

September 19, 2011  
8:30 A.M.  
Newport, Oregon

Councilors present: McConnell, Brusselback, Allen, Bertuleit, Roumagoux, Beemer, and Sawyer.

Staff present: Voetberg, Hawker, Marshall, Tokos, Kittel, and Christy Monson (contracted legal counsel).

Business License/Transient Room Tax Review Task Force Members: Patti Cauduro, Rob Oberbillig, Steve Beck, Lee Hardy, Mike Schulz, Art Moore, and Tracy Wiley.

Council discussed the following items:

1. Council held a joint work session with the Business License/Transient Room Tax Review Task Force to discuss the business license ordinance.

Voetberg presented a chronology of the business license ordinance revisions. Marshall reported that the goal of the Task Force was to finish the ordinance revisions by the beginning of this budget year. Since that did not occur, he noted that he would like to finalize the revision by early January. This would allow six months for education and public information, and for staff to establish the process.

It was noted that the City Council needs to make overlying policy decisions regarding the ordinance revision. It was also noted that the ordinance needs to be clear so that it can be easily followed by staff, and is fair and easy for folks to interpret.

Hardy reviewed the history of the Task Force's work on the ordinance. It was noted that the transient room tax ordinance might take longer to finalize than the business license ordinance.

Monson noted that typically cities designate one staff person to work with one or two Councilors and the city attorney during an ordinance review. She recommended the staff person be Marshall. Monson discussed various issues included in her memo of September 15, 2011. She noted that the overarching ordinance issues include the purpose and structure of the ordinance. It was noted that generally, a business license is revenue raising, but it can also be used as a regulatory tool. She noted that the main authority of the ordinance needs to be stated upfront. She noted that the adoption of rates should be done by ordinance since this is a tax. She added that definitions rule, and that problems stem from the lack of finite definitions. She noted that she would work with the drafting group and the Task Force to establish definitions. She noted that administrative rules could be recognized by ordinance, and include issues such as what constitutes an employee; and multi-location

businesses. She addressed tax rates and collection issues; application and enforcement processes; and exemptions.

A discussion ensued regarding the next steps. Monson suggested beginning with the existing ordinance, incorporating the Task Force concerns, and let the attorneys draft the revision.

Schulz asked whether Task Force members would be included in the working group to begin in December. It was agreed that the representatives from the Task Force would be Hardy and Oberbillig, and that Beck would be the alternate. Representatives from the City Council would be Brusselback and McConnell, and Allen would be the alternate. It was noted that policy decisions must be made by the City Council. Monson noted that some part of this discussion should be done in an executive session.

Bertuleit asked whether the existing ordinance will be enforced. A discussion ensued regarding the letters sent to property managers, and it was noted that the existing ordinance is not being enforced.

The members of the Business License/Transient Room Tax Ordinance Review Task Force left at this time.

2. McConnell updated Council on the work of the Tourism Facility Grant Review Task Force. He reported that there are some overlying issues but most importantly is whether there are any statutory restrictions on the use of any or all of the funds for these purposes. Monson asked that applications should be sent to her office to ensure compliance with state law. She also asked that the transient room tax timeline be sent to her office for Lauren's review. Allen asked whether these funds could be used for general government purposes. Allen reported that he had memos from former city attorney, Gary Firestone that he would forward to Monson.
3. A discussion regarding communications with the City Council and manager and attorney ensued. Allen reported that he had forwarded an e-mail to Council. He noted that a big issue is being kept informed, and he requested clarity as to when Council should be informed on various issues. He asked whether Monson should have more ability to communicate with Council. A general discussion ensued regarding liabilities, the threat to city interests, the need to establish a framework of trust between staff and Council, and particularly the recent police vehicle maintenance issue. Voetberg reported that going forward; contracts will not come to Council until after the protest period has lapsed. Monson noted that the city manager sending e-mail to Council is appropriate, but that a majority of the Council should not respond, and individual Councilors should not respond using the "Reply All" function, as this could constitute public meeting issues. McConnell suggested standard language at the beginning of all e-mails regarding response. Allen stated that he needs to know when things are not going well on issues that are not confidential under law. Voetberg expressed appreciation for Council comments on this matter. Monson asked if Council agreed that she would continue to communicate directly

with staff unless directed to communicate directly with the Council or Council members, or unless the City Attorney has reason to doubt staff's integrity. She noted that an exception would be the work group. Monson will also have the ability to communicate directly with the Mayor.

4. MOTION was made by Brusselback, seconded by Bertuleit, to enter executive session pursuant to ORS 192.660(2)(h) to consult with the city attorney regarding the status of litigation; ORS 192.660(2)(i) to conduct a performance evaluation of the city manager; and ORS 192.660(2)(d) to consult with the city's labor negotiator. The motion carried unanimously in a voice vote, and Council entered executive session at 11:09 A.M.

MOTION was made by Brusselback, seconded by Bertuleit, to return to the Council work session. The motion carried unanimously, and Council returned to its work session at 1:12 P.M.

5. Council agreed to discuss the issues of Tree City USA designation and the scheduling of town hall meetings this evening.

Having no further business, the meeting adjourned at 1:15 P.M.