

February 4, 2013  
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, Beemer, Allen, Roumagoux, Sawyer, Saelens, Busby, and Swanson were present.

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

Roumagoux explained the public comment rules.

### **PLEDGE OF ALLEGIANCE**

Council and the audience participated in the Pledge of Allegiance.

### **ADDITIONS/DELETIONS AND APPROVAL OF THE AGENDA**

Allen noted that action item A is an item to be handled by the Local Contract Review Board, and although it was not noticed as such in the agenda, Council can convene as the Local Contract Review Board, at that time, and take action on the item.

### **PUBLIC COMMENT**

Roumagoux reiterated the public comment rules.

Giovanni Catalano, stated that he moved to the community because he wanted to raise his children here. He expressed opposition to the proposed Teevin Brothers proposal due to safety and environmental concerns. He urged Council to choose the course that is best for the community and children.

Katie McNeil, representing the Lincoln County Small Farmer's Association, asked that this group be included in discussions regarding safety or other issues associated with the Farmer's Market. Sawyer noted that the City Manager considers an agreement with the Farmer's Market annually. He suggested that various city departments be asked for comment on potential changes to this agreement. McNeil reviewed the history of the locations of the Farmer's Market, noting that vendor and customer interest tripled after moving the market from the Fairgrounds to the old City Hall.

Michael VanDyke, representing the Oregon Association of Realtors, stated that he is looking for equal treatment, and application of the business license ordinance, of owners at the Embarcadero Resort. Voetberg reported that the ordinance is relatively new and staff is developing administrative rules. He noted that there are two options by which to handle the Embarcadero business licensing: treat it like a hotel with one business license, or consider each owner as a business, and charge each an individual business license fee. He suggested that Council provide input to staff for inclusion in the final draft of the rules. A discussion ensued regarding the number of units at the Embarcadero and their ownership status. Voetberg noted that a business license would not be required for

full-time residences at the Embarcadero. Swanson asked why there should be individual licenses rather than licensing the Embarcadero as a whole. Patrick noted that nothing in the code exempts individual units. Patrick noted that Embarcadero units can be placed in the rental pool run by the Embarcadero unit owners group, and in that situation, no business license is required of the individual owners. She added that there are other realtors who manage Embarcadero properties. Allen asked that if Voetberg wanted Council input on the administrative rules that apply to business licensing, he (Allen) would like to see the options in writing. He asked that this item be placed on the next Council agenda for discussion. It was reiterated that the administrative rules need to be vetted by the City Attorney.

Mark Jones spoke to Council regarding fairness issues. He reported that he had a water line break on his property, and was told by city staff that an adjustment to the water bill would occur in approximately two months due to the time it would take for a staff determination of actual usage. He suggested that staff examine past water bills and adjust his bill based on his usage history. He suggested that Council direct staff to look at the ordinances and policies to make them more user-friendly. He added that he pays a sewer bill and is not connected to the city's sewer system; rather that his bill is based on water consumption. He noted that there are five other properties with the same circumstance. Jones reported that the east end of NE 57<sup>th</sup> Street is not being graded, and asked that the residents of that street be treated equally to those in other areas, and that the street be graded twice each year.

Beemer noted that he thought the city had eliminated the sewer charge for residences that do not have service. Gross stated that the city has to know about those addresses in order to cease billing for sewer charges.

Ron Evans, a member of the Newport Volunteer Fire Department, read a letter from the Department stating that it does not support the consolidation of fire services with any neighboring departments on any level. Busby noted that he would appreciate something, in writing, as to why the Department has this opinion.

## CONSENT CALENDAR

The consent calendar consists of the following:

- A. Approval of City Council minutes from the work session and regular meeting of January 22, 2013, and the joint work session with various fire districts held January 24, 2013.

MOTION was made by Saelens, seconded by Beemer, to approve the consent calendar with the changes to the minutes as noted by Saelens and Allen. The motion carried unanimously in a voice vote.

## OFFICER'S REPORTS

**Mayor's Report.** Roumagoux reported that she attended a recent YBEF meeting at which Don Mann spoke about the Teevin Brothers log exporting proposal.

Roumagoux reported that she had met with A.J. Mattila, Depoe Bay Mayor.

Roumagoux reported that she and Miranda had welcomed the VFW at its mid-winter conference.

Roumagoux reported that she was the emcee for the RSVP Chocolate Classic fundraiser.

Roumagoux reported that she met with representatives from OMSI regarding the educational building that OMSI plans to build in South Beach.

Roumagoux reported that her office hours tomorrow will be from 3:00 - 5:00 P.M.

**City Manager's Report.** Voetberg reported that the city limit signs have been removed to be refurbished. He added that he will determine whether temporary signs may be available during the upcoming Seafood and Wine Festival.

Voetberg reported that grant funding had been secured for Phase I of the Safe Haven Hill project.

Voetberg reported that the area fire chiefs will be meeting to discuss comments made at the recent joint meeting between the City Council and local fire districts. He asked that individual Councilor comments be forwarded to Hawker or Fire Chief Paige. He added that the city has an intergovernmental agreement with the Newport Rural Fire Department that should be updated regardless of the consolidation/collaboration efforts.

Voetberg reported that the capital project update is in the packet.

Voetberg reported that the city had received a credit from the Pall Corporation due to delays with the water treatment plant. Gross reported that the credit is for approximately \$85,000.

Voetberg reported that he will be at Silver Falls for an OCCMA board meeting. He added that he will return Thursday, and that Miranda will be in charge during his absence.

Sawyer asked that questions regarding the Embarcadero be sent to the city manager in the next few days. He reported that he and Roumagoux had met with representatives from Dolphin Realty last week regarding the Embarcadero.

Sawyer requested information regarding the tsunami dock, and particularly, what the obstacles were when the company from Sherwood called and indicated they would not cut the dock as originally planned. Gross reviewed the costs to cut and ship the dock. He added that he mentioned this to the Hatfield Marine Science Center, and that representatives from HMSC thought this was still a good plan. He noted that when the dock arrived, it was much larger than HMSC had envisioned. He stated that it is HMSC's dock, and it is easier to cut here. It was asked whether there has been a discussion regarding what to do with the giant piece that will be left over. It was reported that there is some interest from the organization promoting the sea lion docks, and that those folks have been directed to HMSC. It was asked whether the Port has given any indication as to how long the dock could remain on Port property, and whether the size of the dock will create a future issue. It was asked what ODOT's involvement was in the delivery of the dock to Newport. Gross reported that the contractor failed to pull a bridge permit, but that ODOT did finally approve an arrangement for the dock to be transported across the bridge. It was ultimately hauled to the Port, rather than being taken across the bridge. It was noted that the hope is that the city is not dumping a dock on HMSC without fully vetting it with HMSC. Voetberg noted that he had forwarded a letter signed by Janet Webster to the City Council.

Saelens thanked Voetberg for including sections in his manager's report that are specifically directed to new Councilors and containing sufficient background to understand the issues.

Allen asked that the business license administrative rules options be an agenda item at the next regular meeting, and that Voetberg utilize the legal team if there are legal issues that need to be vetted. He reiterated the importance of this matter being a scheduled agenda item.

## DISCUSSION ITEMS AND PRESENTATIONS

**Report and Recommendations from the Port of Newport Pedestrian Safety Task Force.** Don Mann introduced Doug Wills and Oly Olson, members of the Port of Newport Pedestrian Safety Task Force. He added that the presentation that Wills and Olson will be making was presented to the Port Commission last month.

Doug Wills stated that he and Oly Olson live very close to Moore Drive. He thanked Allen and the Task Force for their input. Wills and Olson made a PowerPoint presentation regarding short-term (Phase 1) recommendations.

A discussion ensued regarding the presentation and related issues. It was reported that the next Task Force meeting will be held at City Hall on February 13, and that Beemer is now the Council liaison to the Task Force.

Tokos reported that a decision on the Traffic Impact Analysis will be prepared at staff level. He added that Teevin Brothers is making revisions to the Traffic Impact Analysis that may lead to changes in the report and recommendations. He noted that when the information is available, it will be posted on the city website and time will be allowed for public input.

Saelens noted that with one log ship monthly, there would likely be one truck every six minutes, during the operating hours, for the number of days it takes to fill the ship. He added that the impression is that there will be much greater activity, and the reality should make a difference to a lot of people.

Busby asked what actions are available to the city and what form will it take once Council receives the final updated reports and staff decisions. Tokos noted that there will be a two week appeal period after the staff decision. He added that if there is an appeal, it will be heard by the Planning Commission, likely in a de novo hearing. The Planning Commission decision could be appealed to the City Council, at which time Council would likely conduct an on-the-record hearing. Tokos reviewed Council options and added that in the staff decision, he will note whether comments can be applied. He also noted that additional queuing analysis with potential recommendations may have an influence.

Roumagoux called for public comment.

Christy Peterson expressed concern about safety and noise. She suggested that a hearing be held on this issue in the near future, and it was noted that staff is working on scheduling at this time.

Darlene Nordgaarden stated that she is concerned with the two intersections as they have always been dangerous. She expressed concern that efforts be made to keep the bay environmentally sound

Delores Williams stated that she is concerned about the environmental impact of the proposed log debarking and shipping operation.

Ron Plummer suggested that there will be 100 truck trips every day up and down Moore Drive. He asked whether all the trees suitable for export to China must come from east of Toledo.

Yale Fogarty spoke in support of the proposed Teevin Brothers log exporting operation.

Sawyer asked Miranda to prepare a brief report on the history of accidents on Moore Drive.

Voetberg asked for direction from Council. He noted that the information will be given to the Public Works Department after any additional input on the TIA is available. Allen suggested that the recommendation to ODOT regarding Highway 20 be initiated soon, and the rest of the recommendations be sent to staff for further vetting.

Beemer noted that the intersection of Moore Drive and Bay Boulevard is dangerous, and that he has seen many near misses there.

It was reported that staff is working on scheduling a joint meeting between the City Council and Port Commission, and that a final date will be available by the next Council meeting.

MOTION was made by Allen, seconded by Saelens, that the Port of Newport's Vehicle/Pedestrian Safety Plan Task Force short-term recommendations be forwarded to the Public Works Department with direction that the Public Works staff review the recommendations and report back to the Council at a future meeting. The motion carried unanimously in a voice vote.

MOTION was made by Allen, seconded by Beemer, that the city move forward with a formal request to ODOT to move the speed limit signs further east on Highway 20, and also indicate that we would like a support letter from the Port of Newport, and move forward along those lines with a request to ODOT. The motion carried unanimously in a voice vote.

**Police Officer Involved Shooting Protocol.** Miranda reported that the Police Department is required to review its deadly physical force plan annually to the governing body. He made a PowerPoint presentation outlining the city's deadly physical force plan. He noted that the plan is on the city website. Miranda reported that there is a statewide issue with OSHA taking over, or attempting to take over, investigations of law enforcement shootings.

## PUBLIC HEARINGS

**Authorization to Sell Substandard Undeveloped Property Described as a Portion of Gladys Street.** Roumagoux opened the public hearing at 8:12 P.M. Tokos delivered the staff report. He noted that the issue before Council is the consideration of whether it is in the public interest to convey portions of NW Gladys Street that the city attempted to vacate in the 1980's and early 1990's. He reported that the conveyances involve 6-foot wide strips of land adjoining properties identified as Tax Lots 5002, 6200, 9300, and 11200 of the Lincoln County Assessors Tax Map 10-11-29-BB. He added that if approved the strips of land would accrue to the owners of those properties.

Roumagoux asked for public comment.

LeOra Johnson asked whether this portion of Gladys Street could be closed. She spoke about crime in the area. Gross and Miranda responded to her concerns.

Roumagoux closed the public hearing at 8:25 P.M. for Council deliberations.

MOTION was made by Swanson, seconded by Allen, that the property described in the bargain and sale deed documents presented at this meeting is no longer needed for public use, and that the Mayor is authorized to sign the deeds conveying the property to adjoining landowners. Such action is consistent with the city's intent of vacating what it had originally thought was excess road right-of-way.

Dan Hoffman asked to speak on the issue, and the hearing was reopened and the motion suspended. Hoffman reported that someone had cleared an area of Gladys Street between 58<sup>th</sup> and 60<sup>th</sup> Streets. He asked whether the person clearing the area had permission to clear the area.

Saelens noted that it would be good to find out whether someone violated the rules. Tokos reported that if no right-of-way permit had been pulled, there is not a lot that could be done since this much time has lapsed.

Marletta Noe reported that the area that Hoffman is referring to houses two memory care homes, and that there was formerly a church at this site.

Susan Sturm reported that the memory care facility plans to add another building when funding is available. She spoke about crime in the area.

Roumagoux closed the public hearing at 8:40 P.M. The suspended motion carried unanimously in a voice vote.

## ACTION ITEMS

### **Consideration of an Intergovernmental Agreement Between the State of Oregon and the City of Newport Local Contract Review Board for the Disposal of Surplus Property.**

The City Council convened as the Local Contract Review Board at 8:42 P.M. On roll call, those in attendance were Beemer, Allen, Roumagoux, Sawyer, Saelens, Busby, and Swanson. Gross reported that the issue before the Local Contract Review Board is consideration of an intergovernmental agreement with the State of Oregon, Department of Administrative Services to allow the acquisition, distribution, utilization, disposal, or sale of surplus personal property in accordance with federal and state laws. MOTION was made by Allen, seconded by Beemer, to approve the intergovernmental agreement with the State of Oregon, as presented. The motion carried unanimously in a voice vote. The brief meeting of the Local Contract Review Board adjourned at 8:44 P.M., and Council reconvened.

### **De-Annexation of a Portion of the 668 Acre Wolf Tree Destination Resort Property.**

Tokos reported that the issue before Council is consideration of whether Council should initiate the statutory process to withdraw a 71.39 acre property from the corporate limits of the city, as requested by the owner, Terry Lettenmaier. He noted that the property is a part of the larger 668 acre Wolf Tree Destination Resort site, and is specifically identified as Tax Lot 801, Section 5, T12S, R11W, W.M. He noted that the property owner wants to construct one dwelling on the property, and that withdrawing the property from the city helps achieve this objective by allowing them to approach the county to rezone the site from R-4 with a PDR overlay to a designation where that use would be permissible. He explained the process of de-annexation. Tokos reported that the subject property is not in the airport approach zone, and therefore does not trigger a permit under the airport restricted area provisions. It was asked why the city zoning code does not provide a

method to accomplish the requested de-annexation. Tokos explained that land use in Oregon is statutorily driven. He added that the concept of a destination resort is that the entire project happens or nothing happens. It was noted that the property was purchased with these restrictions. He stated that de-annexation is effectively the only method that the applicant could use for construction of one house on his property. Tokos added that the County still has issues and the applicant will work with the County, and if he is unable to work them out, the process is not likely to move forward. Saelens asked whether the issues noted in Bonnie Serken's letter can be addressed. It was noted that these issues will be addressed at the first public hearing, and the final language will have the details. MOTION was made by Beemer, seconded by Allen, to direct staff to prepare a resolution, pursuant to ORS 222.460, initiating withdrawal of the subject property from the corporate limits of the City of Newport, upon receipt from the owner of a \$700 filing fee to offset notification costs associated with this action. The resolution shall be presented to Council at a future public meeting. The motion carried unanimously in a voice vote.

## COUNCIL REPORTS AND COMMENTS

Allen asked for direction from the City Council as to whether to seek advice from the City Attorney regarding what she is interpreting as a personnel matter for purposes of settling state and federal lawsuits. He added that, at this point, Council has gotten just a one line response from the City Attorney indicating that, in her interpretation, a personnel matter for purposes of City Manager settlement authority, through city budget funds, also includes settlement in state and federal courts with respect to employment related and other claims. He noted that he would like a more thorough explanation and analysis for clear guidance. He asked for Council input on whether to initiate the request to City Attorney for clarification on this issue as noted in his e-mail of December 12 which was included as a part of December 17 City Council packet. Council concurred. Allen noted that, within the next few days, he will forward the formal request to Voetberg.

Allen reported that he was in Salem for the territorial sea planning process in what was thought would be the final resolution, but there are still things to work out at the state level. He added that a decision was made by LCDC on the Territorial Sea Plan that has been put in place over the last five years as far as that planning effort on behalf of the state, utilizing in part, the decision by OPAC which is the policy council he sits on as a public at-large representative.

Allen noted that he was unable to attend the recent Retirement Board of Trustees meeting, and suggested that an alternate be appointed. Saelens agreed to serve as alternate.

Allen reported on a recent OCZMA meeting. He noted that there was discussion regarding the LCDC actions regarding the territorial sea planning. He added that the organization is moving forward without a director.

Allen reported that he attended a Town Hall Meeting with Representative Shrader last Friday. He noted Shrader discussed general issues related to local government budgets, and that he (Shrader) is always open to listening to constituents.

Allen noted that he worked with Saelens and staff to make minor revisions to Ordinance No. 2047 relative to single-use plastic carryout bags, and that the final draft appears to be a good product.

Beemer reported that he attended the joint meeting between the City Council and various fire districts. He noted that the main problem is that the paid and volunteer staff of the Newport Fire Department has voted not to support collaboration at this time.

Busby reported that he had attended the fire collaboration meeting. He added that he heard Ron Evans statement earlier this evening, and will be interested to see what they bring back to the group.

Busby reported that he has been meeting with department heads.

Swanson reported that the Library Board and the Senior Advisory Committee had not yet met. Sawyer asked whether the Senior Center van will be identified with a logo. Swanson agreed to inquire about the van.

Saelens thanked staff and reported that the new Councilors have tours planned. He stated that he appreciates this opportunity.

Saelens suggested that one of the questions to ask the fire districts and departments is whether they have a plan if the state mandates consolidation of agencies.

Sawyer reported that he had met with Roumagoux and Dolphin Realty on business license issues.

Sawyer reported that he attended a tsunami outreach presentation, and that the state has hired a new tsunami outreach coordinator for Lincoln County. He added that the plan is to hold evacuation drills throughout the county.

#### **ADJOURNMENT**

Having no further business, the meeting adjourned at 9:07 P.M.

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Margaret M. Hawker, City Recorder

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Sandra Roumagoux, Mayor