

December 5, 2011
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, Brusselback, Beemer, Allen, Sawyer, Bertuleit, Roumagoux, and McConnell were present.

Staff present was City Manager Voetberg, City Recorder Hawker, Community Development Director Tokos, Public Works Director Gross, Finance Director Marshall, Airport Director Cossey, Fire Chief Paige, Parks and Recreation Director Protiva, and Police Lieutenant Malloy.

PLEDGE OF ALLEGIANCE

Council and audience participated in the Pledge of Allegiance.

ADDITIONS/DELETIONS AND APPROVAL OF AGENDA

Allen requested that Item IX.K. be moved to discussion items.

It was asked that Item C. from the Consent Calendar, Resolution No. 3574 - Updating SDC's, be removed from the consent calendar to Action Item IX.K.

It was asked that Item IX. A. be removed from the agenda for further legal review.

PUBLIC COMMENT

Catherine Pavlish and Greg Carpenter appeared before Council regarding the hedges at 58th and Rhododendron Streets. They distributed a packet of information and spoke to the process the city has used in working on the hedge matter. Voetberg stated that based on the advice of legal counsel, the city is following the processes prescribed in the Newport Municipal Code. He apologized for any miscommunication on the first notice, and reviewed the process. Allen stated that he would not comment on the merit of the nuisance, but noted that he is concerned with the way this matter has been handled to this point. He reiterated that the city attorney is guiding the city at this time. Pavlish asked whether enforcement will apply to other properties. Malloy stated that the first step is voluntary compliance sought via a letter sent to the property owner. He added that the next letter is an official notice, and the third notice emphasizes the second notice. He noted that the fourth letter begins the abatement process. McConnell noted that a decision needs to be made regarding how to deal with this matter, and the sight issues at corners, and that this discussion needs to occur before further actions is taken.

Don Andre, director of the Oregon Coast Community Forest Association, stated that this group is interested in exploring and planning for Forest Park. McConnell noted the need for an open space policy and asked that this item appear on a work session agenda in late February or early March.

CONSENT CALENDAR

The consent calendar consisted of the following items:

- A. Approval of City Council work session and regular meeting minutes of November 21, 2011;
- B. OLCC License - Sada's Sushi Bar.

Allen requested a change to the regular session minutes. MOTION was made by Bertuleit, seconded by Beemer, to approve the consent calendar as amended. The motion carried unanimously in a voice vote.

OFFICER'S REPORTS

Mayor's Report. McConnell appointed Ginger Tibbles and Joan Hartung to the Senior Advisory Committee. MOTION was made by Roumagoux, seconded by Bertuleit, to ratify the Mayor's appointments. The motion carried unanimously in a voice vote.

McConnell appointed Michael Pettis, Gary Ripka, Gabrielle McEntee-Wilson, Janet Webster, Cris Torp, and Don Mann to the Bayfront Commercial Parking District Advisory Committee. MOTION was made by Bertuleit, seconded by Brusselback, to ratify the Mayor's appointments. The motion carried unanimously in a voice vote.

McConnell appointed Tom McNamara to the City Center Commercial Parking District Advisory Committee. MOTION was made by Beemer, seconded by Bertuleit and Brusselback, to ratify the Mayor's appointment. The motion carried unanimously in a voice vote.

McConnell reported that the business license revision working group is continuing its review. He noted that Council had received an update from the Recreation Facilities Management Review Task Force. He reported that he had attended a meeting with residents of Running Springs Drive regarding that street condition.

City Manager's Report. Voetberg reported that the packet includes monthly departmental updates. Gross introduced Ted Jones, the recently appointed Senior Project Manager in the Public Works Department.

Sawyer asked about Walgreen's demolition permit, and Tokos confirmed its' issuance and noted that Walgreen's is free to proceed. He added that the Walgreen's building plans have been submitted for review, and permits should be issued by January.

McConnell asked whether the Finance Department had replaced its recent retiree, and Marshall noted that a replacement was on board and that there had been a two month overlap. Marshall reported that the software conversion should be complete by March 1.

Voetberg reported that lease agreements for the electric car charging stations, to be located in the 9th and Hurbert Streets parking lot, will be completed in January.

It was reported that the financials had been completed for the commercial air service grant closeout, and that the Air Service Consortium will be meeting on Friday. Final grant closeout information will be distributed to Council at a future meeting.

Voetberg reported that there is approximately \$200,000 remaining in the Northside Urban Renewal District after the completion of the PAC roof. He noted that staff will look at what the funds can be used for and return to Council for direction on its use. He added that it may be possible to use funding for the interior ceiling repair at the PAC.

Voetberg reported that the two maintenance employees, Jerry Sabanskas and John Johnston, have been combined into one department, in order to realize efficiencies.

McConnell reported that he, Voetberg, and Roumagoux will attend the LOC Regional Solutions meeting tomorrow.

DISCUSSION ITEMS AND PRESENTATIONS

Audit Presentation. Marshall made a brief presentation on the audit of the 2010-2011 financials. He noted that this year, the audit was completed on time for the first time in a decade. He reviewed negative fund balances; reported that nineteen accounts exceeded appropriations last year; summarized the management discussion and analysis; reviewed cash; discretionary funds; proprietary funds; and the summary of the auditor's comments.

Plastic Bag Information Presented by Councilor Allen. Allen reported that Council had asked him to investigate available plastic bag options for the near and long-term. He thanked Mark Saelens for offering his expertise in helping the city look at options. He reported that he had also talked with Matt Hawkyard and Charlie Plybon, from the Surfrider Foundation, and Joe Gilliam from the Northwest Grocers Association. He noted that he had met with Rob Thompson and Ken Riley, representing the solid waste haulers, and had also spoken with Lyle Mattson, manager of JC Market. He stated that among those he spoke with, there was consensus on a potential path forward. He noted that he had performed some web searches and found a report on this issue that was produced by Evanston, Illinois. He stated that, given the issues raised during the past few Council meetings, the consensus was to take the matter to a sub-group acting in an advisory role. He noted that recommendations included looking at this issue in terms of more outreach, more ways to enhance recycling, educational outreach, and bringing recommendations back to Council from the advisory group.

Matt Hawkyard, chair of the Newport Chapter of the Surfrider Foundation, stated that he had met with Allen on several occasions, and that he can support the formation of an advisory group. He suggested giving the advisory group a goal or objective. A discussion ensued regarding whether the group should be a committee, task force, or something more informal. Hawkyard stated that the most important thing is to develop a problem statement and objectives, and to figure out an option that has meaning. He noted that he would also like to make sure that, as the framework is developed, it is open-ended enough to leave regulatory options on the table, as well as a potential community plan, or three different types of plans, for example - regulatory, community outreach, and something in between. He also suggested giving the group a timeline, and discussed the timeline used by Corvallis. Allen noted that the Corvallis group came forward with a draft ordinance, and that Corvallis has an Administrative Services Committee that will be reviewing the ordinance. He noted that he wants to incorporate different stakeholder perspectives, but that the Council will get a recommendation and can act as they wish.

Charlie Plybon, Oregon Field Manager, for the Surfrider Foundation, reported that his organization has been focusing its efforts on Corvallis, Ashland, Eugene, and Seattle. He noted that the issue was sent to the Administrative Services Committee, in Corvallis, for study. He offered to meet with other Councilors. He noted that since the Council reconsideration of this matter, there has been another screening of “Bag It,” two beach clean-ups; and presentations to the Port of Newport and the Mid-Coast Watershed Council. He added that “Bag It” will be shown on Sunday, at 2:00 P.M., at the Newport Public Library.

Mark Saelens stated that he is happy that Council is considering some form of committee. He noted that there are easy and tough problems, and that this will be a little tougher. He added that the facts are clear, but the content is emotional. He noted that there will likely be a compromise option that comes before Council, but one that the community can support and can be expanded. He stated that he is happy to help in any way.

McConnell stated that he would like to see sustainability efforts regain momentum, and noted that this could be one aspect that a committee could work on. Roumagoux noted that sustainability is a big topic, and that specific goals and outcomes would have to be developed. Allen added that the suggestion is for an advisory group to focus on the issue at hand. Hawkyard urged caution in assigning this issue to a sustainability committee initially.

Bertuleit stated that he is in favor of forming a task force and moving ahead. Beemer suggested that it be a task force. Allen reported that he will come back to Council after the first of year with more specificity for a resolution a creating task force. Brusselback asked whether the Surfrider Foundation was asking for an advisory group. Plybon stated that the group had tried to go one route but had to go another route. Brusselback disagreed that this is a difficult process, adding that he did not see evidence of diverse opinions, and that the only controversy was among the City Council. Saelens stated that personally, he was ready to support a ban from the beginning. He added that the best recommendation to move forward would be to create a task force.

Allen agreed to work on a proposal for the first meeting in January. Allen noted that he is still going to touch bases with stakeholders. Roumagoux agreed to work with Allen on this matter.

PUBLIC COMMENT

Brenda Gover asked Council to revisit the Benson Road LID project. McConnell noted that the Public Works Department prepared engineering and costs for this project. Gover stated that Lee Ritzman, former Public Works Director, did not revise the estimates using lower petroleum costs. Voetberg recommended that Gover talk with Gross, and that he will look at the numbers to see if it makes sense to move forward.

PUBLIC HEARINGS

Rezoning Request by Nationwide Health Properties, LLC. McConnell opened the public hearing at 7:39 P.M. He noted that this is a quasi-judicial hearing based on zoning. He reviewed the hearing procedure, and called for abstentions or conflict of

interest. There were none. He asked whether anyone was opposed to individual Councilors, or the Council as a whole, hearing this matter. There was no opposition.

Tokos reviewed the key facts and information regarding the request, and the purpose for the request. He noted that this change would correct an apparent oversight when the property was given an R-3 designation in 1982 as a part of a comprehensive zoning map update. He noted that the change satisfies the State Transportation Planning Rule that prohibits zone changes that affect existing or planned transportation facilities unless the impacts are mitigated.

McConnell called for proponents. Albert Casteneda stated that Nationwide Health Properties recently purchased this property. He added that the property needs several repairs/renovations, which is what prompted this request, and that this company wants to move quickly on the project.

McConnell called for opponents. There were none.

McConnell closed the public hearing at 7:48 P.M. for Council deliberation.

MOTION was made by Bertuleit, seconded by Beemer, to read Ordinance No. 2024, and ordinance that amends the Zoning Map of the City of Newport Zoning Ordinance such that Block 15 of the subdivision known as Bayley and Case's Addition to Newport will be zoned R-4 (High Density Multi-Family Residential), by title only and place for final vote. The motion carried unanimously in a voice vote. Voetberg read the title of Ordinance No. 2024. Voting aye on the adoption of Ordinance No. 2024 were McConnell, Bertuleit, Brusselback, Sawyer, Roumagoux, Beemer, and Allen.

Determine Whether City-Owned Property, at 761 SW Bay Boulevard, is Needed for Public Purposes. McConnell opened the public hearing at 7:50 P.M. Tokos reported that the issue before Council is whether city-owned property, at 761 SW Bay Boulevard, is needed for public use or if it is in the public interest that it be sold. He noted that the city owns two portions of this property, and Pacific Shrimp would like to know the city's intent regarding the property. He reviewed the city's process regarding disposition of real property. He noted that if Council determines that the property is surplus and should be sold, staff should be directed to have the property appraised. Dave Wright reported that when Pacific Shrimp bought the property from Pacific Seafoods, Sam Sasaki, a former city manager, wanted him to sign a maintenance clause on the nearly condemned property. He stated that the westerly property is not in very good shape and Pacific Shrimp would like to remodel the plant. He added that an informal arrangement was entered into in 2003, and that Pacific Shrimp pays approximately \$829 monthly. Allen asked whether Pacific Shrimp would be willing to enter into an amenable written lease, or whether there is something less than declaring the property surplus that would meet the needs of Pacific Shrimp. Wright stated that he does not think the city has a maintenance plan for the property. A brief discussion ensued regarding the appraisal costs, and it was noted that this issue could be bargained at the end. Tokos noted that this is an odd circumstance having two properties as a part of a larger facility owned by a private industry. Don Mann and Joann Barton appeared on behalf of the Port of Newport. Mann noted that the Commission would ask Pacific Shrimp to follow the process. He stated that he is not opposed to this, but he is concerned about ensuring that the water dependent property is protected for this kind of business. Barton noted that the Port is grateful to have Pacific Shrimp, and expressed concern about not having water dependent uses on the Bayfront. She added that the Commission is concerned

about the timeline of the process. McConnell asked whether the building is divided by property lines, and the current use of the building. Wright noted that the west side dock is not used, but the remainder is used for the processing of crab and whiting. He stated that Pacific Shrimp would like the property for long-term planning. Allen stated that his preference is to keep the property public for the reasons stated by Barton and Mann. He asked Wright whether he has met with the current staff in an effort to resolve issues that were not resolved in the past. Wright invited Allen to look at the property. Brusselback asked whether there is publicly-owned property to the west. Tokos noted that these properties are portions of an existing facility. He added that the appropriate zoning is in place to ensure a water-related use of the property, although there is a risk that someone, other than Pacific Shrimp, could submit a higher bid. Voetberg noted that there is no public interest, and that the city does not collect enough rent to maintain the substructure. McConnell called for opponents. There were none. He closed the public hearing at 8:17 P.M. for Council deliberation. MOTION was made by Beemer, seconded by Brusselback, that the City Council finds that the city-owned property, at 761 SW Bay Boulevard, is no longer needed for public use; and to direct staff to have the property appraised; and that the appraisal be made available to the City Council in advance of a future public meeting so that the minimum sale terms can be established. Allen stated that he would be voting no as he is not convinced enough that the sale of the property is in the public interest. Roumagoux agreed with Allen. The motion carried in a voice vote with Allen and Roumagoux voting no.

Resolution No. 3568 - Supplemental Budget. McConnell opened the public hearing on Resolution No. 3568, adopting a supplemental budget, at 8:25 P.M. Marshall made a PowerPoint presentation and reported that the issue before Council is consideration of amending the city's fiscal year 2011/2012 annual budget to address increased appropriation changes in the following funds: General Fund; Water Fund; Airport Fund; Building Inspection Fund, and Water Fund. He reviewed the published advertisement. McConnell asked whether a discussion occurred regarding funding of the defined benefit plan. McConnell asked how Fire Department overtime was generated, and Paige noted that this occurs when someone is on vacation or sick. He added that a couple of contract changes impacted overtime as well. Brusselback asked whether it is more practical to hire another employee, and Paige noted that the department is not at that point. A discussion ensued regarding funding for volunteers, and Paige reported that he is developing a volunteer stipend program that would allow a position to be staffed from January to July. Paige noted that the other two items requested were for a part-time administrative assistant and an EMS coordinator. He added that he will be looking at the volunteer stipend for an EMS coordinator to teach a class. Further discussion ensued regarding Fire Department staffing. McConnell called for public comment. There was none. He closed the public hearing at 8:15 P.M., for Council deliberation. MOTION was made by Roumagoux, seconded by Sawyer, to adopt Resolution No. 3568, a resolution adopting the city's fiscal year 2011/2012 supplemental budget and making appropriations. The motion carried unanimously in a voice vote.

ACTION ITEMS

Consideration of Ordinance No. 2025 Repealing Ordinance No. 21. Paige reported that the issue before Council is the consideration of adoption of Ordinance No. 2025 which would repeal Ordinance No. 21 in its entirety. He added that the ordinance is outdated, and the City Charter addresses the issues addressed in Ordinance No. 21. MOTION was made by Brusselback, seconded by Allen, to adopt Ordinance No. 2025 repealing Ordinance No. 21 in its entirety. The motion carried unanimously in a voice vote. Voting aye on the adoption of Ordinance No. 2025 were Allen, Beemer, Bertuleit, McConnell, Brusselback, Roumagoux, and Sawyer.

Authorization to submit a National Scenic Byways Grant Application to the Federal Highway Administration for Agate Beach Access Improvements. Tokos reported that the issue before Council is consideration of whether the Community Development and Public Works Departments should proceed with a National Scenic Byways grant application. He noted that eligible projects include those that enhance access to recreational areas, such as pedestrian trails, rest areas (including restrooms and showers), and vehicle turnouts. He added that a 20% match is required, and that the project is estimated at \$700,000. He noted that with \$50,000 budgeted; an additional \$90,000 will need to be identified for the match. He added that this is a tourism related facility. He stated that Council might want to consider the potential of selling commercial property it owns in that area. A discussion ensued regarding which budget year the match would come from. Plybon distributed a hand-out on non-consumptive ocean recreation in Oregon. MOTION was made by Roumagoux, seconded by Sawyer, to direct staff to prepare a National Scenic Byways grant application to the Federal Highway Administration for access improvements at Agate Beach. The motion carried unanimously in a voice vote.

Consideration of Destination Newport Committee Recommendations for Marketing Grants to the Newport Parks and Recreation Department for a Mountain Bike Race. Protiva reported that the issue before Council is consideration of a request for \$1,000, from the Newport Parks and Recreation Department, for a tourism marketing grant to assist with publications, posters, and web advertisements for a mountain bike race to be held in Newport on May 6, 2012. He noted that the DNC has reviewed the application and recommended favorable consideration of the request. MOTION was made by Bertuleit, seconded by Beemer, to approve the tourism marketing grant fund application, in the amount of \$1,000, submitted by the Newport Parks and Recreation Department, for assistance with marketing and advertising of a mountain bike race. The motion carried unanimously in a voice vote.

Port of Newport Fill at the Airport. Cossey reported that the issue before Council is consideration of the use of city funds for the relocation of fill material, currently located at the Port of Newport, to the airport. He noted that staff recommends Council approval of city monies to prepare the site, spread the fill, and compact the material. He noted that the fill would be a big consideration for the Erickson Air Group in making a decision regarding the relocation of the Tillamook Air Museum to Newport. He asked whether the city should take the financial risk to prep the site for Erickson. Beemer asked how much

of the \$75,000 would be used for clearing off brush and digging out soft areas and making sure that current site is properly compacted. Cossey noted that the sand will be covered with organic material and seeded. Brusselback asked about the quality of the building site. Allen asked whether a future developer could assume some of the cost burden. Cossey stated that this is possible, and that carrying this burden at this time makes the area more marketable. Voetberg stated that it shows that the community is willing to work with the Erickson Air Group to get them here. MOTION was made by Beemer, seconded by Brusselback, to approve the use of city funds for the site preparation, spreading, and compacting of Port fill on an airport development site. Allen stated that this is a close call, but that he cannot support it for the reason raised earlier. The motion carried in a voice vote with Allen voting no.

Resolution No. 3569 - Transferring Appropriations for the FY 2011/2012 Budget.

Marshall made a presentation regarding all the budget transfer resolutions on this evening's agenda. Marshall reported that the issue before Council addresses city attorney costs, and whether the City Council wants the city to budget and record costs at the cost center level. Allen noted that he has looked at the adopted budget for FY2011 when the city had in-house counsel, and the budget was \$161,600, with another \$35,000 for contractual services. He added that it is currently projected that the outside counsel is going to be over what we would be paying in-house, and that the costs are close to getting out of hand. MOTION was made by Beemer, seconded by Bertuleit, to adopt Resolution No. 3569 transferring appropriations for FY 2011/2012. The motion carried unanimously in a voice vote.

Resolution No. 3570 - Budget Transfer to Zero Out Negative Fund Balance in the Street Fund. Marshall reported that the issue before Council is a request to transfer monies from the Contingency accounts of the Water and Wastewater Fund to the Street Fund beginning fund balance. MOTION was made by Bertuleit, seconded by Roumagoux, to adopt Resolution No. 3570 transferring appropriations for Fiscal Year 2011/2012. The motion carried unanimously in a voice vote.

Resolution No. 3572 - Transferring Monies from the Line Undergrounding and Street SDC Fund to the Capital Projects Fund for the Naterlin Project. Marshall reported that the issue before Council is a request to transfer \$2,305 from Streets SDCs to pay a small cost increase in Naterlin Project. MOTION was made by Allen, seconded by Bertuleit, to adopt Resolution No. 3572, a resolution transferring appropriations for Fiscal Year 2011/2012 as amended by deleting the line underground amount. The motion carried unanimously in a voice vote.

Resolution No. 3573 - Transferring Monies from the Parks and Recreation Contingency Fund to Six Cost Centers in the Parks and Recreation Fund. Marshall reported that the issue before Council is a request to transfer monies from the Parks and Recreation Fund, contingency account, to the six cost centers in this fund to cover the costs of pay raises for employees of this fund. MOTION was made by Bertuleit, seconded by Beemer, to adopt Resolution No. 3573 transferring appropriations for Fiscal Year 2011/2012. The motion carried unanimously in a voice vote.

Resolution No. 3571 - Transferring Monies from the Room Tax Contingency to the Room Tax Materials and Services Account. Marshall reported that the issue before Council is consideration of a request to transfer \$40,000 from the contingency account of the Room Tax Fund to the fund's Materials and Services Object Classification and, specifically, to the Advertising and Marketing Expenses line item. MOTION was made by Brusselback, seconded by Bertuleit, to adopt Resolution No. 3575, a resolution transferring appropriations for Fiscal Year 2011/2012. The motion carried unanimously in a voice vote.

Resolution No. 3574 - Updating SDC's. Tokos reported that the issue before Council is consideration of Resolution No. 3574 adjusting the System Development Charge rates based on the difference in construction costs included in the Construction Cost Index published in the Engineering News Record. He asked whether Council wanted to discuss making this an automatic adjustment, or to continue asking for citizen input. Allen stated that the citizens should have the opportunity to speak on the issue. McConnell suggested a discussion regarding SDC's and how the city provides incentives for economic development. Tokos noted that the revision will include how to adjust the capital projects list. MOTION was made by Bertuleit, seconded by Beemer, to adopt Resolution No. 3574, a resolution adjusting the city's SDC rates. The motion carried unanimously in a voice vote.

COUNCIL REPORTS AND COMMENTS

Beemer reported that the Tsunami Preparedness Task Force had met and received a grant update.

Sawyer reported that he had attended two COG meetings. He noted that a new fee structure was approved, and the city's dues will be reduced. There was also a discussion with ODOT regarding Oregon Least Cost Planning, and Highway 20.

Sawyer reported that he had met with Running Springs Drive residents, and that this is a private road that was not installed properly. Gross reported that city staff had sealed out the pipe causing the issue and cleaned the storm drain at the bottom of the hill.

Allen stated that he would put the OSU report in writing and send it to Council within the next few weeks.

McConnell reported that OSU is talking about an aggressive shuttle system between here and Corvallis.

ADJOURNMENT

Having no further business, the meeting adjourned at 9:52 P.M.

Margaret M. Hawker, City Recorder

Mark McConnell, Mayor