

October 5, 2009  
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 Bain, Bertuleit, Patrick, Brusselback, Kilbride, Obtshka, and McConnell were present.

Staff present was City Manager Voetberg, City Recorder Hawker, City Attorney McCarthy, Community Development Director Tokos, Public Works Director Ritzman, Airport Director Reno, Interim Finance Director Schultz, and Lieutenant Teem.

### **CONSENT CALENDAR**

The consent calendar consisted of the following item:

A. Approval of minutes from the City Council work session and regular meeting of September 21, 2009.

MOTION was made by Patrick, seconded by McConnell, to approve the consent calendar as presented. The motion carried unanimously in a voice vote.

### **COUNCILOR'S REPORTS AND COMMENTS**

Bertuleit reported that he had participated in the recent League of Oregon Cities Conference, and summarized sessions he had attended.

Bertuleit reported that the Urban Renewal Agency had held a meeting to review the South Beach Urban Renewal District. The meeting was well presented and well attended.

Patrick reported on activities of the Port of Newport. She reported that the new NOAA building will be LEED silver certified, and that the Port will be meeting on October 7 to authorize revenue bonds for the project

Obtshka reported that there have been two recent articles on the NOAA project in the Statesman Journal.

Obtshka reported that OCZMA has NOAA grant monies to coordinate coastal emergency preparedness. Additional information should be available after the OCZMA meeting on October 8.

Obtshka suggested the city consider compiling a bicycle trail map for visitors.

Bertuleit reported that grant monies are available to seismically retrofit public buildings.

Brusselback reported that he had attended a sustainability session during the LOC Conference. The session was presented by staff from Lake Oswego, and it addressed how to start, plan development, action areas and milestones. Other issues included were reduction of greenhouse gas emissions, adoption of gold and silver LEED standards gold for new and remodeled city facilities, and increase of use of alternative travel by staff. Bertuleit noted that the city needs to determine its current energy costs.

Bain reported on the recent LOC Conference. He thanked the staff for their work in the central coast hospitality room, and reported that he had attended the mayor's workshop and various concurrent educational sessions.

## **OFFICER'S REPORTS**

**Mayor's Report.** Bain appointed Mark Watkins to the Airport Committee. MOTION was made by Bertuleit, seconded by Patrick, to ratify the Mayor's appointment. The motion carried unanimously in a voice vote.

**City Manager's Report.** Voetberg noted that a written report is included in the packet. He reported that OCCA is working on a public art policy. Council agreed that OCCA should continue this project and submit the final product to Council for adoption.

Voetberg reported that he had attended the recent LOC Conference where he attended sessions that included increasing revenues with the current legislative restrictions.

**City Attorney's Report.** McCarthy reported that she had attended the attorney's session at the LOC Conference. She noted that she will be attending a sustainability conference at the University of Oregon Law School.

## **DISCUSSION ITEMS AND PRESENTATIONS**

**Presentation by Garrett Pallo, Civil West Engineering, on results from smoke testing done in August.** Garrett Pallo, of Civil West Engineering, presented a PowerPoint presentation regarding the process and results of smoke testing conducted in August. He responded to Council questions. Council agreed that property owners who are illegally connected to the sewers should pay for their own renovations.

Council took a break until 7:05 P.M.

## **ACTION ITEMS AND PUBLIC HEARINGS**

**Public hearing on Zoning Ordinance Update: FEMA Floodplain Update (File No. 1-Z-09).** Bain read the title of the agenda item, and called for abstentions, ex parte contact, and declarations of bias. There were none. He asked whether there was any objection to any Councilor, or the Council as a whole, in hearing this matter. There were none. He opened the public hearing at 7:06 P.M. Tokos delivered the staff report. He reported that the issue before Council is to determine whether it is in the public interest to amend the portion of the zoning code that applies to development on land that is within the 100-year floodplain of a watercourse. He added that these regulations implement the National Flood Insurance Program of FEMA which makes it possible for property owners in these areas to obtain flood insurance. He added that the Planning Commission has forwarded a favorable recommendation. Tokos reported that 200 notices were sent to affected property owners prior to the Planning Commission and City Council hearings. He noted that there are no significant boundary location changes.

Bain called for public comment. There was none, and the public hearing was closed for Council deliberation at 7:20 P.M.

MOTION was made by Patrick, seconded by McConnell, to read Ordinance No. 1987, by title only, and place for final adoption. The motion carried unanimously in a voice vote, and Voetberg read the title of Ordinance No. 1987. Voting aye on the adoption of Ordinance No. 1987 were Brusselback, Patrick, Obteshka, Bertuleit, Kilbride, Bain, and McConnell.

**Public hearing on Lincoln Development Company application to amend land use regulations for trailer parks (File No. 6-Z-09).** Bain opened the public hearing at 7:23 P.M. He called for abstentions, ex parte contact, and declarations of bias. Bain and Patrick disclosed that they are familiar with the property and acquainted with the individuals. Bain asked whether there was any objection to any Councilor, or the Council as a whole, in hearing this matter. There were none. Tokos delivered the staff report. He reported that the issue before Council is to determine whether it is in the public interest to amend the zoning code to allow expansion of lawfully established trailer parks within the C-3 zoning district. He noted that the Planning Commission is recommending denial because it is not in the public interest to make the legislative change considering that the amendment is too narrowly tailored, and appears to benefit only one property. He added that the change is contrary to the purpose of the nonconforming provisions of the zoning code which seeks to bring nonconforming uses, such as a trailer park in the C-3 district, into conformance with the comp plan and zoning code.

Bain called for testimony by the applicant. Dennis Bartoldus and Woody Ouderkirk appeared on behalf of the request. Bartoldus stated that he had gotten involved late in the process. He distributed a memo that he had e-mailed the previous Friday. He stated that the trailer park has been in continuous use since the 1940's. He added that he has seen no opposition. He added that if other language could accomplish this request, his client would be amenable to that. He stated that there is a need for low and fixed income housing in Newport, and that these units are clean, available, and can be occupied by low income individuals. Bartoldus stated that the request is for an amendment that puts a different slant on the regulations.

Woody Ouderkirk reported that he had inherited the trailer park when he purchased Mishey Real Estate five years ago. He distributed a letter from Bill Hall supporting low income housing. He noted that it is his intent to add better units.

Bain reported that he is also a real estate broker and appraiser and serves on the Lincoln County Housing Authority Board. Brusselback asked whether Ouderkirk made this presentation to the Planning Commission, and Ouderkirk stated that he made a presentation at the Planning Commission work session. It was noted that SDC's would have to be paid if the request is approved. Kilbride asked whether the lots have been part of the park in past, and Ouderkirk noted that they are new to the park. Bartoldus distributed a copy of the county ordinance language. Kilbride suggested that Council must either deny the request or continue it.

Bain called for opponents. There were none.

MOTION was made by Kilbride, seconded by Patrick, to continue the matter to obtain additional information. The motion carried unanimously in a voice vote.

**Intergovernmental agreement with ODOT for collection of a business license tax on motor vehicle fuel dealers.** McCarthy explained that approval of this agreement would allow ODOT to collect the revenues from the business license tax on motor vehicle fuel dealers. Brusselback asked whether the money could be used to purchase property. MOTION was made by Bertuleit, seconded by Obteshka, to authorize the city manager to execute an intergovernmental agreement between the City of Newport and the Oregon State Department of Transportation, which will allow and authorize ODOT to collect business license taxes on motor vehicle fuel dealers, pursuant to Ordinance No. 1984. The motion carried in a voice vote with Patrick voting no.

**Submittal of draft Airport FBO business plan.** Voetberg reported that the packet contains a draft business plan for the FBO. He noted that the plan was drafted by the airport director, city manager, and finance department, and that it is the staff recommendation that the document be forwarded to the Airport Committee for review and comment and return to the City Council for formal adoption. Obteshka suggested including the home porting of NOAA aircraft, relocation of the National Guard to the airport, and the development of a command center for emergencies as additional revenue sources. Walter Sherman asked whether the three sponsors are in agreement with the draft document, and it was noted that the answer would be available tomorrow. Bertuleit reported that input could be made at the Airport Committee meeting on October 20, at noon. MOTION was made by Kilbride, seconded by Bertuleit, to forward the draft Airport FBO business plan to the Airport Committee to review, with a request that the Committee submit comments to the airport director by November 6, 2009. The motion carried unanimously in a voice vote.

**Ordinance No. 1988. ratifying an intergovernmental agreement creating the Consortium of the City of Newport and the Port of Astoria.** McCarthy noted that this is a clean-up matter that will ratify the IGA and governance agreement between the city and the Port of Astoria. Walter Sherman asked whether the lack of this agreement imperils federal and state funding for SeaPort Air. McCarthy reported that she does not believe the funds are in jeopardy because both the city and port have acted in accord with the agreement, and the city has administered it. Sherman noted that the ordinance refers to two previously executed agreements and asked why those agreements were not included in the packet. He also asked whether city staff has been in contact with the state in regarding the validity of the contracts entered into by the Air Service Consortium while they were in violation of the IGA. McCarthy reported that she had spoken with Dan Clem who indicated there is no issue. She also reported that she had communicated with the secretary of state on an administrative matter relative to this issue. Bain called Sherman out of order noting that the city attorney has appropriately responded to Sherman's questions. MOTION was made by Obteshka, seconded by McConnell, to read Ordinance No. 1988 by title only and place for final passage. The motion carried unanimously in a voice vote, and Voetberg read the title of Ordinance No. 1988. Voting aye on the adoption of Ordinance No. 1988 were Kilbride, Obteshka, Bertuleit, Patrick, McConnell, Brusselback, and Bain.

## **PUBLIC COMMENT**

Walter Sherman stated that it appears there is an unwillingness to hear from constituents. He stated that his comments are from genuine concerns and intended to be an asset to the Council.

## **ADJOURNMENT**

Having no further business, the meeting adjourned at 8:38 P.M.

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Margaret M. Hawker, City Recorder

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William D. Bain, Mayor