

February 19, 2019
6:00 P.M.
Newport, Oregon

CITY COUNCIL MEETING

CALL TO ORDER AND ROLL CALL

The Newport City Council met on the above date and time in the Council Chambers of the Newport City Hall. On roll call, Allen, Botello, Sawyer, Parker, Goebel, and Hall were present. Jacobi was excused.

Staff in attendance was: Spencer Nebel, City Manager; Steve Rich, City Attorney; Gloria Tucker, Deputy City Recorder; Derrick Tokos, Community Development Director; Tim Gross, Public Works Director; and Lance Vanderbeck, Airport Director.

PUBLIC COMMENT

Eileen Obtreshka commented the street sweeper always goes down her bed and breakfast's street at 4:30 A.M. on garbage day. Nebel said staff would look into the matter.

CONSENT CALENDAR

The consent calendar consisted of the following items:

- A. Ratification of the Mayor's Appointment of Martin Desmond as an Alternate Public Member to the Audit Committee for a Term Expiring December 31, 2020
- B. Approval of Minutes of the Work Session of February 4, 2019
- C. Approval of Minutes of the Regular Meeting of February 4, 2019
- D. Approval of Minutes of the Joint Work Session of the City Council and Lincoln County Commissioners of February 6, 2019
- E. Receipt of Monthly Financial Statement
- F. Receipt of Approved Committee Minutes

MOTION was made by Allen, seconded by Goebel, to approve the consent calendar. The motion carried unanimously in a voice vote.

PUBLIC HEARING

Consideration of Ordinance No. 2144, an Ordinance Amending the Newport Municipal Code by Creating a New Chapter 4.25 Under Title VI, Businesses that Provides an Administrative Framework for Licensing Annual Operation of Short-Term Rentals, and Amending Chapter 14.25 Under Title XIV Zoning Ordinance Removing the Administrative Framework for Licensing the Annual Short-Term Rentals, and Amending Land Use Rules for Short-Term Rentals. Tucker introduced the agenda item. Nebel reported on September 18, 2017, City Council directed the Planning Commission to review the current rules establishing vacation rental dwellings in the city. As part of this process, the Planning Commission was to develop an advisory workgroup with a broad and diverse range of community representation. He stated during this timeframe, Council considered a possible moratorium on new vacation rentals in the city, but a majority of the Council opted

not to pursue a moratorium. He noted the Planning Commission created an ad-hoc workgroup of interested persons to review the existing rules, evaluate best management practices, and develop policy options for revising the City codes. He said the workgroup met 15 times between January and October 2018, before forwarding a draft package of amendments for review to the Planning Commission. The group did not arrive at a consensus on revisions to the code, but provided to the Planning Commission policy alternatives that could be considered by the Planning Commission for action. The Planning Commission held four work sessions and two hearings between October 2018 and January 2019, on the policy options. On January 14, the Planning Commission completed its deliberations and forwarded a recommendation for changes of the regulation of vacation rentals to City Council.

The Planning Commission proposal:

1. The ordinance restructures the City's short-term rental rules. Regulations that are not land use related are being removed from Chapter 14.25 of the zoning ordinance to a new chapter 4.25, to provide an administrative framework for licensing short-term rentals.

2. Chapter 14.25 has been re-written in its entirety and contains the land use rules for short-term rentals.

3. The proposal provides a differentiation between types of short-term rentals, including bed and breakfast facilities, home shares, and vacation rentals, with bed and breakfast facilities and home shares being allowed city-wide within existing dwellings subject to parking, landscaping, building safety, and similar clear and objective siting standards. (Note- bed and breakfast facilities and home shares are locations in which the home is occupied by the owner or owner's representative, while guests use a portion of the home.)

4. The recommendation would subject vacation rentals to the same clear and objective siting standards, but limits them with a zoning overlay to areas close to significant tourist commercial venues and imposes spacing standards to limit concentration and growth in the number of vacation rentals in the permitted area.

5. Existing licensed units located outside of the permitted area zoning overlay would be phased-out over a five-year period, which would allow owners to have an opportunity to realize a reasonable return on an investment for homes purchased for use as vacation rentals. This impacts approximately 25% of the existing licensed units.

6. Existing vacation rentals within the permitted area zoning overlay that do not meet the spacing standards, would become non-conforming vacation rentals that could continue in use, unless vacation rental activity is discontinued for a period of 12 consecutive months.

Nebel recommended the Council hold a work session on March 4 to discuss any revisions the Council may want to make to the proposed amendments based on the comments received at the public hearing. He added the Mayor would then reopen the continued public hearing on March 18 to take testimony on the final version of the ordinance being proposed by Council, as well as, the fee resolution.

Tokos explained the staff alternative was included as a path forward based on the recommendations of the ad-hoc committee for the Planning Commission. He said the Planning Commission considered it and elected to weave together the concepts from the ad-hoc work group in a little different manner. He stated the staff alternative was included because if the Council is not comfortable with the package presented by the Planning Commission, it is another path forward. He added the second reason the staff

recommendation was included is that there are a number of constituents who reference it in testimony and the Council is entitled to full and complete information.

Allen asked if the Council would take public comment at the March 4 work session and hold it in the Council Chambers. Nebel replied the Council would not take public comment at the work session since there would be a continued public hearing on March 18 and supported holding the work session in the Council Chambers.

Allen suggested the March 4 work session minutes be posted more than three days ahead of the March 18 meeting for the public.

Planning Commissioner Rod Croteau presented an overview of the planning commission's recommendation to Council. He advised against mixing parts of the staff recommendation with the planning commission recommendation.

Sawyer read this is the time set for a public hearing on Ordinance No. 2144, related to the regulation of short-term rentals within the city limits. He stated the ordinance establishes a new Chapter 4.25 and amends Chapter 14.25 of the Newport Municipal Code (File No. 5-Z-17). He asked Council members to disclose any actual or potential financial interest they may have related to this agenda item.

Sawyer announced a potential conflict of interest since he is planning a home share in the future. Goebel announced a potential conflict because of his profession as an architect. Hall announced a perceived conflict of interest because she allows friends to stay in her home when she is not present.

Sawyer continued this is a legislative hearing for the purpose of adopting or amending the City's comprehensive plan, map inventories, land use regulations, or other policy documents that affect the entire City or large portions of it. He said the City Council is required to hold one or more public hearings, at which it will consider the Commission's recommendation and take public testimony before rendering a decision on the ordinance. He added there are a few announcements he needed to make before starting the public hearing.

1) Ordinance No. 2144 was originally drafted with a number of policy options developed with the assistance of a citizen committee, that were later narrowed down into the set of "preferred alternatives" listed in the Planning Commission recommendation. When providing testimony, it would be helpful to the Council members if you could identify those specific policy options that you support or oppose.

2) All testimony and evidence submitted either oral or in writing, must be directed toward the relevant issues. If any person believes that other issues apply in addition to issues addressed in the draft ordinance, those issues must be discussed while the record is open.

3) If you fail to raise an issue on the record, supported by statements or evidence sufficient to give the City or other parties an opportunity to respond to the issue, you may be precluded from appealing on that issue to the Land Use Board of Appeals.

4) There are sign-up cards at the entrance to the hearing room to be filled out by anyone wishing to testify. When you are called to testify, state your name and address for the record and please avoid repetitive testimony. During the hearing, those in the audience should refrain from demonstrations in support or opposition of any testimony.

Scottie Jones, a vacation rental owner, said he has a good relationship with neighbors and does not agree with the planning commission recommendation. He added he takes exception with the statement that vacation rentals commercialize the area.

Stephanie Young-Peterson, a vacation rental owner, stated she opposed the ordinance because Planning Commission drew an arbitrary line through her neighborhood. She added she hopes Council consider the staff recommendation.

Mark Peterson said he opposed the ban on vacation rentals because it strips homeowners of rights. He indicated he supports reasonable check and balances on vacation rentals. He added he agrees with the staff recommendations.

Cynthia Cristofani, a vacation rental owner, said she could not afford to own a house in Newport without renting it out. She added changing the rules will damage the economy in Newport.

Krista Harrison reported she supports the staff recommendations. She added an economic impact study is needed on vacation rentals.

Cindy Reed, a vacation rental owner, said new regulations would be catastrophic for Newport, and the overlay is arbitrary. She stated she does not agree with the Planning Commission, and feels the staff took a longer-term view with its recommendations. She added she did not feel like an outsider to Newport until she heard Croteau's statements.

Todd Cleek said he opposes the Planning Commission recommendations and supports the staff recommendations. He stated the Planning Commission is on shaky legal grounds.

Debbie Cleek reported she believes an economic impact study needs to be done and the rules already in place need to be enforced. She added she supports the staff recommendation.

Bob Berman, Planning Commissioner, said he came to give his personal thoughts. He stated any vacation rentals that end up being phased out over five years would be replaced by new vacation rentals in other areas. He emphasized vacation rentals are businesses. He urged the Council to adopt the Planning Commission recommendations.

Mona Linstromberg said she supports the Planning Commission recommendations.

Ona McFarlane stated she supports the Planning Commission recommendations. She added she is 100 percent against the Planning Director's plan.

Don Rairigh, a vacation rental owner, said he would be included in the exclusion zone. He reported he agrees with the staff recommendation on all but a few points. He indicated he does not understand the 30-days-a-year usage requirement for a license, and that requirement would create another layer of paperwork. He added he views non-disclosure of the guest registry as a right to privacy for tenants.

Sandy Benning said prior to 2012 her neighborhood was safe and quiet, and since then most homes in her neighborhood operate commercially 365 days a year as large party houses. She stated only prohibition and phase out of vacation rentals will reverse the problems and general disturbances. She said she supports the Planning Commission recommendations and not the cap.

Scott Knox agreed with Benning and said he supports the Planning Commission's position.

Darlene Croteau stated she supports the Planning Commission recommendation, and she believes vacation rentals do not belong in any residential neighborhoods. She added most vacation rentals are not family homes but an investment managed by a third party and vigorously advertised for any time of year.

Don Andre, a vacation rental owner and ad hoc committee member, said he felt the committee was weighted too heavily with "locals." He stated some of the people who

worked on the committee were adversarial, especially the representative of the Planning Commission.

Linda Nieghbauer, a vacation rental owner, said the arbitrary overlay lines create winners and losers. She emphasized enforcement of rules must be done and in-house enforcement is better than third-party enforcement. She added the staff recommendation is a good start.

Shanna Vann said living next to two mega vacation rentals creates overwhelming anxiety. She added she endorses the ordinance

Lisa Glenn, a property manager, stated she is concerned with the makeup of the committee, the overlay map, and the loss of TRT (Transient Room Tax). She added she does not think five years is enough time to phase out vacation rentals, and enforcement is more important.

Adam Springer, an attorney for Norm Ferber, said the major issue is the ability to transfer the license.

Obtshka stated the foundation for the recommendations is cracked because the number of vacation rentals listed in Newport is wrong. She implored Council to require reporting of names and addresses of all vacation rentals.

Tom Huff, a vacation rental owner, reported he does not make money off his rental, but breaks even. He indicated he agrees with the spacing focus and improvements in enforcement. He said the overlay is an arbitrary line near amenities and an unfair distinction. He added a legal assessment and financial impact study is needed.

John Mace stated he supports the staff recommendation. He added vacation rentals bring a continual monetary boost that Newport depends on.

Hollie Bates, AirBNB business owner, said she was not informed of the need to have a license. She reported a lot of people depend on the income of AirBNB, and problem rentals should be addressed separately.

Anthony Bergshoff, a vacation rental owner, stated he has had nothing but trouble with long-term renters. He said he does not feel like the Planning Commission recommendation is fair, and he is in favor of the staff recommendation.

Susan Davidson reported vacation rentals are a problem along the entire Oregon Coast. She added no affordable housing has been built in Newport in five years and urged Council to consider all points of view.

Rex Capri said he is concerned with the local government trying to limit vacation rentals. He stated as long as people meet zoning, use, and occupancy requirements, and the nuisance laws are enforced, he does not see why they should be limited.

James Hanselman, Planning Commissioner and ad hoc committee liaison, said he supports the Planning Commission recommendation. He emphasized the inclusion of a staff recommendation as unusual and an overreach by the Community Development Director.

Pam McElroy, an ad hoc committee member, said she had issues with the Community Development Director's handling of the committee. She urged Council to adopt the recommendations of the Planning Commission.

McElroy read Judie Rikus comments since she could not remain at the meeting. Rikus comments included enforcement is key to any changes that are made, she is confident in the ad hoc committee but not the staff, and she is in support of the Planning Commission recommendation.

Wendy Engler said she supports the Planning Commission recommendations,

Carla Perry, ad hoc committee member, reported the residents of Newport are upset about destruction of neighborhoods and proliferation of vacation rentals. She emphasized the need to stop permitting new vacation rentals while the issue is discussed.

Norm Ferber, ad hoc committee member and vacation rental owner, said the process has made him feel threatened enough to need a lawyer. He said his major concern is transferability of the license. He added Hanselman has an overt conflict of interest and displayed over bias.

Scott McDowell, vacation rental owner, said he purchased his home with the intent of retiring in Newport. He urged no further action until making an economic impact study. He indicated he supported alternative A3 in staff recommendations. He added he supports staff recommendations.

Frank DeFilippis said he agrees with ordinance in part, but enforcement of bad actors is a problem and the draft ordinance does not put a solution in place. He added 1440 occupant spaces are removed from the residential housing pool because of vacation rentals and the medical, scientific, and academic communities have been impacted.

Joan Meloy, a vacation rental owner, reported short-term rental helps her cover taxes and pay tuition for her granddaughter. She said there needs to be a provision that grandfathers in existing licenses otherwise the city is taking away existing rights.

Nyla Jebousek stated stricter regulation and enforcement separate from emergency services are needed. She added she is in favor of the three strikes rule and the public is entitled to information necessary to file complaints.

Lyrette Ruppel, a vacation rental owner, said vacation rentals are a long-term strategy for retirement. She reported he does not support the ordinance. She emphasized \$2 million will be lost in revenue if 60 vacation rentals are prohibited because of the ordinance.

Cheryl Connell, an ad-hoc committee member, stated she supports the planning commission recommendation with a couple of exceptions. She said she supports a neutral stance on transferability and removal of the parking requirement for variances. She added she is concerned with the effects of vacation rentals in R1 and R2 zones.

Joanne Ronzio reported that permanent residents are being asked to protect financial investments of people who don't live in Newport. She added she supports the planning commission recommendation.

Allen asked if vacation rentals are considered a residential use. Rich replied that vacation rentals are generating money commercially, but case law consistently says that vacation rentals are a residential use. Tokos added the Planning Commission felt vacation rentals should be located close to significant tourist venues because of their transient and commercial aspects.

Allen asked where the phase out period of five years came from. Rich replied five years was the most common range staff could find from other jurisdictions, and he is unaware of any phase outs in Oregon. He added there is no safe harbor; that they are trying minimize exposure by allowing a phase out.

Goebel asked if there would need to be a zone change because of the ordinance. Tokos confirmed there would be.

Nebel said further Council questions can be compiled and responses distributed for the March 4, 2019 work session.

MOTION was made by Goebel, seconded by Parker, to continue the public hearing on Ordinance No. 2144 at the March 18 City Council meeting, with a work session being

scheduled on March 4 at 3 P.M. to discuss any changes Council would like to make to the ordinance for consideration for the continued public hearing on March 18, 2019, with possible action to approve Ordinance No. 2144, following the March 18, 2019 public hearing. The motion carried unanimously in a voice vote.

Consideration and Potential Adoption of Ordinance No. 2145, an Ordinance Repealing and Replacing Sections 6.15.045, and 6.20.005 Related to Parking in Time-Limited Areas Including Streets and City Parking Lots. Tucker introduced the agenda item. Nebel reported Municipal Court Judge, Jeff Pridgeon, recently notified the City that there are a number of missing provisions in the Newport Municipal Code relating to on-street, over-time parking on City streets. It appears that these sections were inadvertently omitted when the City codified its ordinances back in 2007 and 2008. He noted that the adoption of the code did not repeal the original ordinances, however, the provisions are not included in the code which is problematic.

Sawyer opened the public hearing on Ordinance No. 2145 at 9:09 P.M. He called for public comment.

Cyndi Karp said she is concerned with the effects of the ordinance on tourism and time limits. She suggested offsite parking for the Bayfront and shuttle service to the area.

Nyla Jebousek asked if the ordinance addresses where boats and RVs are parked.

Sawyer closed the public hearing, for Council deliberation, at 9:13 P.M.

Nebel clarified the ordinance is strictly technical, the ordinance language already exists, and it just has not been brought into the municipal code. Rich added the municipal judge felt without the language in the code that there was not sufficient notice to the public on the rules.

MOTION was made by Parker, seconded by Goebel, to adopt Ordinance 2145, an ordinance repealing and replacing Sections 6.15.045, and 6.20.005 related to parking in time-limited areas including streets and city parking lots. The motion carried unanimously in a voice vote.

Tucker read the title of Ordinance No. 2145. Voting aye on the adoption of Ordinance No. 2145 were Allen, Botello, Goebel, Sawyer, Hall, and Parker.

COMMUNICATIONS

From Airport Committee - Recommendation to Authorize an Application for a Rural Air Service Grant to the Oregon Department of Aviation for Passenger Service to the Newport Municipal Airport. Tucker introduced the agenda item. Nebel reported the Airport Committee recommended staff proceed with a request for proposals to passenger carriers to determine whether there are vendors that would potentially be available to provide passenger service to Newport. He stated an RFP (Request for Proposals) was issued on November 7, 2018, with proposals being due by December 28, 2018. Requests for Proposals were advertised on ORPIN, sent to Boutique Air, Kenmore Air, and Cape Air. Boutique Air provided the only proposal. He noted based on this proposal, the City would jointly work with Boutique Air in order to prepare an application for funding through the Rural Air Service Grant Program from the Oregon Department of Aviation, which would provide a grant of \$500,000, with a local match of \$50,000. If authorized by the City Council, then staff would pursue grant funding from the State.

Vanderbeck provided additional information to the Council regarding other agencies' Rural Air Service Grant applications that may bring air service to Newport. Nebel clarified that the \$50,000 match never leaves the city, and would only be spent if the grant were received.

Allen asked about the timeline of the grant application process. Vanderbeck replied the earliest the city could learn if the grant was awarded would be May. Nebel said the grant would be taken into account in the upcoming budget process.

Parker indicated he was concerned about using staff time to apply for the grant. He added the \$50,000 match could be spent in other ways.

Botello asked how much the air service would be used at the airport. Vanderbeck said based on past service with Sea Port, the average ridership was 3.4 per day.

Allen asked what is the difference between Boutique Air and Sea Port in terms of reliance upon subsidy. Vanderbeck replied Boutique Air is a different provider than Sea Port, and Boutique Air already has inter-airline baggage agreements in place with major carriers. He noted larger communities than Newport with air service also rely upon subsidy. He added Corvallis may be a partner with the service in the future. Goebel stated Boutique is in a better position as a company than the previous air service provider.

Carp said she had written letters of support for the airport and this service. She added the airport is critical for the future of Newport.

MOTION was made by Allen, seconded by Botello, to authorize the submittal of an application for a Rural Air Service Grant from the Oregon Department of Aviation in collaboration with Boutique Air in the amount of \$500,000, with \$50,000 being the local match. The motion carried in a voice vote with Parker voting no.

From Destination Newport Committee - Tourism Marketing Grant Application for Coast Hills Classic. Tucker introduced the agenda item. Nebel reported the Destination Newport Committee is recommending a \$4,000 grant for marketing activities for the Coast Hills Classic Mountain Bike Race on Sunday, June 9, 2019.

MOTION was made by Goebel, seconded by Parker, to approve an award of \$4,000 from the Tourism Marketing Grant Fund for the Coast Hills Classic Mountain Bike Race which will take place on June 9, 2019. The motion carried unanimously in a voice vote.

CITY MANAGER'S REPORT

Approval of the Deaccession of the Former Visual Arts Center Carved Doors. Tucker introduced the agenda item. Nebel reported the Public Arts Committee has recommended that the City approve the deaccession of the former Visual Arts Center doors.

MOTION was made by Parker, seconded by Botello to approve the deaccession of the former Visual Arts Center doors from the City's public art inventory, and return them to the family of Martha Hawkes, the artist who created the doors, with the Hawkes family being responsible for the removal of the doors from the City shops facility where the doors are currently stored. The motion carried unanimously in a voice vote.

Consideration and Potential Adoption of Resolution No. 3841 Supporting the Big Creek Dams Project and Associated Funding and Outreach Efforts. Tucker introduced the agenda item. Nebel reported on February 4, the City Council held a work session to review the status of engineering efforts to address seismic stability issues for the Big

Creek Dams, as well as, development of a funding plan to address financing of what would be the single, largest infrastructure project dollar-wise, the City has undertaken. He stated Dig Deep Research indicated that it would be very important to initiate community awareness in support for the Big Creek Dams project. As part of this effort, Dig Deep Research has put together a community awareness effort. He noted Dig Deep Research suggested Council adopt a resolution indicating the Council's commitment to address the life-safety issues relating to the Big Creek Dams, support advocating on behalf of the citizens and businesses of Newport for state and federal funding to offset costs relating to this project, to improve the affordability of this project to the taxpayers and rate payers of Newport, and authorize the Save Our Supply education and community awareness campaign regarding the reservoirs. He added a letter may be appearing in the newspaper from Jim Fuller about Rocky Creek as an alternative to Big Creek.

Hall asked how the federal delegation tour of the Big Creek Dams went. Nebel replied the tour was informative for the delegation and they suggested a number of strategies that the city may pursue.

MOTION was made by Hall, seconded by Parker, to adopt Resolution No. 3841, a resolution regarding support for the Big Creek Dams project, and associated funding and outreach efforts. The motion carried unanimously in a voice vote.

PUBLIC COMMENT

Ferber asked to be notified of any progress on the Big Creek Dams.

Carp thanked the Council for approving the resolution. She added she had one concern with part of the dam in a landslide area, and emphasized the need not to repeat the kind of construction that happened on Highway 20.

REPORT FROM MAYOR AND COUNCIL

Hall asked how the first Homelessness Task Force meeting went. Nebel reported there was a good cross-section of community representatives in attendance, and the next step for the task force would be to compile and prioritize the tasks the task force should address.

ADJOURNMENT

Having no further business, the meeting adjourned at 9:58 P.M.

Gloria Tucker, Deputy City Recorder

Dean Sawyer, Mayor