

October 21, 2014
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, Allen, Beemer, Swanson, Roumagoux, and Busby. Sawyer and Saelens were excused.

Staff present was City Manager Nebel, City Recorder Hawker, Community Development Director Tokos, Public Works Director Gross, and Police Chief Miranda

PLEDGE OF ALLEGIANCE

Council, staff, and the audience participated in the Pledge of Allegiance.

Allen asked why Saelens was absent. Nebel noted that when the meeting date changed, Saelens had a schedule conflict. MOTION by Allen, seconded by Beemer, to excuse both Sawyer and Saelens from this meeting. The motion carried unanimously in a voice vote.

PROCLAMATIONS, PRESENTATIONS, AND SPECIAL RECOGNITIONS

Proclamation - October - Domestic Violence Awareness Month. Roumagoux proclaimed the month of October as Domestic Violence Awareness Month in the City of Newport. CeCe Pratt, from My Sister's Place, accepted the proclamation, and distributed information regarding My Sister's Place. Pratt reviewed the work of My Sister's Place. She responded to Council questions.

CONSENT CALENDAR

The consent calendar consisted of the following items:

- A. Approval of City Council minutes from the Town Hall meeting of September 29, 2014, regular meeting, work session, and executive session of October 6, 2014.
- B. Ratification of the Mayor's appointment of Paul Stangeland to the Parks and Recreation Advisory Committee for a term expiring December 31, 2015.

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

ADDITION TO THE AGENDA

MOTION was made by Beemer, seconded by Swanson, to add the receipt of a land donation from Investors XII to the agenda under the City Manager's Report, Item E.

Nebel noted that the issue arose on Monday, and is necessary in order to finalize the plat. The motion carried unanimously in a voice vote.

PUBLIC HEARING

Public Hearing and Possible Adoption of Ordinance No. 2071 Creating a Local Tax on Recreational Marijuana and Marijuana-Infused Products, and on Resolution No. 3694 Setting a Tax Rate on Recreational Marijuana and Marijuana-Infused Products.

Hawker introduced the agenda item. Nebel reported that on October 6, 2014, the City Council scheduled a public hearing on an ordinance to establish a local tax on recreational marijuana. He added that this action was, in part, the result of attending the annual League of Oregon Cities Conference held in Eugene last month. He stated that one of the most active discussion issues, at the conference, related to Proposition 91 that would legalize recreational marijuana use within the State of Oregon. He noted that a number of Council members participated in various session regarding the marijuana initiative. He reported that a significant number of Oregon cities are enacting a local sales tax ordinance that would give local units of government the right to tax sales of recreational marijuana that occur within their jurisdiction. He added that it is recommended that an ordinance be approved with an effective date prior to the effective date of Measure 91 if that ballot initiative is approved by voters. He stated that Measure 91 would take effect 30 days after the November election date. He noted that if the City Council approves an ordinance at the October 21, 2014 City Council meeting, that ordinance would take effect prior to the effective date of any ballot initiative. He noted, however, that section 42 of Measure 91 gives the state the exclusive right to tax marijuana, and that Section 58 of the Measure 91 supersedes and repeals inconsistent charters and ordinances. He added that any conflicts between the initiative and local ordinances would likely be litigated.

Nebel reported that an ordinance has been drafted by Lauren Sommers, of Speer-Hoyt, on taxing marijuana within the city should Measure 91 pass. He noted that the way the ordinance is drafted, medical card holders purchasing medical marijuana from a state- authorized dispensary would be excluded from taxation. He added that the tax rate would be established by a separate resolution that could be modified from time to time. He stated that some municipalities are establishing a specific rate while others are establishing the current rate at 0% and will reevaluate that rate depending on the outcome of Measure 91.

Nebel recommended that Council hold a public hearing on Ordinance No. 2071 and Resolution No. 3694.

Roumagoux opened the public hearing at 6:22 P.M. She called for public comment. There was none.

Roumagoux closed the public hearing at 6:23 P.M. for Council deliberation.

Allen noted that the measure will take effect 30 days from the date it passes, and that Section 4 of the ordinance indicates that the ordinance will become effective 30 days after adoption. He added that if the ballot measure does not pass, Council will have to repeal this ordinance because it is based on the ballot measure. It was noted that this could be a discussion after the election.

Allen noted that the effective date of Resolution No. 3694 would need to be changed to reflect the effective date of the ordinance which would be November 20 if the ordinance is adopted at this meeting.

MOTION was made by Swanson, seconded by Allen, to read Ordinance No. 2071, establishing a tax on the sale of recreational marijuana and marijuana-infused products in the City of Newport, by title only, and place for final passage. The motion carried unanimously in a voice vote. Hawker read the title of Ordinance No. 2071. Voting aye on the adoption of Ordinance No. 2071 were Allen, Busby, Swanson, Roumagoux, and Beemer.

MOTION was made by Swanson, seconded by Beemer, to adopt Resolution No. 3694 establishing a tax rate of zero percent on the sale of recreational marijuana and marijuana-infused products in the City of Newport as amended in Section 2 to reflect an effective date of November 20, 2014. The motion carried unanimously in a voice vote.

COMMUNICATIONS

From the Business License Work Group - Report on Update to the Business License and Taxicab License Ordinances. Hawker introduced the agenda item. Nebel reported that the City Council has established a Business License Work Group to review and modify, where necessary, the city's business license and taxi license ordinances. Councilor Ralph Busby has chaired this effort. He added that the Business License Work Group thought it would be appropriate to provide an update to the City Council on efforts to clarify certain provisions of the business license, and to review changes to the process of issuing a taxicab endorsement.

Nebel noted that the most significant change to the city's taxi license code is that the language restructures the process to provide for a taxicab endorsement to be issued administratively without a hearing before the City Council. He added that the license process will be more consistent with other business licenses issued by the city, and it will reduce the burdens for applicants to meet in applying for these licenses. He reported that the Business License Work Group has made revisions to the draft ordinance relating to taxicabs, and that if Council is in agreement with these changes, they will be forwarded to legal counsel for review. He stated that if there are no significant changes, a hearing on the revised taxi license ordinance could be scheduled on the November 17, 2014 City Council meeting agenda.

Busby stated that Nebel covered the taxicab ordinance revision well, adding this it contains a reduction of the requirement to go before the City Council on a taxicab application. He reviewed the business license process including the composition of the working group and the consensus. He commended Tokos for his efforts with this revision. He noted that the working group discussed the business license ordinance thoroughly and came to a consensus on the changes presented tonight. He stated that there now needs to be public input.

Tokos reviewed the substantive changes, noting that the packet contains a marked up draft with an explanation of the changes. He added that the changes include clarification of language; when a license is required; exemptions; fees; not-for-profit renewal; businesses with multiple locations; how the city communicates with applicants; timely review and issuance if license; provides for fees to be set by Council resolution;

eliminates the requirement that administrative rules be prepared; and a new section that provides that evidence of doing business constitutes doing business.

Busby reported that two Planning Commissioners, Bob Berman and Rod Croteau, participated in the working group.

A discussion ensued regarding whether to hold public hearings on the business license and taxicab license ordinances. It was suggested that the ordinances be held for review by the incoming City Attorney, Steve Rich, when he begins working in December. It was noted that staff planned to send the ordinances to Speer Hoyt for review. Council concurred that after Speer Hoyt's review, Rich will be the final reviewer.

MOTION was made by Allen, seconded by Beemer, to hold public hearings on the revisions to both ordinances as suggested by the working group, and to make an effort to reach out to the stakeholders who might be affected by these revisions, including the current taxicab endorsement holder, and the prior taxicab endorsement applicant. The motion carried unanimously in a voice vote.

CITY MANAGER REPORT

Authorization to Initiate Proceedings to Withdraw Territory from the Seal Rock Water District. Hawker introduced the agenda item. Nebel reported that the city has been meeting with the Seal Rock Water District over the past year to discuss the withdrawal of land that is currently located in the city, served by city water, but remaining in the Seal Rock Water District. He stated that in 2007, the city entered into an intergovernmental agreement with the Seal Rock Water District which provided that the city provide water service to an area including much of South Beach. He added that this agreement did not address the withdrawal of properties from the district, and following this agreement, the Seal Rock Water District funded major improvements to their system with general obligation bonds in 2011 and 2012. He noted that these improvements have no benefit to the properties located in the city's water service area, however, the property owners are being required to pay this debt, which the district recognizes as unfair. He stated that the amended agreement does not hold the city or property owners responsible for any debt issued after 2008 should those properties be withdrawn from the district. He noted that the city would be responsible for a pro rata share of any debt that existed prior to 2008 for these properties in accordance with the amended agreement.

Nebel reported that ORS 222.520 authorizes the city to withdraw territory from a service district if it has been annexed to the city. He added that the statute requires that the governing body hold a public hearing, and following the public hearing, the city may, by ordinance, declare that properties located within the city be withdrawn from the district. He noted that this action is subject to a subsequent citizen-initiated referendum.

Nebel reported that the agreement between the city and the district provides a mechanism for repayment of debt issued prior to 2008. He stated that if this withdrawal is effective July 2015, the city will have an obligation to pay an amount of \$55,322.29 to address debt requirements for the property that is currently part of the city that would be withdrawn from the Seal Rock Water District.

Nebel reported that the city has the option of not withdrawing the property as a block and leaving it to the individual property owners to petition the board of county commissioners seeking a withdrawal pursuant to the provisions contained in ORS 198.

He added that this would create a piecemeal process that would be more convoluted to the district, the city, and Lincoln County.

MOTION was made by Swanson, seconded by Beemer, to initiate the withdrawal of property from the Seal Rock Water District that is located in the city limits of the City of Newport in South Beach, and set the date, time, and place for the public hearing on this question for November 17, 2014, at 6 P.M., in the City Council Chambers, located at 169 SW Coast Highway. The motion carried unanimously in a voice vote.

Report and Discussion on Electronic Messaging Sign for City Center. Hawker introduced the agenda item. Nebel reported that at the second meeting in August, a presentation was made by the City Center Newport Association to construct a large messaging sign on the NW corner of Hurbert Street and Highway 101 with the sign incorporating art deco elements in its design. He stated that following the public hearing in which there was testimony both for and against this proposed project, the City Council requested that staff work with the City Center Newport Association board of directors to review alternatives to the project as submitted. He noted that Council indicated that they did not necessarily have objections to a messaging sign being located somewhere in city center, however, the scale and location were problematic. He added that there was discussion about a much smaller scale project to clean up and green up the northwest corner of Hurbert Street and Highway 101. Nebel reported that he has since met with the City Center Newport Association board of directors to discuss the City Council action taken in August, and a number of alternate sign locations were discussed. He stated that the committee felt that the most desirable location would be on Highway 101 across from City Hall where the current clock tower is located. He added that the landscaping in place for the clock tower would provide an appropriate setting for the messaging sign, and that the clock could potentially be moved to the northwest corner of Hurbert Street and Highway 101 to clean up that location. He stated that other alternate locations include the small area that separates the Chevron station between City Hall and the Chevron dealership; the east side of Highway 101 at the corner of Abbey Street; and the corner of the Newport City Hall, which could be completed in conjunction with signage at City Hall.

Nebel reported that the City Center Newport Association indicated that the improvement of the northwest corner of Hurbert Street and Highway 101 has been the subject of various plans for improving the aesthetics of this important intersection. He stated that the plans included various designs and should be a starting point for discussions with the adjacent property owners who have been divided on the various concepts. He noted that the City Center Newport Association also felt that any improvements to the crosswalk, to be completed by ODOT, need to be considered in any design processes for this corner.

Nebel reported that he met with Tokos and Gross following this meeting to discuss these issues. He stated that the preferred location would require coordination with ODOT since this is state right-of-way. He added that the adjacent property has been recently acquired with potential plans for redeveloping that area, and that this is something that would need to be understood in looking at this primary location.

Nebel reported that he plans to schedule a meeting of property owners to discuss small scale improvements that could occur on that corner. He noted that if the city establishes a new urban renewal district on the north side of the bridge, there could be

more significant future projects that could impact the property. He stated that staff believes a small scale aesthetic improvement would be appropriate in the event that more significant projects might be contemplated as part of the long-term urban renewal district.

Nebel reported that he does not have a recommendation for the City Council, at this point, regarding either the sign or the improvements to the northwest corner of Hurbert Street and Highway 101. He added that it would be appropriate for the City Council to share any thoughts, ideas, and concerns they have with the options outlined in this report.

Nebel reported that \$90,000 remains for the potential community event sign and/or improvements to the northwest corner of Hurbert Street and Highway 101. He stated that he is planning a meeting to discuss what smaller scale project can be done on that corner. Allen asked about the timeline for meeting with the area property owners and sorting out these issues. Nebel stated that he would like to schedule meetings before the 2015/2016 budget process begins - either in December or January to discuss these issues. Allen suggested that a Council member attend the meetings with staff as well, and Nebel noted that this is a good idea. Allen volunteered to be the Council participant.

Discussion on the Announced Closure of the United States Coast Guard Air Facility.

Hawker introduced the agenda item. Nebel reported that on Monday, October 20, the city, in conjunction with Lincoln County and the Port of Newport, hosted a public forum to give the public an opportunity to express their views regarding the announcement by the commander of the 13th Coast Guard district of the closure of the air facility in Newport, Oregon. He noted that there was an exceptional meeting last night and to hear the varied services that are dependent upon this service by the community. He thanked Bob Jacobson who worked on behalf of the county, city, and port to moderate the meeting. He noted that the important thing to recognize is that Monday's meeting is not an end, but a beginning and the various groups need to work together to address the issue.

Nebel reported that the conveners of the forum (Lincoln County, City of Newport, and Port of Newport) met earlier today to discuss next steps regarding this matter. He added that it is appropriate to set the tone of where and how to move forward if Council is in agreement. He noted that the other unique issue is that Associated Cleaning Services has agreed to provide five years of free custodial services to the air facility if it remains in Newport.

Nebel noted that he had prepared several motions for Council consideration. Council discussed and revised the motions as follows:

MOTION was made by Allen, seconded by Beemer, to authorize the continuation of a collaborative effort between the City of Newport, Lincoln County, and the Port of Newport, working with other stakeholders including the current and former members of the Fishermen's Wives, and to the extent possible, the Oregon congressional delegation, Oregon Coastal Caucus, and Oregon governor's office to continue efforts to reverse the decision relating to the closure of the air facility in Newport. The motion carried unanimously in a voice vote.

MOTION was made by Beemer, seconded by Allen, to direct the City Manager to send a letter to the appropriate federal officials requesting that the closure of the United States Coast Guard Newport Air Facility be delayed until a proper determination can be

made relating to the benefits of continued operation of this facility and then further assess keeping the facility open permanently. The motion carried unanimously in a voice vote.

MOTION was made by Allen, seconded by Beemer, that a complete package of information be compiled from the joint meeting of Lincoln County, the City of Newport, and the Port of Newport with that information being shared with the Oregon congressional delegation, Commander for the Thirteenth U.S. Coast Guard District, the Commandant of the U.S. Coast Guard, the Vice-Commandant of the U.S. Coast Guard, the U.S. Secretary of Homeland Security, and other federal officials to convey the need to reverse the decision to close the air facility in Newport. The motion carried unanimously in a voice vote.

MOTION was made by Beemer, seconded by Allen, to request that the Mayor and City Manager prepare letters of appreciation to Michelle Longo Eder, Ginny Golbrisch, Sarah Skamser, Jennifer Stevenson, Carol DeMuth, and others, on behalf of the City Council, for their advocacy related in working to reverse the decision of the U.S. Coast Guard to close the Newport Air Facility. The motion carried unanimously in a voice vote.

A brief discussion ensued regarding the offer from Associated Cleaning Services.

Discussion and Possible Appointment of a Council Liaison to the City Emergency Planning Committee. Hawker introduced the agenda item. Nebel reported that in 2013, an internal administrative committee was established to develop appropriate responses to emergencies that could occur in the city. He noted that since the first of the year, this committee has been meeting on a regular basis and has been making significant progress on a variety of matters including setting up an emergency operations center in City Hall. He stated that Swanson has suggested that it may be appropriate for the City Council to consider appointing a liaison to this administrative committee. He added that based on the important integration of services during an emergency that would impact elected officials through providers in the city organization, he believes this would be an appropriate consideration by Council. He reported that Swanson has expressed an interest in serving in this capacity. He noted that as an alternative, Swanson also mentioned that City Council could rotate its service with this committee similar to what is being done with City Employee Administrative Committee. He stated that the decision on appointment of a liaison is a Council decision.

MOTION was made by Beemer, seconded by Allen, to establish a Council liaison to the city's administrative Emergency Planning Committee. The motion carried unanimously in a voice vote.

MOTION was made by Beemer, seconded by Allen, to appoint Swanson to serve as the City Council liaison to the city's administrative Emergency Planning Committee. The motion carried unanimously in a voice vote.

Discussion and Possible Approval of a Land Donation from Investors XII. Hawker introduced the agenda item. Nebel reported that the issue before Council is the consideration of an agreement with Investors XII, LLC identifying the portion of their property that the city is acquiring for right-of-way and easement purposes, along with the portion that Investors XII, LLC is donating to the city. He stated that the right-of-way is needed so that SW Abalone Street can be extended as envisioned in the South Beach Urban Renewal Plan and proposed plat of Sunset Dunes.

Nebel reported that the city desires to obtain 30,941 square feet of road right-of-way, and a 1,836 square foot permanent public utility easement from Investors XII, LLC, in order to construct planned transportation improvements in South Beach. He added that the right-of-way and easement are depicted on the concept map for the plat of Sunset Dunes. He stated that an appraisal by William E. Adams, MAI, MRICS, dated July 25, 2014, establishes a value for the right-of-way of \$12.00 per square foot and a value for the easement of \$3.60 per square foot.

Nebel reported that the Newport Urban Renewal Agency has authorized a payment to Investors XII, LLC in the amount of \$147,682 for right-of-way and has contracted with the City of Newport to construct the transportation improvements. He stated that the payment amount was determined to be the value of the right-of-way and easement being acquired, less the value of the land Investors XII, LLC gains through the vacation of a portion of SW Anchor Way.

Nebel reported that on Monday, October 20, 2014, the managing partners of Investors XII, LLC indicated that they misunderstood how the compensation package was being structured. He stated that they would prefer that a value for the land that Investors XII, LLC will receive as a result of the vacation of a portion of SW Abalone Street not be factored into the transaction. He stated that as an alternative, they propose that the compensation amount remain at \$147,682 with the city accepting a donation of the balance of the land. He noted that this may provide Investors XII, LLC with a tax benefit that they would not otherwise receive given how the compensation proposal is currently structured.

Nebel reported that this donation agreement has been added to the Council agenda at this late date because of the timing of when the issue was raised by Investors XII, LLC and the impact that a delay would have on finalizing the plat of Sunset Dunes. He added the plat is currently being signed by the three property owners (OMSI, Investors XII, LLC, and Richard Murry). He noted that funds have been transferred to escrow for right-of-way payments, all of the conveyance documents have been finalized, and the parties have prepaid taxes, and therefore, timing is of the essence. He stated that it is also worth emphasizing that the donation agreement does not change the amount of money Investors XII, LLC will receive from the Urban Renewal Agency and city.

MOTION was made by Allen, seconded by Beemer, to enter into the right-of-way donation agreement with Investors XII, LLC as included in the attached packet. The motion carried unanimously in a voice vote.

REPORT FROM MAYOR AND COUNCIL

Allen noted that the effective date for Resolution No. 3694, setting the tax rate for recreational marijuana and marijuana-infused products should be November 21, 2014.

Roumagoux reported that she gave a welcome speech to the Oregon Coast Chapter of Military Officers Association of America at its charter meeting.

Roumagoux reported that she performed the ribbon cutting for the Eternal Beauty Salon which was formerly Jerilyn's.

Roumagoux reported that she gave the opening remarks, and performed the ribbon cutting, at the recent rededication of the airport.

Roumagoux reported that she participated in an interview on KXL regarding the October 20 meeting on the Coast Guard's announced closure of the air facility in Newport.

Roumagoux reported that she attended the October 20 meeting at Oregon Coast Community College regarding the Coast Guard's announced closure of the air facility in Newport. She complimented Nebel for organizing the meeting, and noted that there were approximately 300 attendees and that testimony went well.

Swanson reported that she attended the rededication of the airport which was very interesting.

Swanson reported that she attended a recent meeting of the City Employee's Committee.

Swanson reported that she attended a recent meeting of the Audit Committee.

Busby reported that he attended the rededication of the airport.

Busby reported that he attended a recent meeting of the Public Arts Committee. He noted that the group is involved with the One Percent for the Arts Program relative to the construction of the new municipal swimming pool.

Beemer reported that he attended the airport rededication.

Beemer reported that he attended the October 20 meeting at which the announced closure of the Coast Guard air facility was discussed.

Beemer reported that the Port had completed much of its needed dredging, but that there are pilings sticking up from the bottom of the bay that are impeding completion of the dredging. He noted that the total cost of the remaining dredging, and South Beach mitigation, is in excess of \$500,000.

Allen reported that he attended a FINE meeting on October 7 that was a joint meeting with the Southern Oregon Ocean Resource Coalition, a group with similar goals from the south coast. He noted that there was discussion about federal mapping and developing strategies to collaborate along the coast with respect to federal agencies.

Allen reported that he attended a recent meeting of the Audit Committee. He noted that the auditors were in attendance and were completing the field work. He reviewed the timeline for the audit, noting that the audit will be completed and filed on time. He stated that between the first and second City Council meeting in January, the Audit Committee will meet and review the audit with Murzynsky and Nebel with the auditors participating by telephone. He noted that the Audit Committee will be proactive and review issues and compile a report to present to the City Council on January 20, 2015. He added that the City Council will accept the audit report after the Audit Committee presentation to Council.

Allen reported that he attended an OPAC meeting that was held in Newport on October 16. He noted that the letter, from OPAC, that he read at the Coast Guard meeting on Monday had been generated at this meeting. He noted that OPAC is organizing a forum on national marine sanctuaries to be held in Bandon in March or early April of 2015.

Allen reported that he attended the recent veteran's lunch at the Senior Center. Swanson noted that she sat next to a Korean War veteran and the veteran's daughter who was a Navy nurse.

Allen reported that he attended the rededication of the airport.

Allen reported that earlier today, he had attended the keynote luncheon speech at a two-day technology conference organized by John Lavrakas. He added that the conference is promoting blue technology and blue jobs. He encouraged other Councilors to attend what they could of this conference.

Allen reported that he would be going to Florence tomorrow to attend the West Coast Governor's Alliance on Ocean Health, and that he would have a report at the next meeting.

PUBLIC COMMENT

Robert Legree, operations manager for Associated Cleaning Services, stated that public relations was not the intent of the offer to provide free custodial services to the Coast Guard if the Newport air facility was retained. He noted that his company would work through the Coast Guard Auxiliary which would allow this type of donation. He reiterated that the thought behind the offer was the firm being a leader and not public relations. He added that the cost was determined from providing services to this facility in the past.

ADJOURNMENT

Having no further business, the meeting adjourned at 7:40 P.M.

Margaret M. Hawker, City Recorder

Sandra N. Roumagoux, Mayor