

November 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, Busby, Swanson, Sawyer, and Saelens were present. Roumagoux was excused.

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

PLEDGE OF ALLEGIANCE

Council and the audience participated in the Pledge of Allegiance.

Sawyer asked for a moment of silent to honor the Oregon City reserve police officer who was killed yesterday. He reported that a fund had been set up at the Clackamas Federal Credit Union.

ADDITIONS/DELETIONS AND APPROVAL OF AGENDA

Sawyer asked that action item c. be moved to action item a.

CONSENT CALENDAR

The consent calendar consisted of the following items:

- A. Approval of City Council minutes from the work session and regular meeting of October 21, 2013.

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

OFFICER'S REPORTS

Mayor's Report. Sawyer reported that tomorrow is election day and that polling places will be open until 8 P.M. He added that turnout, to date, in the city is 44.32%, and 30.45% in the county.

City Manager's Report. Smith reported that he had conversation with the incoming City Manager about the schedule for hiring a Finance Director, and based on that discussion, the interviews will be scheduled during the week of December 16, after the City Manager is here. Allen asked whether this will push back Bob Gazewood's timeline

for leaving, and Smith reported that Gazewood is committed to stay until the city hires a new Finance Director. Allen asked whether this will require an adjustment to Gazewood's agreement. Smith reported that he and Mayor Roumagoux had met with Gazewood and it does not appear that an amendment to his contract will be required.

Smith reported that there is \$10,000 budgeted for non-profit grants, and asked whether this is something Council would like to do. Busby stated that he would like to hold off until he has a better look at the city's fiscal condition. Allen added that delaying the matter for a few months will not be an issue as long as it occurs in the current fiscal year. He stated that he would like further discussion if this is altered as it is a policy choice. Smith reported that budget updates should be available by the first of the year.

Smith reported that he met with a group of OCCA board and staff, Tokos, and Hawker to work on framing the discussion regarding re-envisioning the Visual Arts Center.

Smith reported that on October 31, he, Busby, and Swanson distributed candy at City Hall as a part of the Decoween celebration.

DISCUSSION ITEMS AND PRESENTATIONS

Initiating Feasibility Study on Forming a Northside Urban Renewal District. Tokos reported that the issue before Council is a discussion about a process for determining the feasibility of forming an urban renewal district north of the bay. He made a PowerPoint presentation. Tokos noted that the city has historically had two urban renewal districts, one on each side of the bay. He added that the city is no longer collecting an urban renewal tax increment for the northside district, and that district is scheduled to close soon. He stated that the South Beach district is open to new projects through 2020 and is scheduled to close in 2027.

Tokos reported that urban renewal is a program for improving poorly developed, or underdeveloped, areas within the city through investment in capital projects (streets, sewers, water lines, etc.), rehabilitation and/or demolition of buildings, and the acquisition and improvement of property. He noted that this is accomplished with tax increment financing. He added that it is not a new tax, but tax increment financing allows for reinvestment of a portion of existing tax revenue back into the community for the purpose of enhancing property values and the overall tax base. Allen asked about the relationship to general property increases, and Tokos noted that he would investigate whether this analysis has been done.

Tokos stated that the feasibility study concept is being brought forward at this time in order to take advantage of the newly released tax rolls. He added that if the results of the study lead the Council to conclude that a new district should be formed; a more in-depth public involvement process will be needed to develop the urban renewal plan and list of specific projects. He noted that it is possible that both steps could be completed before the tax rolls are updated again which would simplify the financial analysis.

Tokos reported that in 2012, an in-depth study and public engagement process was completed that centered on the question of how the city can best facilitate economic development within the community. He noted that this study (Economic Opportunity Analysis) contains specific recommendations and implementation measures, and that one of those recommendations is to explore the possibility of forming a new urban

renewal district that is focused on the Highway 101 and Highway 20 corridors, and if it is feasible to put such a district in place.

Tokos noted that the proposed feasibility study will (a.) explore up to three potential urban renewal area boundaries; (b.) include high/medium/low projections for assessed value growth; (c.) outline potential borrowing and debt service schedules, assuming bond issues every five years; and (d.) allocate bond proceeds to general “broad” categories of potential projects. He added that information will be summarized in a memo with an estimate of financial impacts to taxing districts. He noted that concepts will be vetted with the taxing districts so that their feedback can inform future Planning Commission and City Council deliberations on whether, and how, to proceed with forming a district. He stated that state law restricts the cumulative size of urban renewal districts to no more than 25% of the assessed value within the city’s limits and 25% of the total acreage within a city. He noted that maximum debt limits for new districts are also capped at \$50 million in 2010 dollars unless concurrence is received from the affected taxing districts. He stated that these factors will be considered as part of the feasibility study. He added that the consulting firm ECONorthwest will be retained to assist in preparing financial information and maps at a cost of up to \$10,000, and that he has budgeted monies for this work.

Tokos reported that the Planning Commission and its advisory committee evaluated the concept and concluded that this process for conducting a feasibility study is appropriate and should produce information needed to determine if the city should proceed with the formation of a new district. He added that the Planning Commission suggested that the options for establishing boundaries for a new district address the following scenarios: (a.) properties along the Highways 101 and 20 corridors where the Economic Opportunity Analysis showed the lowest improvement to land values exist; (b.) an expanded district along these same highway corridors that factors in additional acreage and assessed value allowances attributed to potential annexation of reservoir properties and unincorporated lands in South Beach; and (c.) a boundary that includes portions of Agate Beach where there is underdeveloped public infrastructure in addition to the highway corridors to the south.

Busby asked about the size of the possible district, and Tokos noted that the larger the district, the more impact it would have on the taxing agencies. Sawyer asked whether there is a way to cut property from another area and add it to the district, and Tokos reported that the boundary could be anything you want, and that the feasibility study process is where boundaries could be discussed. Tokos noted that there are areas in urban renewal districts that are not necessarily blighted, but that this does not mean that they are not benefiting from the improvement. Busby suggested moving forward as this is a good idea. Allen asked about the typical outreach timeline before the city gets to the creation of a district. Tokos reported that the feasibility study would take approximately three or four months after it is initiated, and there would be at least six months of outreach. He added that the total timeline would be 10 to 12 months with 18 months maximum. He noted that if the study begins at the first of December, it is possible to use the tax roll information from one year.

Report on the Visual Arts Center Re-Envisioning Process. Smith reported that OCCA staff and Board Members had met with city staff regarding the re-envisioning process for the VAC. He noted that the group outlined two different paths of action that the Council

can take to move the process forward. He stated that the first path is for the City Council to express its desire to keep the VAC at its present location. He added that this could be done in the form of a resolution which would state that the city does not intend to sell the VAC so the property could be put to a different use, and that it will work with the community to pursue a financially sustainable plan to continue operations at the VAC. He reported that if this approach is selected, the OCCA Board Members agreed to take the lead in developing a plan of action by the first Council meeting in March of 2014. He noted that this plan would look strategically at the VAC's business model, its operations, maintenance, and ownership, and may result in a recommendation that the property be sold to a non-profit or similar entity if such a sale would put the VAC on more solid financial footing.

Smith noted that the other path is for the City Council to engage the community and seek its input regarding the city's role in supporting the visual arts and whether the VAC fulfills a "public interest." He added that if this direction is chosen, the OCCA Board has requested that the city take the lead and hire a third party consultant to structure the outreach process and collect information. He noted that the OCCA and its members would participate in the process as stakeholders. He stated that engaging a qualified consultant would lend credibility to the process and the resulting recommendations would inform the Council as to the next steps it should take regarding the future of the VAC. He noted that if this path is pursued, any further discussion relative to the sale of the VAC would be tabled until the process is concluded, and that it is unlikely that the process would be completed by March.

Smith reported that OCCA Board Members also expressed concern that the idea of selling the VAC may "scare off" potential donors to the fundraising campaign that is currently underway to upgrade and enhance the PAC. He added that OCCA Board Members did acknowledge that there is no evidence that this has occurred to date. He noted that staff suggested that if OCCA has this concern about the city's intentions regarding the PAC, that it should seek an agreement with the City Council that speaks directly to the city's and OCCA's long-term commitment to that facility, and that an agreement of this nature might be helpful with future fundraising efforts.

Smith added that staff explained that the partitioning of the VAC property must be done to clean up lot lines that run through the building. He noted that OCCA members expressed some distrust with the partitioning process, believing that it is a prelude to selling the VAC, and that the public process they are being asked to work through is a show or a sham. He reported that staff explained that partitioning the land would make it easier for the VAC to be sold in the future if that is something that the City Council elects to do, but that it is also needed to avoid building code complications should major repairs or renovations be necessary.

Allen noted that the first option is consistent with what he said at the end of the October 7 City Council meeting.

Busby noted that he is not against option one, but that it is a one-way street. Smith stated that in option one, the OCCA board will commit to finding a way for the VAC to be funded. Busby stated that the city should not plan not to sell the building until a plan is available. Beemer and Swanson agreed with Busby. Allen noted that he preferred to commit to keeping the VAC as a publicly-owned facility contingent on funding. He asked why the OCCA board would commit to putting a funding plan into place if the city does not give a conditional commitment. Allen stated that the condition is to have an

appropriate plan. He noted that a path has to be chosen so that people feel comfortable in putting time and energy into the process. Busby asked whether the current location of the VAC is the optimal venue, and suggested that maybe it should be joined to the PAC. He added that, as written, if the VAC is that specific yellow building, it ties the OCCA's hands. Allen noted that he was persuaded, at the October 7 meeting, to move forward with the path described in option one. Saelens agreed with Allen, noting that it is important to send a message of trust. He added that having said that, he hopes that the message will disengage the other agenda item. Saelens reported that the City Council is looking at all city properties and working on an inventory of all properties. He added that he would support a conditional agreement based on what he has heard. Swanson stated that she is not in favor of that building. She added that her commitment would be to a visual arts center somewhere, but not necessarily at Nye Beach. Sawyer noted that he likes option one, but agrees with Swanson that all options should be on the table. Smith reported that to make these types of commitments, and get people behind the commitments with dollars, it is important for OCCA to know that the city is not going to sell the building in six months. Busby stated that he would like to see OCCA's commitment in numbers. Allen noted that the commitment is to keep the current building as the VAC conditioned on appropriate funding mechanisms being brought back to Council. He added that, if after further review, the group returns and says cannot keep the building, it would be time to look at other buildings. Allen stated that is the commitment he is willing to make at this point so that OCCA can have some certainty when they are looking for funding. Busby asked how to put a timeline on the results and making a decision. Smith noted that OCCA will attend the first City Council meeting in March with a plan of action. He added that it is clear that if they do not have a plan by March, all bets are off. Beemer stated that he supports this. Smith stated that the commitment from the city is to give the arts groups time to find the money and resources to do this. He added that perhaps the arts groups will come to the March meeting and announce that they have found someone to purchase the building. Allen suggested that there may be some short-term options which might provide long-term options, but he is leaving it up to this group to come back with short-term and long-term plans. Allen added that in March, a decision can be made as to whether the plan is viable. Beemer noted that if the city sold the building to the OCCA, and OCCA was responsible for the maintenance, the city would be ahead. Busby noted that he was amenable to postponing the matter until March. It was suggested that a resolution of support could be considered that would address much of this.

Sawyer reported that Roumagoux had received letters from Peter and Phyllis O'Boyle and David Scott in support of not selling the VAC.

Catherine Rickbone, Mark McConnell, and Sandi Williams appeared before Council. McConnell referred to a draft resolution that he had submitted and was included in the packet. He noted that adopting something similar to this resolution would take the city a long way in showing its support of visual arts in the community.

Sandi Williams, OCCA president, stated that a survey is not a plan of action. She added that there is a lot of support for a visual arts center. She stated that groups of stakeholders have expressed support for moving forward with a sustainable plan.

Catherine Rickbone, Executive Director of the OCCA, encouraged Council to consider something similar to the draft resolution, but keeping the essence of the last three paragraphs. She stated that this provides a formal document and ensures

credibility for moving forward. Rickbone stated that language relative to the VAC could impact the PAC. Swanson asked when the resolution would be presented, and McConnell suggested that it happen at the next City Council meeting.

A discussion ensued regarding potential language in the resolution. Allen noted that the last paragraph was not part of the three, but the reference is actually to the three paragraphs above the last paragraph. He added that the resolution could contain language relative to earlier reporting to the City Council. A discussion ensued regarding having a Council liaison attend the re-envisioning meetings. It was noted that Roumagoux was excusing herself from this process, and even had she been in attendance this evening, she would have recused herself from the discussion, and Sawyer would still be leading this discussion.

Saelens noted that if there is a Council liaison, he would consider serving in that position. Allen suggested thinking about this and anyone with an interest could announce it at the next meeting.

Mary Peterson stated that she supports the VAC and is not an artist. She suggested raising the transient room tax to support the VAC.

Colleen Caubin discussed other coastal communities where arts have become huge attractions. She suggested taking a long-term, bigger vision about what the city can be and how the arts can support it.

Sawyer read a message from Marletta Noe that stated that non-residents should not be allowed to participate in city matters.

Rio Davidson stated that he is a local contractor and agreed to donate his time to inspect the VAC and discuss the maintenance work and needed projects. He agreed to handle all the volunteer work necessary to maintain the building. Allen suggested that Davidson check with Smith and Gross regarding his suggestion.

Steve Myers stated that he can think of no higher purpose than the public support of the arts. He added that public support for the arts is a proper function of government.

Gary Lahman noted that Council should consider the idea of what is public property. He added that the city owns playgrounds, park benches, etc., and that he is distressed that the VAC has been singled out as an expense that could be sold due to its costs. He suggested that all public properties should be prioritized.

Joyce Gaffin suggested that Council visit all city-owned properties and discern what to sell to provide funds needed for infrastructure and other costs. Busby stated that this is what the city is trying to do, and it will be looking at everything. Gaffin suggested not placing the onus on the visual arts community.

Sawyer stated that this is a long-term process and one that is ongoing.

Allen noted that the focus on the VAC occurred as staff reported to the City Council the amount of funding necessary to operate and maintain the facility. He added that other facilities will be looked at, including the airport and the Recreation Center. He noted that these facilities are being examined at the committee level.

Terry Brady reported that she is a member of the Coastal Arts Guild but is not an artist. She stated CAG members are a cross-section of the community. She added that there are many people who are eager to help. She noted that she had written a \$15,000 grant for elevator repair at the VAC. She stated that no one wants to donate to the elevator fund when the building might be sold. It was recommended that she check with the City Manager.

Scarlett Kier, a Lincoln County realtor, noted that the estimate of the value of the VAC building was grossly exaggerated. She suggested that in a down market, it is not in the city's best interest to sell an asset that could be more valuable in a better market.

Allen noted that a resolution would be presented at the next Council meeting that would memorialize the direction. He recommended that stakeholders work with the city to find a way to keep the VAC and look for funding mechanisms to make that happen.

ACTION ITEMS

Approval of City Manager Employment Agreement with Spencer Nebel. Saelens reported that he had previously declared a potential and an actual conflict of interest as he was initially thinking about applying for the position and ultimately did apply for the position and consequently did not participate in the selection process. He added that he no longer has either a potential or actual conflict of interest and had participated in the work session and plans to participate this evening. Busby noted that Saelens did not have input into the compensation package. Allen stated that the subgroup of Council, assigned to negotiate with the finalist, met and discussed two issues that arose and were discussed at the earlier work session. Allen reported that the first matter was contained in Section 10, paragraph 3, and the change was from 120 to 180 days for the disqualification of severance benefits if the city becomes aware of conduct which would constitute a disqualification of severance benefits under that Section. He stated that the second matter related to Nebel's request to opt out of the city's retirement plan. He noted that based on the advice of the actuarial, this option was unavailable. He added that after discussion with Nebel, he (Nebel) concurred with the agreement with the change previously noted. Busby reported that he and Beemer had traveled to Sault Ste. Marie, Michigan, Nebel's home, to perform further background checks. He added that there had been additional background checks, including a criminal check. He noted that he and Beemer had talked with several department managers, other staff, and citizens of Sault Ste. Marie, and found nothing that could be construed as negative. Beemer added that the closest comment to a criticism was that some of the staff found that he takes a while to develop an answer because he is so thorough. Busby stated that he and Beemer had met the newspaper publisher, who knew Nebel before he worked for Sault Ste. Marie, and that he had very positive comments about Nebel. MOTION was made by Allen, seconded by Swanson, to approve the City Manager employment agreement with Spencer Nebel and to authorize the Mayor to sign the agreement on behalf of the City of Newport. The motion carried unanimously in a voice vote.

Consideration of the Need to Partition the Visual Arts Center Property. Tokos reported that the issue before Council is consideration of whether it is in the public interest to partition the VAC property so that the structure and associated parking areas are situated on one parcel of land. He added that the VAC and its associated parking areas are situated on parts of four separate deeded pieces of land, with the building straddling property lines. He noted that there is also a small piece of County-owned property surrounded by the city's ownership. He stated that the totality of the city's ownership is larger than the VAC and its parking areas, including public staircases, restrooms, and beachfront property.

Tokos reported that partitioning the property would allow for the VAC and its parking areas to be placed on a parcel of land separate from the public staircases, restrooms, and beachfront property. He added that this would help position the property for sale through a sealed bid process or as a part of an agreement to convey the property to a non-profit or similar entity to operate the VAC moving forward, either of which would require further City Council action. He noted that partitioning the property in this manner would also resolve property line encroachments which make it difficult to remodel the building under current land use and building codes. He stated that the land owned by the county appears to have resulted from errors in past conveyances, and that staff is working with the county to get this property deeded to the city. Tokos added that a partition plat is a land use action and if the process moves forward, there would be public notice and opportunity to comment prior to a decision being made.

Allen noted that the VAC has been a city-owned facility for 30 years, and perhaps this could have been taken care of earlier. He added that since there is no expedient reason to move forward with the partitioning at this time, it is his inclination to delay action until a report is submitted in March. Swanson disagreed with Allen. Saelens added that the partitioning is consistent with analyzing properties and getting them in the best shape possible. He noted that there could be other properties in a similar situation. He stated that the discussion tonight underscores the reason the city needs to take care of lot line adjustments as it prepares to take the next step, whatever that might be. He added that if the plan comes back in March and the VAC cannot survive at the current location, the city will still need the lot line adjustments. He added that he will support the partitioning. Beemer agreed with Saelens.

Alisha Kern asked about the “real reason” for the partitioning. She asked whether it was a lot line adjustment or whether the city was preparing the building for sale. Beemer reported that no one has an agenda other than what has been stated. Saelens noted that if someone was considering donating money to the VAC and looked closely enough, they would have the same questions about the lot lines.

MOTION was made by Swanson, seconded by Beemer, to direct the City Manager to proceed with preparing a partition plat for the Visual Arts Center building and associated parking areas and to authorize the Mayor to sign the plat once it is approved and ready to be recorded. The motion carried in a voice vote with Allen voting no. Allen stated that it is his preference to wait to deal with the partitioning of the property until the financial stability plan is available in March.

Consideration of Resolution No. 3649 Establishing the National Incident Management System as the Standard for Incident Management in the City of Newport.

Smith reported that this is a basically a housekeeping item as the city has been using the system for some time, and this will formalize that use. MOTION was made by Beemer, seconded by Swanson, to adopt Resolution No. 3649, establishing the National Incident Management System (NIMS) as the standard for incident management in the City of Newport, Oregon. The motion carried unanimously in a voice vote.

COUNCIL REPORTS AND COMMENTS

Allen reported that the Audit Committee met and that Swanson is a member and Saelens is an alternate. He stated that Gazewood had distributed a handout that was an excerpt from page 35 of the Audit Report. He added that it goes through a financial summary of the different funds, and that Gazewood is creating a mechanism to provide quarterly reports with up-to-date actual financial information. Allen noted that Gazewood intends to make a formal presentation on this template at the second City Council meeting in November. He added that if individual Councilors desire the information with greater frequency, they can contact the Finance Department. Allen stated that there is a vacancy on the Audit Committee with the passing of Oly Olson. He added that when the Mayor returns, another citizen member should be sought. He reported that Oly Olson was also on the Budget Committee.

Allen reported that the Infrastructure Task Force met on October 31 and will meet again on Thursday, November 7.

Allen reported that he was not able to attend the meeting of the Retirement Board of Trustees, but that there is a booklet in the Council office from West Coast Trust. He added that the actuarial report on the retirement plan will be available in two to four weeks.

Beemer reported that he had attended a recent Port of Newport Commission meeting. He noted that Oly Olson was a Port Commissioner and that the Port is seeking to fill the vacancy. He added that Don Mann has agreed to continue working until his replacement is found. He reported that the LUBA deadline for the Teevin Brothers appeal is November 12.

Swanson reported that Allen had covered the Audit Committee report and the City Manager contracting subgroup activities. She noted that she had a marvelous time distributing Halloween candy at City Hall, after which she participated in a "ride-along" with the Police Chief.

Saelens noted that the Audit Committee vacancy will be "big shoes to fill." He added that he has been selected for jury duty this week and will miss the Infrastructure Task Force meeting.

Sawyer reported that the city is still in contention for funding for the South Beach project. He noted that he appreciates all the work that Tokos does on those projects and the grants that he has obtained for the city.

Sawyer reported on comments made by ODOT relative to the replacement of the Yaquina Bay Bridge.

Beemer asked when the South Beach projects will be funded, and Tokos noted that they will fall in the 2015-2018 STIP, and ODOT will have to be engaged to determine what year the match funding will be available.

ADJOURNMENT

Having no further business, the meeting adjourned at 8:25 P.M.

Margaret M. Hawker, City Recorder

Dean Sawyer, Council President