

May 6, 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, Swanson and Busby were present.

Staff present was City Manager Voetberg, City Recorder Hawker, Executive Assistant Breves, Public Works Director Gross, Community Development Director Tokos, Finance Director Marshall, Library Director Smith, Senior Project Manager Ted Jones, and Police Chief Miranda.

PLEDGE OF ALLEGIANCE

Council and the audience participated in the Pledge of Allegiance.

PUBLIC COMMENT

Steve Mason reported that he is coordinating a music event on the Bayfront on July 4. He noted that the concert will occur in the city parking lot at the corner of Fall Street and Bay Boulevard. Mason added that the event could become a standard for the Fourth of July celebration. He noted that he has spoken with the fish company regarding logistics, and has obtained insurance for the event. Council recommended that he communicate with other Bayfront businesses, the Police Chief, and the City Recorder.

Patti Littlehales and Kirstin Yuille appeared on behalf of the Children's Trust of Lincoln County. Yuille noted that a levy measure supporting the Children's Trust is on the May 21, 2013 ballot. Littlehales and Yuille urged support of the measure.

Rennie Ferris addressed the timeline on the Carpenter hedge issue that was included in the packet. He distributed photos of the property and noted that the hedge height constitutes a safety issue. He asked Council to direct the City Manager to enforce the code, change the code, or drop the code. It was noted that this item will appear on the next Council agenda with recommended code changes.

PROCLAMATIONS, RECOGNITIONS, AND SPECIAL PRESENTATIONS

Roumagoux proclaimed the week of May 12-18, 2013 as Police Week in the City of Newport. Miranda received the proclamation.

Roumagoux proclaimed May 17 - 19, 2013 as Brewer's Memorial Ale Fest Days in the City of Newport.

CONSENT CALENDAR

The consent calendar consisted of the following items:

- A. Approval of City Council minutes from the work session, executive session, and regular meeting of April 15, 2013, and the Town Hall meeting of April 29, 2013;
- B. Authorization for administrative approval of OLCC license renewals;
- C. OLCC application for the Inn at Nye Beach.

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

OFFICER'S REPORTS

Mayor's Report. Roumagoux appointed Ken Spencer, Chuck Forinash, Wendy Engler, and Linda Neigebauer to the Wayfinding Committee. MOTION was made by Beemer, seconded by Saelens, to ratify the Mayor's appointment. The motion carried unanimously in a voice vote.

Saelens noted that he is looking forward to working with the Wayfinding Committee as the Council liaison.

Roumagoux thanked Tim Gross for being on the KCUP radio program on May 1, 2013.

Roumagoux reported that on April 17, she attended the Oregon Coast Community College Budget Committee meeting.

Roumagoux reported that she attended the Newport Reads event where the author of Mink River made a presentation.

Roumagoux reported that she attended the monthly Lincoln County Mayor's meeting, at which the Mayors of Lincoln City, Depoe Bay, and Waldport were present.

Roumagoux reported that she attended a lunch meeting at the Hatfield Marine Science Center to discuss the increase in students and curriculum planned by OSU at the HMSC.

Roumagoux reported that she attended the volunteer dinner at the Aquarium.

Roumagoux reported that she attended a recent YBEF meeting.

Roumagoux reported that she attended the first YBOOI conference at which she delivered the opening address.

Roumagoux reported that she rode in the Loyalty Days Parade with Officer Garrett and Eyan, the city's canine officer.

Roumagoux reported that she gave the welcome address to the National Association of Retired Federal Employees.

City Manager's Report. Voetberg reported that YBOOI sponsored the first annual Ocean Observation Conference in Newport on April 30 and May 1 and it was a great success. He noted that this could be a growing industry for the city. Allen asked whether YBOOI could be asked to make a presentation to Council on its next steps.

Voetberg reported that he received a call from Butler Aviation regarding the FBO. He noted that representatives from Butler plan to visit the airport in the near future. He added that the city needs to develop standards for anyone doing business at the Airport.

Voetberg reported that the 500 flag display on Highway 101 was coordinated by Tony Molina.

Voetberg reported that Paige has communicated with the county fair organizers to ensure that there is a plan for handling medical emergencies.

Voetberg reported that stakeholders and users of the pool met with a pool designer to begin updating the conceptual plan for a new pool. The intent of the meeting was to reevaluate program needs before developing alternatives. Saelens reported that it was suggested that a second plan with an option for growth be developed and contrasted with the original plan.

Voetberg reported that the capital projects report was included in the packet. Gross reviewed the timeline for the repair of Big Creek Road, noting that the engineers are in the final process of completing the bids. He added that the project should be bid later this month, and construction is expected to begin in the summer. Sawyer expressed concerns regarding the project timeline. Gross noted that he has spoken with FEMA, and there should be no other delays.

DISCUSSION ITEMS AND PRESENTATIONS

Funding for Business Recruitment and Retention Activities. Tokos reported that the city went through an extensive process to look at economic development and put together a technical advisory task force comprised of a broad range of interests from the business community, economic partners such as the Port and the Chamber of Commerce, and others to discuss business recruitment and retention. He noted that Council adopted a revised set of economic development policies as part of the Comprehensive Plan. Tokos added that one recommendation that came from the task force was to establish a business growth and recruitment position. Tokos reported that when this position existed previously, it was administered by the Chamber of Commerce, and the city provided some financial support. He noted that Council had asked that the technical advisory task force develop a job description for the position, which, along with a preliminary proposal, are included in the packet. Tokos added that the proposal provides that the city fund \$50,000 for the position, and that this amount is included in the proposed budget. Tokos noted that the balance of the funding would be provided by the Chamber and other economic partners. He added that the Chamber would provide office space and day-to-day supervision of the position. Tokos noted that the primary purpose of the position would be to work with local businesses to understand their needs and work with them on expansion. He added that the recruitment component of the position would focus on four growth industries marine research, tourism, working waterfronts, and international commerce. Lorna Davis, Executive Director of the Chamber of Commerce, reported that benchmarks would be established. She added that the Chamber would be taking on part of the financial responsibility for the position and that the Chamber board fully supports the position. Allen asked Voetberg about the revenue source for the city's contribution. It was noted that it is budgeted to come from a rate increase in the business license fees from \$95 to \$105 which is expected to generate \$15,000 of the \$50,000. Voetberg reported that approximately \$140,000 is collected from business license fees. Allen asked whether the use of these monies in this way fits the purpose and scope of the business license ordinance. Busby expressed reservations about spending money on a position when there are citizens worried about water bills. Busby asked whether this position is a priority now, and Davis reported that the previous Council made a priority for this year. Davis noted that the benefit of the position is that it brings expertise to assist local businesses to continue in business. Allen asked what would make this position successful when the previous position was not successful, and Davis reported that she believed that the

accountability and report regulation would make the position successful. Allen asked Davis how she sees the role of Lincoln County in this position since the county already has an economic development position. Davis reported that the position will work with the county in an attempt to not duplicate efforts. Allen suggested a half-time position, and Davis reported that the position needs to be full-time in order to attract the right person with the right skills. Tokos stated that the task force agreed that a full-time position was important to get the right candidates.

Patricia Patrick-Joling read from the business license ordinance.

Will Emery, president of Landwaves and a member of the technical advisory task force, agreed that the Council should be concerned about monies spent from the General Fund. He added that the more clearly defined this position is; the more successful it will be. Emery discussed the different skill sets needed for promoting local business as opposed to recruiting outside business. He expressed the need for Council to be focused on outcomes and local successes.

PUBLIC HEARINGS

Recommendations for Utility Fee Increase. Roumagoux opened the public hearing on the recommendation for utility fee increases at 7:10 P.M., and asked Gross for the staff report. Gross made a PowerPoint presentation regarding the need for an adjustment to utility rates to comply with a five-year rate adjustment scenario for the purpose of generating sufficient revenue to implement a systematic program of improvements and replacement of the water, wastewater, and stormwater systems. He noted that last year, Council agreed to raise rates 20% in wastewater, 15% in water, and implement a stormwater fee of \$6.08 per user, and increased the infrastructure fee by five percent last year. He stated that this year, the proposal is to raise both water and wastewater fees by 15%, utility infrastructure fee and stormwater fee by five percent. Gross explained the need for investment in utility infrastructure, and the state of the infrastructure. He added that current funding would only maintain the current system. Gross reviewed a comparison of the city's rates with other similar communities. A discussion ensued regarding how the rates would compare in three to five years; rate increases from other cities; funding of capital projects; the use of the infrastructure fee; debt service; and low interest loans. Busby asked whether it is possible to get too much money and not enough resources to use the money. Allen asked whether the proposed budget included the 15% increase, and Gross noted that it did. Allen suggested that this issue be addressed at the Budget Committee along with other potential funding options.

Roumagoux asked for public comment.

Rich Richmond thanked the Council and Gross for addressing this unpopular issue. He asked Council to consider a tier adjustment for commercial property, and the possibility of a reconnect fee rather than a \$600 annual fee.

Lida Lee Prchal asked why the city does not pay for improvements with a bond.

Dave Wright, representing Pacific Shrimp, noted that he is not opposed to rate increases, but that 15% in successive years is extreme. He suggested a balanced approach.

Miss Murphy expressed concern with the proposed utility fee increases.

Matt Hawkyard, of Surfrider Foundation, spoke in support of the infrastructure replacement and stormwater master plan.

Herb Goblirsch stated that he has had to pay tenants water bills and believes this is unfair.

Terry Obteshka suggested that the city look for other options to fund infrastructure projects.

Lou Limbrunner stated that he disagrees with the city's methods for funding projects. He recommended a city payroll tax of 1% to generate income.

Roumagoux read a letter from Christy Peterson, expressing opposition to the utility fee increase.

John Guenther spoke of the impact of the utility fee increases on people with fixed incomes

Paul Fasciano expressed dismay with the utility fee increases, and suggested a flat tax.

Having no further comment, the public hearing was closed at 8:49 P.M.

ACTION ITEMS

Appeal of SDC Assessment of Coffee House at 156 SW Bay Boulevard. Tokos reported that the issue before Council is to determine whether the City Manager's decision to assess system development charges to the Coffee House is in accordance with the city's system development charge ordinance and state law. He noted that SDCs are assessed when there is an increased use of a capital improvement.

Dennis Bartoldus, representing the Coffee House, noted in his appeal that the Coffee House was approved as a conditional use in 1987, as it was a single family residence that was converted to the restaurant use. It was noted that a conditional use permit was used to construct the deck as part of the restaurant, and at the time, no SDCs were paid because the SDC ordinance was based on the addition of new fixtures or improvements to street frontage. It was added that in 2007, the city changed the SDC ordinance to a square footage basis, and that the enclosure of the deck and square footage triggers the formula and the city has to assess the SDCs. Tokos explained the appeal option defined by ordinance, and discussed possible changes to the ordinance.

Bartoldus stated that this matter pertains to the amount of fees charged for Lingham to put a glass enclosure over the deck of her coffee house restaurant. He disagreed with staff's interpretation that placing a roof over the extension triggers SDC fees. Bartoldus asked the Council to consider this carefully because he agrees that some of what Tokos said has merit and this may be a springboard to how staff interprets SDC charges. He pointed out that what he is talking about is 12.15.060(2) of the Newport Municipal Code which he read to Council. He cited an example of Nana's walling in a courtyard area and placing tables and not triggering an SDC charge. Bartoldus discussed the conditional use permit fees. He stated that a \$24,000 project is being charged almost \$9,000 in permit fees by the city. He added that his issue is with the staff interpretation regarding structure. Bartoldus referred to Newport Municipal Code section 12.15.015(B) and stated that under this section, the Seafood and Wine Festival should be charged SDC fees because the tent meets the definition of a structure. Bartoldus noted that the city should be considering business retention. He stated that the real issue is what criteria were used to trigger SDC charges. Allen noted that what has been interpreted as an enclosure is the addition of a roof and that construction of walls around a deck or patio is not. Tokos directed Council to 12.15.020(B) of the Municipal Code for the floor area based formula. Tokos explained

that if an enclosure adds floor space to a restaurant or structure, the formula would be triggered. A discussion ensued regarding enclosed versus fully enclosed. Busby stated that, in this case, the city staff wrongly interpreted the ordinance. Further discussion ensued regarding enclosure and adding square footage. Allen noted that two sections of the ordinance are subject to interpretation. Busby agreed that the ordinance needs to be revised. Tokos directed Council to the exemptions sections noting that there are very few exemptions or instances in which SDCs are not applicable. Tokos referred to Municipal Code section 12.15.060(2) and asked how enclosing the deck does not increase the structure's use. A discussion ensued as to whether there is an increase in usage. Tokos stated that because the deck is enclosed, it is useable year round rather than seasonally. Council suggested different interpretations. Tokos noted that while the ordinance could be clearer, staff is working with what is available. Tokos reported that the building code also interprets fully enclosed as adding square footage to a structure. Council discussed whether to make a decision tonight. Bartoldus expressed concerns regarding equal protection issues, and asked that the Coffee House receive a refund if it prevails at the Planning Commission.

MOTION was made by Allen, seconded by Sawyer, to table this action item to the City Council meeting of May 20, 2013. Voting aye were Allen, Beemer, Roumagoux, Swanson, Saelens, and Sawyer. Busby voted no. The motion carried.

Consideration of the Adoption of Ordinance No. 2050 Urban Growth Boundary Expansion for Reservoir Property Tokos reported that the issue before Council is to determine whether it is in the public interest to expand the Urban Growth Boundary to include Big Creek Reservoir #1 and Big Creek Reservoir #2, which are the city's primary domestic water storage facilities. He stated that properties immediately adjacent to these facilities that might be impacted by future water system improvements and are also included in the proposal. Tokos noted that the issues addressed in the public hearing have been addressed in the new ordinance.

Shelli Johnston addressed Council regarding concern with access to her property. She noted that she had written a letter to Council.

Norm Ferber addressed Council regarding the use of the word "may" rather than "shall." He stated that he would like to clarify the city's obligation. Allen noted that the city will address the issue with the City Attorney. Ferber also expressed concern over the maintenance of the road.

MOTION was made by Saelens, seconded by Beemer, to read Ordinance No. 2050, an ordinance that expands the Newport Urban Growth Boundary to incorporate lands surrounding the city's domestic water storage reservoirs, by title only and place for final passage. The motion carried unanimously in a voice vote. Voetberg read the title of Ordinance No. 2050. Voting aye on the adoption of Ordinance No. 2050 were Allen, Beemer, Busby, Roumagoux, Swanson, Saelens, and Sawyer.

Amendment to Employment Agreement with City Manager, Jim Voetberg. Voetberg reported that the issue before Council is consideration of an amendment to the City Manager's employment agreement to change the date of the annual performance evaluation.

MOTION was made by Allen, seconded by Saelens, to approve the amendment to the City Manager's employment agreement changing the date of the annual performance

evaluation form “before June 1 of each calendar year,” to “during September of each calendar year.” The motion carried unanimously in a voice vote.

Authorization to Apply for an AIP Grant (AIP22) to Complete the Rehabilitation of Runway 16/34. Voetberg reported the issue before Council is the authorization to submit an application for an Airport Improvement Program grant to complete the rehabilitation of Runway 16/34 and purchase a new ARFF truck

MOTION was made by Sawyer, seconded by Busby, to authorize staff to apply for the AIP22 grant, in the amount of \$3,303,649.00 for completion of runway 16/34 rehabilitation project and the purchase of a new ARFF truck; recognizing that the city’s match, in the amount of \$367,073.00, is programmed into the proposed FY2013/2014 City of Newport budget. The motion carried unanimously in a voice vote.

Approval of Modification A to FAA Grant for the Rehabilitation of Runway 16 at the Newport Municipal Airport. Voetberg reported that the issue before Council is the approval of Modification A to the FAA grant for the rehabilitation of Runway 16 at the Newport Municipal Airport.

MOTION was made by Sawyer, seconded by Beemer, to approve Modification A to the U.S. Department of Transportation (FAA) grant (agreement number: AJW-FN-WSA-12-S059-A) to include the relocation and rebuilding of navigational aids on Runway 16. The motion carried unanimously in a voice vote.

Consideration of Resolution No. 3626 Regarding the City Manager’s Authority to Settle Lawsuits. Voetberg reported that the issue before Council is consideration of the adoption of Resolution No. 3626 regarding the City Manager’s authority to settle lawsuits. Allen reviewed the major changes in the draft resolution. This resolution will be brought back to the Council at a future meeting.

COUNCIL REPORTS AND COMMENTS

Sawyer reported that he had attended the Town Hall Meeting on April 29, 2013.

Sawyer reported that he had attended the opening of the pinniped exhibit at the Aquarium.

Voetberg reported that the Aquarium had presented the city a painting done by a sea lion.

Sawyer reported that he had attended the volunteer dinner.

Saelens reported that the City Manager Evaluation Sub-Committee is moving toward an evaluation form for Council review. The Committee is considering Council training in the utilization of the form. Allen noted that the next meeting will be held on May 16, 2013.

Swanson reported that the “calendar guys” were servers at the May Day luncheon held at the senior center. She reviewed upcoming senior center events.

Swanson reported that the Newport Reads event was well attended.

Beemer reported that he had attended a recent Port of Newport meeting, and that the Port is completing the international terminal project.

Allen reported that he had attended a meeting of the City Manager’s Evaluation Process Sub-Group.

Allen reported that he attended a recent FINE (Fishermen Involved in Natural Energy) meeting, at which there were updates on the territorial sea planning process and associated legislation.

Allen reported that the Audit Committee will be meeting in July to work on more Council involvement in the auditing process. He added that the auditors will provide Council with benchmarks and activities. Council agreed to hold a work session on August 5 to discuss the audit and Finance Department concerns.

ADJOURNMENT

Having no further business, the meeting adjourned at 10:20 P.M.

Cynthia A. Breves, Executive Assistant

Sandra N. Roumagoux, Mayor