

June 6, 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, Allen, Beemer, Roumagoux, Bertuleit, and Sawyer were present. McConnell was excused.

Staff present was City Manager Voetberg, City Recorder Hawker, Community Development Director Tokos, Public Works Director Ritzman, Library Director Smith, Airport Director Cossey, Finance Director Marshall, and Police Chief Miranda. Parks and Recreation Director Protiva arrived at 6:47 P.M.

### **PLEDGE OF ALLEGIANCE**

Council and audience participated in the Pledge of Allegiance.

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

It was agreed to delete items F. and G. under action items as these items require public hearings. It was further agreed to add the minutes of the May 16, 2011 work session, executive session, and regular City Council meetings and the executive session of May 24, 2011 to the consent calendar.

### **PROCLAMATIONS AND RECOGNITIONS**

Voetberg reported that the Newport High School girls track team had won the state meet. Brusselback congratulated the team on its success.

### **CONSENT CALENDAR**

The consent calendar, as amended, consisted of the following items:

- A. Approval of City Council minutes of the May 16, 2011 work session, executive session, and regular meeting and the executive session of May 24, 2011.

MOTION was made by Roumagoux, seconded by Bertuleit, to approve the consent calendar as amended. The motion carried unanimously in a voice vote.

### **OFFICER'S REPORTS**

**City Manager's Report.** Voetberg reported that the departmental monthly reports are included in the packet.

Voetberg reported that the state has agreed not to withhold 911 tax funds from governmental entities. He added that the state is also interested in consolidating PSAP's.

Voetberg reported that the packet includes information regarding distribution of parking funds. After a brief discussion, it was agreed that staff would return to Council with a recommended ordinance change.

Voetberg reported that the CIS 2010 annual report is included in the packet.

Allen recommended holding a public hearing on the adoption of water and wastewater fees as opposed to folding it into the public hearing on the budget adoption. He asked that the matter be listed as a separate public hearing at the June 20, 2011 meeting.

## DISCUSSION ITEMS AND PRESENTATIONS

**Preliminary tsunami preparedness report.** Beemer reported that he and a group of interested people had begun working on tsunami preparedness. He noted that the group has initially honed in on South Beach as this area would be most impacted by an onshore or near shore earthquake and subsequent tsunami, as most of South Beach is below the 50-60 foot level. He added that the group looked at where people could be safe, and determined that the hill, located southwest of the bridge, owned by ODOT, and referred to as Safe Haven Hill, would be suitable. He noted that there is an area, approximately 150' x 200', on top of the hill that could be cleared and used as an evacuation site. The hill is approximately 85-90 feet above sea level. He noted that the group is looking at various accesses up the hill, including a footpath, paved approach, and stairway. He noted that the group wants to pursue this site but will need a geotechnical study of the hill to confirm it is suitable for this proposed use. Once the study is complete, the group will work on locating construction funding. Sawyer added that the development of this hill is phase one, and that other issues include education and the Bayfront evacuation issue.

**Yaquina Bay Ocean Observing Initiative presentation by Nancy Steinberg.** Nancy Steinberg and John Lavrakas discussed the Yaquina Bay Ocean Observing Initiative. It was reported that this endeavor is planned as an economic engine for Lincoln County and Newport for opportunities related to ocean observing activities. An invitation was extended to a public session regarding the group's strategy to be held on July 14, with an invitation only strategy retreat scheduled for July 15. It was noted that Allen had been invited to attend the July 15 session.

**Revenue Sharing for non-profit organizations.** Voetberg reported that this issue was proffered by the Mayor and is also related to an issue associated with amendments to the Comprehensive Plan. Allen noted that it was the consensus of the Budget Committee to send this to City Council for a policy discussion and decision. It was noted that rather than making allocation decisions, the Mayor was suggesting that if Council wants to set money aside, then the line item would exist and groups could apply for funding. It was agreed to discuss this issue when the Mayor is present at the next meeting.

**Revision of business license and transient room tax ordinances.** Hawker reported that the issue before Council is the introduction of proposed revisions to the business license and transient room tax ordinances as developed by the Business

License/Transient Room Tax Task Force. Tracy Wiley, a Task Force member, reported that in April of 2010, the Greater Newport Lodging Association expressed concern that there may be some loopholes, enforcement issues, and inequities in the way the transient room tax ordinance was written. He noted that it was initially thought to be a simple fix, and the biggest thing the group wanted to do was to create a database for tracking. He added that the group realized that the TRT ordinance was connected to the business license ordinance and that both needed to be rewritten. Lee Hardy, chair of the Task Force, distributed background information and supplemental data. She noted that in 2008, she had questioned the city attorney as to why real estate property managers were being charged based on inventory. She added that she was not satisfied with the response so she had talked with Voetberg and former city attorney, McCarthy. She stated that she then learned of staff limitations and confusion, and it was decided that both ordinances should be discussed together. She reported that issues with the business license ordinance include conflict with statutes, inappropriate and unequal enforcement efforts, and definitions that are difficult to prove. She noted that the Task Force discussed the purpose, definitions, the application form as part of a mechanism to improve enforcement, cross-referencing between the business license and TRT ordinances, and tying the licenses to a tax identification number. She added that other impacted ordinances include vending on public property and special events, noting that there is additional confusion as to what license is required in particular situations. She noted that the city also has written agreements with some entities. She added that Council has received copies of the rationale for the suggested revisions. She reported that the Task Force looked at what other cities are doing, and frequently Newport is more lenient than other coastal cities. She reported that not all changes are included in the packet, and that there is still room for revision and discussion. She asked whether there is any compelling, objective reason for treating some businesses differently than others, as all businesses increase the impact on city services. She stated that the Task Force is recommending the removal of the per unit charge for hotels and property managers. She added that she has calculated the revenue loss, and if all users were required to have business licenses, the net gain would be approximately \$25,000 based on three property managers and the Embarcadero. Hardy asked how multiple businesses at a single location should be handled. Allen asked whose ideas the revisions were and whether the revisions are a work in progress. Hardy suggested that the city also consider adopting administrative rules for staff to reference when dealing with ordinance interpretation issues. She also noted that it would be helpful to have directed public education. Allen asked whether there would be additional revisions between now and June 20. Voetberg reported that the revisions are close enough that it is ready to move forward. He noted that issues still exist regarding businesses such as consignment shops, special events, and hairdressers. He added that it is unlikely the ordinance change would occur prior to July 1 which would mean that the existing code would be effective one more year. It was noted that the Task Force had reached a consensus with the revisions as proposed. Wiley noted that the biggest issue that is not contained in the ordinance revisions is the establishment of a database. Brusselback reported that some members of the audience are not in agreement with the proposed revisions, and suggested that it would be beneficial to have the city attorney review the apparent conflicts. Voetberg noted that it has yet to be forwarded to the city attorney because it is more economical to send one completed document for review rather than

piecemeal. Marshall asked that the entire document be reviewed by the finance department for operational issues.

Linda Neigebauer stated that her comments relative to the conglomerate licenses were not heard. She stated that the revisions would impact events such as the Nye Beach Clambake as it would have to purchase a \$300 business license since it is not a nonprofit organization. She added that if each vendor was required to buy a license, it would preclude participation by some vendors. She stated that she has no problem with the existing ordinance other than enforcement. Allen stated that once the proposed revisions are presented to Council, Council will be looking to Neigebauer and others for all points of view. Sawyer suggested gathering data from other cities.

Katie McNeil, representing the Lincoln County Small Farmer's Association, stated that the existing ordinance works for her organization. She noted that the Farmer's Market operates for 104 hours annually, and that it would be quite cumbersome to require each vendor to obtain a business license. She added that the annual hours of operation should be a consideration.

Steve Beck, a member of the Task Force, stated that he owns a Farmer's Insurance agency and is exempt, but that he obtains a business license regardless. He distributed a copy of the statute exempting insurance agents to Council for review. He reported that the Task Force met weekly and that the revision before Council contains virtually all Task Force recommendations.

Lorna Davis, executive director of the Chamber of Commerce, stated that she believes the existing ordinance works, and that the special events parts should remain as is.

Patti Cauduro noted that the Task Force looked at the business license requirement as a marketing tool in that a vendor having purchased a business license may be more inclined to look at other events in Newport. She also noted that there would be additional data for use by the police and fire staff. She added that fairness is important.

Voetberg noted that after listening to public comment, and the recognition that the revisions need to be reviewed by the legal staff and the finance department, it is his recommendation that the public hearing on the matter be set in July to allow for review and additional public comment.

## ACTION ITEMS

**Coastal Resource Sharing Network - termination of agreement.** Smith reported that the issue before Council is consideration of whether to approve the termination of the intergovernmental agreement between the Newport Public Library and the Coastal Resource Sharing Network. He noted that staff recommends approval of the termination of the agreement, and that the Tillamook and Driftwood libraries have already withdrawn from CRSN. He noted that the group wants to reinvent the consortium, and that he is optimistic that everyone will be involved in the new organization. He added that the termination will not become effective until the end of the next fiscal year. MOTION was made by Bertuleit, seconded by Beemer, to approve the termination of the intergovernmental agreement between the Newport Public Library and the Coastal Resource Sharing Network. The motion carried unanimously in a voice vote.

**Renaming of a portion of SE 84<sup>th</sup> Street to SE C.N. Winningstad Way.** Brusselback stated that he has spoken with Carla Perry who concurred that it is not feasible or reasonable to pursue the renaming of a portion of SE 84<sup>th</sup> Street to SE C.N. Winningstad Way at this time. He added that Perry agreed to speak this evening and possibly address other options of memorializing Winningstad. Allen noted that there are two motions in front of Council, and no set criteria or procedures on how the city deals with memorials. He noted that the Airport Committee had changed its position from its January 25 recommendation, and two Councilors had reversed their decisions until further clarification from the Airport Committee. He stated that it might be a good idea to postpone the discussion. He added that he would like the Mayor participate in the final discussion, and that the June 20 joint work session with the Planning Commission would provide an opportunity to more comprehensively discuss the matter. Brusselback noted that he is certain that the Mayor would agree that it is not reasonable to move forward with the renaming. Carla Perry stated that it was the Airport Committee that made the first recommendation for renaming, and that she is not attached to renaming the street. She suggested some kind of memorial such as a bench or something at the art center. She asked that the topic remain open so that continued discussion can occur. She mentioned that Catherine Rickbone and Sally Houck are open to a memorial of some kind. MOTION was made by Roumagoux, seconded by Bertuleit, to direct staff to look at other possibilities of memorializing Winningstad, and that staff collaborates with Carla Perry. The motion carried unanimously in a voice vote.

**Resolution No. 3541 - extending City of Newport Workers' Compensation coverage to volunteers.** It was reported that the issue before Council is consideration of adoption of Resolution No. 3541 that extends City of Newport Workers' Compensation coverage to volunteers of the city. It was noted that this is a housekeeping measure that occurs annually, and that staff recommends adoption of the resolution. MOTION was made by Bertuleit, seconded by Sawyer and Beemer, to adopt Resolution No. 3541 extending City of Newport Workers' Compensation coverage to volunteers of the city. The motion carried unanimously in a voice vote.

**Special event permit request from the Newport Celtic Festival.** It was reported that the issue before Council is whether to approve the special event permit requests for the Newport Celtic Festival and Celtic Heritage Parade. Protiva addressed the OLCC permit requirements. It was noted that the request is to waive the fees. Allen asked whether, based on projections, there is an issue in what is being proposed to move from the TRT fund. Miranda addressed the report that he had included in the packet, and noted that in discussions with colleagues in other communities holding Celtic Festivals, he has found that most cities do not have problems. He said that the plan is to keep the police presence low key and that he has a contingency plan to staff up as necessary. MOTION was made by Bertuleit, seconded by Beemer, to approve the fee waiver requested by the Newport Celtic Festival, in an amount not to exceed \$12,198.90, for this event to be held on June 10, 11, and 12, 2011, and that the general fund be reimbursed by the transient room tax fund in an amount not to exceed \$12,198.90. The motion carried unanimously in a voice vote.

MOTION was made by Bertuleit, seconded by Beemer, to approve the fee waiver requested by the Celtic Heritage Parade, in the amount of \$1,980.00, for this event to be

held on Saturday, June 11, 2011, and that the general fund be reimbursed by the transient room tax fund in the amount of \$1,980.00. The motion carried unanimously in a voice vote.

**Ordinance No. 2014 - vacating a portion of an alley between Grove Street and Nye Street, south of NW 11<sup>th</sup> Street at the request of the Church of the Nazarene.** It was reported that the issue before Council is consideration of an ordinance and findings of fact vacating approximately 90 feet of undeveloped alley right-of-way between NW Grove Street and NW Nye Street, south of NW 11<sup>th</sup> Street. It was noted that the city attorney has not completed a review, and that the motion should include the possibility of minor changes for legal sufficiency. MOTION was made by Allen, seconded by Beemer, to read Ordinance No. 2014, by title only, and place for final adoption, including the associated findings of fact, subject to minor changes for legal sufficiency as recommended by legal counsel. The motion carried unanimously in a voice vote. Voetberg read the title of Ordinance No. 2014. Voting aye on the adoption of Ordinance No. 2014 were Allen, Beemer, Bertuleit, Brusselback, Roumagoux, and Sawyer.

**Resolution No. 3542 adopting a supplemental budget for 2010-11.** It was reported that the adoption of the resolution requires a public hearing, and since it was not listed on the agenda as a public hearing, it is being withdrawn until the June 20, 2011 meeting.

**Resolution No. 3543 declaring the city's intent to receive state shared revenues.** It was reported that the adoption of the resolution requires a public hearing, and since it was not listed on the agenda as a public hearing, it is being withdrawn until the June 20, 2011 meeting.

**Award of tourism promotion contract to the Chamber of Commerce.** Voetberg declared a potential conflict of interest as his wife works for the Chamber of Commerce. He stated that his remarks are facts and not a recommendation. He reported that three proposals were received and reviewed by the City Council at its May 16 meeting. It was recommended that the award be made to the Chamber of Commerce. He noted that he used the existing contract with the scope of work and cost from the proposal to develop a new agreement. MOTION was made by Bertuleit, seconded by Roumagoux, to authorize the city manager to execute the tourism promotion agreement with the Newport Chamber of Commerce. The motion carried unanimously in a voice vote.

**Award of tourism and marketing grant for the housing, employment and learning programs for self sufficiency for the barrel to keg relay.** Allen asked how much money was left in this account, and it was noted that staff believes it to be approximately \$12,500. Diana Teem, representing the Community Services Consortium, responded to Council questions. MOTION was made by Roumagoux, seconded by Allen and Beemer, to approve the tourism marketing grant fund application in the amount of \$5,000, submitted by the Housing, Employment, and Learning Programs for Self-Sufficiency under the guidance of the Community Services Consortium, the community action agency for Linn, Benton, and Lincoln Counties, for assistance with marketing the Barrel

to Keg Relay to be held on July 23, 2011. The motion carried unanimously in a voice vote.

**Award of tourism and marketing grant for Lincoln County Master Gardeners.** It was reported that the issue before Council is the request from the Oregon Master Gardeners Association for tourism marketing grant funding, in the amount of \$750.00, for assistance with marketing through newspaper and magazine advertisements, of its gardening educational event to be held in Newport on July 13, 14, 15, and 16, 2011. Bonnie Saxton spoke on behalf of the request. MOTION was made by Bertuleit, seconded by Beemer, to approve the tourism marketing grant fund application submitted by the Oregon Master Gardeners Association for assistance with marketing a four-day gardening educational event, in the amount of \$750.00. The motion carried unanimously in a voice vote.

### **COUNCIL LIAISON REPORTS AND COMMENTS**

Sawyer reported that he attended a COG Transportation Committee meeting. He noted that Bill Bain was appointed to the executive committee, and that the Committee was informed of random closures on Highway 20 this week.

Sawyer reported that CERT trainings would be held June 18 and 25, and interested persons should contact Toby Cole.

Sawyer congratulated Rob Murphy on his promotion to assistant fire chief.

Roumagoux reported that she attended a webinar on governing capacity, accountability, and succession planning for City Councilors and city managers.

Allen reported that he attended the Coast Guard breakfast and tour on May 17.

Allen reported that he attended the public works barbecue on May 18.

Allen reported that he attended the Retirement Board of Trustees meeting on May 19.

Allen reported that he attended a meeting of the territorial sea plan working group on May 23.

Allen reported that he attended the webinar on May 26 with Roumagoux and McConnell.

Allen reported that he attended the YBEF annual dinner on June 1.

Allen reported that he plans to attend the final outreach meeting for the territorial sea plan working group on June 3.

Allen reported that he will be unable to attend the OCZMA meeting next week and asked Roumagoux if she could attend in his stead. She agreed.

Beemer reported that he also attended the Coast Guard breakfast and public works barbecue.

Beemer reported on a recent meeting of the Library Board where the CRSN was discussed.

Beemer reported that 67 years ago, U.S. troops stormed Normandy and began the liberation of Europe.

Bertuleit reported on a recent meeting of the Airport Committee, at which the renaming of SE 84<sup>th</sup> Street was discussed. He noted that the FBO is selling more fuel, and that word needs to be spread to support the airline.

Allen stated that he did not know what to make of SeaPort's initial reason for possibly ceasing air service to Newport - the complete refusal of NOAA to use the service. He added that he would like to hear NOAA's position and a response to this claim. He noted that the city may want to address the other issues. Brusselback stated that the city and its citizens deserve an explanation. Cossey reported that he had talked with Rob McKinney regarding the notice, and that McKinney stated that the biggest issue is fuel cost system wide. He added that he is attempting to get the name of the NOAA representative who said that they would not use SeaPort. He noted that he and the Mayor have both talked with NOAA, and have been told that anyone traveling here on official business can use any carrier. He reported that he has talked with the travel company that books NOAA flights and was told that there is no issue with using SeaPort. He noted that SeaPort has been informed that the bulk of NOAA activity has not begun. Allen stated that the e-mail contains lots of loaded language, and there is some inconsistency between the e-mail and the notice requirement in the agreement. He asked for clarity from SeaPort. Cossey noted that community support is needed at this time.

Brusselback reported on a recent meeting of the Technical Advisory Task Force at which a sub-Task Force was appointed to define the scope of work and reference area. He noted that the next meeting will be held on June 29.

Brusselback reported that he had participated in the ribbon cutting at the Dollar Store on Saturday.

Brusselback reported that letters were received from:

City of Mombetsu reporting that due to the recent natural disaster in Japan, no delegation will be traveling to Newport this summer. It contained an invitation to the 2012 Sea Ice Festival in February.

John McBride regarding removal of fluoride from the drinking water.

Carolyn Connelly regarding the proposed geo hazard code update.

## ADJOURNMENT

Having no further business, the meeting adjourned at 8:32 P.M.

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Margaret M. Hawker, City Recorder

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Lon Brusselback, Council President