

November 2, 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, Brusselback, Kilbride, Obtshka, Patrick, and McConnell were present.

Staff present was City Manager Voetberg, City Recorder Hawker, City Attorney McCarthy, Community Development Director Tokos, Public Works Director Ritzman, Interim Finance Director Schultz, and Police Chief Miranda.

### **PUBLIC COMMENT**

Norm Winningstad suggested that the city's former airport director be awarded two years pay as this would be less than the cost of potential litigation.

Joan Stanton read a message regarding the restriction of news media from executive sessions and the potential redefinition of the first amendment.

### **CONSENT CALENDAR**

The consent calendar consisted of the following items:

- A. Approval of minutes from the City Council work session and regular meeting of October 19, 2009.
- B. Recommendation from the Destination Newport Committee for Tourism Marketing grant application – Newport Storm Basketball.

MOTION was made by McConnell, seconded by Brusselback, to adopt the consent calendar as presented. The motion carried in a voice vote with Patrick abstaining.

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

Kilbride distributed a breakdown of room tax revenues. He noted that 43.4% of room tax collections occur during the first three months of the fiscal year, and based on the revenues, the collections are significantly lower than previous years. He added that he recalled that \$100,000 had been added to the budget during the last budget session, and based on this, it could appear that revenues are further reduced.

Kilbride reported that airline subsidies through the 33<sup>rd</sup> week amount to \$1,486,607. He added that eventually, SeaPort could be operating at a loss. He reported that the subsidy payments for Astoria, through the 33<sup>rd</sup> week total \$829,800, and \$655,000 for Newport.

McConnell noted that he does not recall adding \$100,000 to the budgeted revenues from room tax. He suggested placing contingency dollars out of reach to avoid a negative fund balance.

Bertuleit reported on a recent meeting of the Airport Committee where the FBO business plan was discussed. He noted that a task force was formed to look at the business plan. At a subsequent meeting, volunteers were assigned various information-gathering tasks.

Patrick reported on a recent meeting of the Port of Newport. She noted that KPFF Engineers received the contract to finish the terminal project. She added that a strategic planning meeting would be held on November 3, and reviewed the upcoming meeting schedule related to the Port.

Obtshka reported on a recent meeting of the Library Foundation. Issues discussed included the acquisition of new computers, the upcoming Newport Reads event, the proposed behavior policy, the September book sale at the Farmer's Market, completion of the painting project, and bids for new carpeting.

Brusselback reported that George Ragsdale, counsel for Georgia-Pacific, will provide a document to the city by the end of the week.

Brusselback reported on a recent meeting of the Parks and Recreation Committee at which John Baker made a presentation regarding the business plan. He noted that construction on the public restrooms at 9<sup>th</sup> and Hurbert Streets and the Bayfront will start soon. He added that a \$350,000 grant has been received for the development of Coast Park, and that an architect has been retained for the Senior Center remodel project, and construction will begin after tax season. He reported that the recreation center will be applying for a nonprofit 501(c.)3 status. He added that Jim Protiva will be meeting with a citizens group to discuss updating the skate park.

McConnell reported that the Air Service Sustainability Task Force did not meet due to lack of a quorum, but work is proceeding on finalizing committee members.

McConnell reported that he had attended the Media Policy Task Force meeting and that the city attorney will report on the meeting.

McConnell reported that an open house will be held at the Ernest Bloch house on November 4 from noon until 4:00 P.M.

Bain reported that he had received a letter from the Oregon Parks and Recreation Department containing an invitation to a stakeholder meeting on the development of Oregon Coast Trail connections.

Obtshka asked whether the city has initiated action to correct items found from the recent smoke testing. Ritzman reported that approximately two-thirds of the problems have been investigated, and none of those were connected to the storm drain. The residents have been notified of issues and asked to contact a plumber.

## **OFFICER'S REPORTS**

**Report of the City Attorney.** McCarthy reported that the Media Policy Task Force met on October 30, 2009. The Task Force included Councilors Brusselback and McConnell, Steve Card from the Newport News-Times, and Keira Morgan from KNPT. She noted that after reviewing the information, the Task Force recommended that the Council not adopt a media policy at this time. A recommendation was made that a media

sign-in sheet be available during executive sessions, and that new media members present credentials prior to an executive session allowing adequate time to process the request. No additional Task Force meetings have been scheduled. McConnell noted that the policy has not been adopted anywhere in the state, and suggested that the matter be considered at the state level in a clarification of public meeting statutes.

## **ACTION ITEMS**

**Consideration of the FBO business plan.** Voetberg explained that the business plan had been presented to the Airport Committee. The Committee recommended that the FBO and general aviation components be combined, and that the matter be brought to Council in January. McConnell noted that the city will benefit from volunteer time and expertise in the plan development. MOTION was made by McConnell, seconded by Patrick, to defer Council consideration of the draft Airport FBO Business Plan until the January 18, 2010 City Council meeting, with the understanding that the business plan will include both the FBO and General Aviation components. Mark Watkins asked that the plan address the airport/FBO as one entity, and requested that Council formalize this action. Voetberg explained that two funds would be maintained through the end of this fiscal year, but they can be combined during the next fiscal year. The motion carried unanimously in a voice vote.

**Resolution No. 3482 declaring surplus and donating a 1971 Ford Jet truck to the City of Siletz.** Ritzman reported that this truck contains a water tank and high pressure pump that is used to clear drains and storm lines. MOTION was made by Bertuleit, seconded by McConnell, to declare the city's 1971 jet truck surplus and adopt Resolution No. 3482 regarding the transfer of surplus property to the City of Siletz. The motion carried unanimously in a voice vote.

**Public hearing on Ordinance No. 1991, updating conditional uses (File No. 7-Z-09).** Bain opened the public hearing at 7:00 P.M. He called for abstentions or ex parte contact. There were none. Bain asked whether there was any objection to any member of Council, or the Council as a whole, hearing this matter. There were none.

Tokos presented the staff report. He noted that as a part of the zoning code update, Ordinance No. 1991 contains suggested amendments to the existing conditional use provisions. He reported that ODOT has no comments or concerns with the proposal. He added that the Planning Commission and Citizens Advisory Committee had reviewed the document, heard the matter, and unanimously recommended approval of the ordinance. Obteshka proposed a change to 2-5-3.025(C.) of the ordinance exhibit A., to read, "For the purpose of this criterion "Adverse impact" is the potential adverse physical impact of a proposed Conditional Use including, but not limited to, traffic beyond the carrying capacity of the street, unreasonable noise, dust, loss of air quality, or inadequate off-street parking." A discussion ensued regarding an administrative process to determine compliance with other regulations before granting a conditional use permit. Tokos reported that he would add this to the application forms.

Bain called for proponents and opponents. There was none. He closed the public hearing for Council deliberation at 7:06 P.M.

MOTION was made by Obteshka, seconded by Patrick, to read Ordinance No. 1991 by title only, with the amendment as presented, and place for final passage. The motion carried unanimously in a voice vote. Voetberg read the title of Ordinance No. 1991. Voting aye on the adoption of Ordinance No. 1991 were McConnell, Patrick, Brusselback, Bain, Obteshka, Kilbride, and Bertuleit.

**Public hearing on Ordinance No. 1992, updating the variance section of the zoning code (File 8-Z-09).** Bain opened the public hearing at 7:07 P.M. He called for abstentions or ex parte contact. There were none. Bain asked whether there was any objection to any member of Council, or the Council as a whole, hearing this matter. There were none.

Tokos presented the staff report. He noted that as a part of the zoning code update, Ordinance No. 1992 contains suggested amendments to the existing variance provisions. He reported that the Planning Commission and Citizens Advisory Committee had reviewed the document, heard the matter, and unanimously recommended approval of the ordinance. Obteshka suggested making an effort to identify other regulatory issues an applicant might have. He also added that inadequate off-street parking should be considered a potential adverse physical impact, and that Section 2-5-2.030(D.) (second sentence) be amended to read :Adverse physical impacts may include, but are not limited to, traffic beyond the carrying capacity of the street, unreasonable noise, dust, or loss of air quality, and inadequate off-street parking.” A discussion ensued regarding enforcement, and it was agreed to discuss enforcement in the future to ensure that variance provisions are enforced in perpetuity. Tokos noted that a separate enforcement provision is contained in the zoning code.

Bain called for proponents and opponents. There were none. He closed the public hearing for Council deliberation at 7:17 P.M.

Kilbride reported that he had heard the variance request for the Holiday Inn Express sign for a greater elevation, and asked whether this ordinance addresses that type of issue. Tokos noted that it gives the Planning Commission additional flexibility in dealing with variance requests.

MOTION was made by Patrick, seconded by McConnell, to read Ordinance No. 1992 by title only, and amending Exhibit A. to include the addition of inadequate off-street parking as an adverse impact, and place for final passage. The motion carried unanimously in a voice vote. Voetberg read the title of Ordinance No. 1992. Voting aye on the adoption of Ordinance No. 1992 were McConnell, Patrick, Brusselback, Bain, Obteshka, Kilbride, and Bertuleit.

**Public hearing on Ordinance No. 1993 establishing the Nye Beach Parking District.** Bain opened the public hearing at 7:19 P.M. He called for abstentions or ex parte contact. Obteshka reported that he is a past president of the Nye Beach Merchants Association and does not currently pay parking fees, will not benefit, and, in fact, will pay if this ordinance is adopted. Bain asked whether there was any objection to any member of Council, or the Council as a whole, hearing this matter. There were none.

Tokos presented the staff report. He reviewed the history of the parking district, noting that there have been several workshops and meetings with Nye Beach business owners. He added that this is an implementing ordinance creating the parking district. He

noted that a copy of the ordinance is included in the packet with a map, notice of hearing, and letters received to date. He reported that Jacquelyn Bruni, representing Halcyon Gallery, sent a letter supporting the parking district. He made a brief PowerPoint presentation that reviewed each section of the ordinance. He reported that there are approximately five businesses opposing formation of the district. Patrick asked how the formula would work for Archway Place. Tokos explained that the advisory committee will make that determination, but it will be allocated proportionately for the businesses. Kilbride stated that he was unclear on charges. Tokos explained that the parking district is an alternative to the \$7,500 payment in lieu of parking charge. Patrick asked how disabled parking will be handled. She asked whether the financial impact has been considered. She asked for assurance from staff that the city would collect delinquent payment in lieu of parking fees. Voetberg reported that Community Service Officer Kittel has completed checking businesses for renewal of business licenses. He has found several new businesses, and reminded business owners who had not renewed. Tokos said that final invoices will be sent to folks making payments in lieu of providing parking, and that the city will collect on those invoices as the parking agreements are closed out

Bain called for proponents and opponents. Linda Neigebauer asked about the process if a business is required to provide eight parking spots, and the first five are covered in the parking district; how are the other three handled. Tokos noted that the three parking spaces would be covered by the parking ordinance. Tokos reported that the parking district would take what nine businesses have been paying and spreading it out over 45 businesses.

Bain closed the public hearing at 7:50 P.M., for Council deliberation. Kilbride asked whether it is fair to assume that the NBMA represents the interest of most of the businesses in Nye Beach. Neigebauer reported that it represents approximately 80% of the businesses. Kilbride asked why vacation rentals are not included. Tokos reported that vacation rentals are subject to the zoning ordinance, and statutorily assessed as residential real property.

MOTION was made by Brusselback, seconded by Bertuleit, to read Ordinance No. 1993 by title only and place for final passage. The motion carried unanimously in a voice vote. Voetberg read the title of Ordinance No. 1993. Voting aye on the adoption of Ordinance No. 1993 were Bertuleit, Kilbride, Obtshka, Bain, Brusselback, Patrick, and McConnell.

## **PUBLIC COMMENT**

Mark Watkins asked that one or two members of the Airport Committee be involved in hiring the new airport director.

Mark Watkins stated that, as a pilot, navigational aids directly impact the lives of pilots. He asked who would be responsible for the maintenance of the ILS, AWOS, and VOR systems, and the plan for making the airport safe. Bain referred this matter to staff. Watkins asked when he could expect an answer, and Bain reported that the city will maintain a seamless operation.

**ADJOURNMENT**

Having no further business, the meeting adjourned at 7:57 P.M.

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Margaret M. Hawker, City Recorder

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William D. Bain, Mayor