless Connect program which was well attended.

Brusselback complimented staff on the new public restrooms at 9th and Hurbert Streets.

McConnell reported that he also helped at Homeless Connect project.

McConnell reported on a work session about the employee's retirement program, noting that another work session is needed to discuss the issue.

McConnell reported that Council had attended a workshop on business licensing last Monday.

McConnell reported that he attended the Destination Newport Committee meeting last Thursday.

Kilbride reported that he had attended a workshop on how to make up the shortfall in one of the city's pension plans. He reported that other fringe benefit programs have to be addressed quickly for budgeting purposes.

Bertuleit reported on a recent meeting of the Bicycle/Pedestrian Committee. Issues addressed were the need for a progress report on the Naterlin Drive project, priorities that would work well for a striping machine, a bike boulevard from Elizabeth Street to the Bayfront, the grant application for design work on Oceanview Drive, the police volunteer vacancy for a bike patrol person, the bike maps, and the vacancies on the committee.

Patrick reported that she had met with McConnell, Kilbride, Voetberg, and Marshall regarding the defined benefit plan, and that it is a serious matter.

Patrick reported that a discussion on room tax would be held on October 11, and that the continued discussion of the business license ordinance would occur on November 15, at 4:15 P.M.

Patrick reported that she, McConnell, and Brusselback had attended a recent meeting of the Water Treatment Task Force. She stated that it was revealed that staff knew about the overage in March. She asked why the matter was not brought to Council sooner.

Bain reported that he attended the work session on business licensing. He stated that work continues on airline sustainability.

OFFICER'S REPORTS

City Manager's Report. Voetberg reported on the status of the new aerial equipment for the Fire Department.

Voetberg reported that the packet contains notes from the September CWACT meeting.

Voetberg reviewed the history of the Bay Boulevard project, and noted that a project chronology, based on Council minutes, is included in the packet.

Voetberg reported that HDR Engineering and Slayden Construction met with the Water Task Force to review the water treatment plant project. He reported that costs for the water treatment plant were based on the city's water master plan. He noted that the project will go over budget, but he intends to present Council with finalized numbers on November 1.

Voetberg reported on the proposed pool costs, explaining the difference between the development of the pool costs and those of the water treatment plant. He added that he is very confident that the \$6.6 million estimate is accurate for the pool.

Voetberg requested Council input on the use of utility poles to hang FLYONP banners. There was no objection from Council.

Voetberg reported that the August 31 financial report had been distributed, and that questions could be directed to him or Marshall. Kilbride asked who had developed the water treatment plant budget, and whether the Agate Beach reservoir item was the million dollar water tank. He asked whether the city is still about \$1.4 million short, and whether the plant will be adequate with cuts of that amount. Voetberg reported that it is his intent to provide information on this topic on November 1. He asked that Council e-mail questions on the water treatment plant so that staff can respond on November 1. Patrick stated that based on discussion at the Water Task Force meeting, it looks like it is going to get bigger. Obteshka suggested looking at other cities that have installed this technology. McConnell asked about the minutes from the Water Task Force, noting that a lot of issues were discussed, and consensus was reached. Brusselback agreed that most questions were answered at that meeting.

City Attorney's Report. McCarthy reported that the plastic bag ordinance would be on the November 1 Council agenda. She noted that a continued work session on business licenses would be held at 4:15 P.M., on November 15. McCarthy noted that a sustainability work shop would be held on October 22.

McCarthy reported that an issue has been brought to her attention regarding contractors wishing to haul their own waste, and being unaware that the city has an exclusive franchise agreement with Thompson's Sanitary for this work. She noted that in many cases, contractors have entered into agreements with property owners that include the cost of the contractor hauling waste, to find that the franchise with Thompson's prohibits this activity. She reported that she has talked with the Finance Department and IT staff regarding placing information on the city's website regarding this requirement. It was suggested that an insert be placed in water bills to get the information to people who would be entering into contracts that might require hauling of construction debris. A discussion ensued regarding whether this provision is equitable. It was suggested that the definitions of debris and demolition debris may need revision. It

was reported that approximately one-half of other communities excludes construction debris hauling from the franchise. McCarthy reported that she had met with Rob Thompson, Ken Riley, and Voetberg to discuss the matter. Thompson's will be including information in an upcoming newsletter. McCarthy reported that the city's Community Services Officer is citing contractors hauling their own debris. Obteshka suggested notifying contractors of this provision at the time the business license is obtained, and possibly include the provision in the licensing ordinance. Thompson reported that the industry trend is toward more management of solid waste. He reported that the demolition permit from Lincoln City contains pretty good language. He reviewed the programs and services offered by Thompson's. It was noted that communication and education is the solution to this problem.

Steve Boyd, representing Maier Roofing Company of Albany, stated that he has never seen a law like this. He reported that his company is trying to provide higher levels of service and give people the freedom to decide how they want to dispose of materials. He stated that his company was fined \$1,000 for doing work at the Catholic Church, and the church did not want a drop box on the premises. He added that as a consumer, people would be upset to spend an additional \$500 - \$1000 because of the requirement to use a container, and that there should be options to the consumer. He distributed a handout to Council.

Wayne DeMoray stated that he does not understand why the city does not have a packet containing this information so that folks are aware of the issue prior to entering into a contract.

DISCUSSION ITEMS AND PRESENTATIONS

Presentation by My Sister's Place. Tracey Cummings, from My Sister's Place, and Melanie Kebler, from the DA's office, distributed packets to Council containing statistics and programming information regarding My Sister's Place. They reviewed statistics and programming, and Council thanked them for their services to the community.

Presentation by Bill Barton related to new municipal swimming pool. Patrick recused herself from this discussion. Bill Barton related a story about an elderly person who planned to vote in favor of the swimming pool bond issue as a gift to her grandchildren.

Agreement between property owner and city relating to new swimming pool. A discussion ensued regarding the potential sale of the property that Barton is willing to donate, and its allowable uses. Barton reported that he is interested in congruency with the South Beach Peninsula planning. MOTION was made by Brusselback, seconded by Obteshka, to approve the agreement between William Barton and the City of Newport related to the donation of South Beach property, and to authorize the Mayor to execute the agreement on behalf of the city. Bertuleit stated that he is okay with donating the money, but that he does not like contingency of use on property. The motion carried in a voice vote with Bertuleit voting no and Patrick recused.

PUBLIC HEARINGS

Continued public hearing on amendments to the Newport Comprehensive Plan, Zoning Ordinance, and Municipal Code relating to geologic hazards (File No. 12-Z-09).

Bain reported that this is a continued legislative hearing to discuss new changes made to the proposed geological hazards ordinance since the last hearing. He read the hearing procedure and opened the public hearing at 8:42 P.M.

Tokos presented the staff report noting that the packet contains a draft ordinance that has incorporated the changes to the ordinance that were developed at the September 27, 2010 work session. He reviewed the changes. He reported that three letters that were not in previous packets have been forwarded to Council. One is from Waffenschmidt and Schneller, one from Penelope Larsen, and one is from the Oregon State Board of Geologist Examiners. He stated that two significant changes have been made to the ordinance. One is the elimination of the geologic reconnaissance form. The other is a clarification that amendments to the geologic hazards code will not render a conforming property non-conforming in the event of casualty. He reported that there is optional language in the packet that would allow for an abbreviated geologic review and not be appealable on an existing conforming use. He noted that another issue is the map colors, and that the colors are consistent with DOGAMI maps. He added that the city can use other map treatments, but cautioned Council there is risk that city could be construed to be misleading people if inconsistent with DOGAMI reports. Kilbride noted that it was suggested that the geological report needs to be prepared on a moderate area. Tokos noted that the reconnaissance report was an option to a full report. Patrick asked whether insurance might cover the cost of a report in the event of casualty. She asked how long a geologic report stays on file with the city. She added that there is the potential of city interference with a real estate transaction, and stated that she does not want to put the city in constant litigation. Tokos noted that people currently come in and look at geologic reports all the time. McConnell asked whether the insurance company would have to pay if person has a loss and goes to the insurance company to recoup the loss, and the geologic report indicates that you cannot build there. Obteshka asked whether 2-4-7.025 was consistent with the franchise ordinance, and Tokos noted that only utility lines would be exempt.

Bob Ward suggested additional wording regarding casualty loss, noting that casualty loss should be the same as new development. He suggested the inclusion wording that would address the issue of having to replace a house, lost to casualty, in the same footprint if it was better to move it to a different location on a lot. He questioned whether a full geological report should be required in a medium hazard zone.

Bill Kaniho stated that there is undeveloped property at South Shore, and his concern is the adverse effect this ordinance might have on this undeveloped property. He requested written assurance that this property will not be affected adversely by this ordinance. Tokos reported that the language at issue is required by state law and was in effect in 1995 in the Comprehensive Plan, but not in the zoning code. Tokos added that if someone is interested in developing a lot, staff would pull the records and examine the issue on a case-by-case basis.

Mary Stupp-Greer stated that the red zone will carry a stigma, and she suggested creating a neutral graphic that will not stigmatize the city

Dennis Bartoldus, representing the Central Coast Home and Business Owners Association, stated that it is imperative to include the optional language. He suggested as much flexibility as possible when dealing with catastrophic event.

John Waffenschmidt recommended that moderate risk properties not be required to have a geologic report.

Bob Berman suggested that the words, "at least," be removed from 2-4-7.010(D), and that a specific number of days be added.

Tokos noted that the Planning Commission had recommended that moderate risk properties be required to have a full geologic report.

Kilbride asked why the removal of the reconnaissance report is recommended. Tokos stated that there were too many liability concerns.

Bain noted that the DOGAMI map is not site specific. It was noted that a site specific evaluation would be necessary to clearly identify lines, and that a geologic report will trump the maps. Tokos noted that the maps are a tool used to identify when a site specific report is required.

Bain closed the public hearing at 9:30 P.M. for Council deliberation.

Patrick stated that she appreciates the new insights but believes that this is such an important issue that she would like to reread the proposal.

Bain asked that additional input be provided to the staff.

Kilbride stated that he agrees with Bob Ward and suggested staff address the issues raised by Ward. He expressed concern regarding liability if the red zone is removed from the maps.

Brusselback agreed that agency comment time should be to a date certain. He agreed with the casualty loss language recommended by Tokos. He also recommended hash marks or a neutral shade to replace the red zones on the map. He suggested that an explanatory statement could be included with the maps to eliminate misunderstandings.

Obtshka suggesting adding language in 2-4-7.015 that would make a geologic report good for five years or as long as the building permit is active, or whichever is greater

Bertuleit agreed with date certain for agency comment. He agreed with the casualty loss wording, and stated that he did not want red on the maps. He suggested that a geologic report not be a requirement in a moderate zone if the property owner signs a release.

McConnell agreed with the comments of other Councilors.

Public hearing on proposed formation of a City Center area parking district. Bain asked for conflicts of interest. Patrick stated that she is in the district. Bain opened the public hearing at 9:45 P.M. Tokos noted that this is the first of two public hearings that Council would hold on the formation of a City Center parking district. He reported that the proposal was formulated by City Center businesses, and includes a \$35 flat surcharge on business license fees. He noted that this should generate \$2,500 - \$3,500 annually to enhance the functionality of the existing parking. He added that it would also relieve the obligation to provide off-street parking to a point, and remove the payment-in-lieu of providing parking when development occurs. It was noted that this could be an incentive for businesses to redevelop in district. It was noted that the Planning Commission provided a favorable recommendation on this matter. Tokos noted that a

zoning code amendment would be required, and that would appear on an upcoming meeting agenda. He noted that the next public hearing on this issue would be December 6. Tokos added that if one-third of the business owners object, the plan stops, but to date, he has received 12% in opposition.

Pete McKeeman, owner of the Digital Diner, spoke in favor of the formation of the district.

Priscilla Klein, representing the Bank of the West, spoke in favor of the formation of the district.

Michelle Harris, speaking on behalf of Jim Weir and herself, spoke in favor of the formation of the district.

Rebecca Glenn, owner of the Kite Shop, spoke in favor of the formation of the district.

Wayne DeMoray, business owner at 333 SW Coast Highway, spoke in favor of the formation of the district.

Mike Larson, owner of 324 and 328 SW Coast Highway, spoke in favor of the formation of the district.

David Miller, owner of Yaquina Bay Communications, spoke in opposition to the formation of the district.

Twila Olson, business owner at 306 SW Coast Highway, spoke in favor of the formation of the district.

Wayne DeMoray stated that his business has off-street parking, and he supports the formation of the district.

Bain closed the public hearing at 10:03 P.M. for Council deliberation.

Patrick asked how the potential removal of parking on Highway 101, by ODOT, would affect this district. Tokos noted that the conversation with ODOT is a separate issue.

Obtreshka asked whether City Center has a plan for the use of such a small amount of money. It was noted that the money would be used for parking management, such as signage and striping.

MOTION was made by Brusselback, seconded by Bertuleit, to continue with the process of forming an economic improvement district in the City Center area for parking system improvements, as proposed in the Proposed Improvement Plan, and direct staff to prepare an ordinance to establish the district for consideration at a public hearing on December 6, 2010. A discussion ensued regarding the exclusion of businesses providing off-street parking.

Rebecca Glenn stated that the parking district is only formed for a period of five years. She noted that the fees were intentionally kept low to attract new businesses to the area.

John Sullivan, whose wife owns New for You, stated that her business has off-street parking, but they are in support of formation of the district.

The motion carried in a voice vote with Obtreshka voting no.

ACTION ITEMS

Appointment of Technical Advisory Task Force members. McCarthy explained that the Technical Advisory Task Force was formed for the purpose of advising and working with the city on activities related to the testing of ocean waters, habitat, beaches, and

animals near the G-P outfall. Bain appointed the following people to the Technical Advisory Task Force: Anne Sigleo, Peter Lawson, Roger Hart, Jim Fuller, Charlie Plybon, Frank DiFilippis, and Joe Hayward to this Task Force. MOTION was made by McConnell, seconded by Patrick, to ratify the Mayor's appointments. The motion carried unanimously in a voice vote.

ADJOURNMENT

Having no further business, the meeting adjourned at 10:27 P.M.

Margaret M. Hawker, City Recorder

William D. Bain, Mayor