

MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL

March 6, 2012

The minutes of the proceedings of a regular meeting of the City Council of the City of Coos Bay, Coos County, Oregon, held at 7 p.m. in the Library Meeting Room, 525 Anderson Avenue, Coos Bay, Oregon.

Those Attending

Those present were Mayor Crystal Shoji and Councilors Jennifer Groth, Jon Hanson, Stephanie Kramer, Gene Melton, John Muenchrath, and Mike Vaughan. City staff present were City Manager Rodger Craddock, City Attorney Nate McClintock, Intermediate Accountant Debbie Frankenberger, Economic Revitalization Administrator Joyce Jansen, Public Works and Development Director Jim Hossley, Planning Administrator Laura Barron, Engineering Services Coordinator Jennifer Wirsing, Library Director Samantha Pierson, Fire Chief Stan Gibson, and Police Captain Chris Chapanar.

Flag Salute

Mayor Shoji opened the meeting and asked Nancy Brouhard to lead the Council and assembly in the salute to the flag.

Public Comments

No comments were given.

Consent Calendar

Mayor Shoji reviewed the consent calendar which consisted of 3a: approval of the minutes of February 21 and 23, 2012; 3b: adoption of 2012 Council Goals; and 3c: approval of an OLCC full on-premises sales license for the Little Italy Restaurant. Councilor Muenchrath moved to approve the consent calendar approving the minutes of February 21 and 23, 2012, adopting the 2012 Council Goals, and approving an OLCC full on-premises sales license for the Little Italy Restaurant. Councilor Melton seconded the motion which carried with Mayor Shoji and Councilors Groth, Hanson, Kramer, Melton, Muenchrath, and Vaughan voting aye.

Public Hearing to Consider a Proposed Vacation of Webster Avenue Between South Wall and Marple Streets – Approval Would Require Enactment of the Proposed Draft Ordinance

Planning Administrator Laura Barron read the public hearing disclosure. Ms. Barron stated applicants Mr. and Mrs. Siegfried Hoffman requested the vacation of the undeveloped 70-foot wide Webster Avenue between S. Marple and S. Wall Streets. Mr. and Mrs. Hoffman own the property abutting the right of way to the south and propose to use a portion of the vacated area along with their abutting property to establish a single-family dwelling. If approved, the property owners to the north would receive 30 feet of the right of way with the sewer line running through it; and the Hoffmans would receive 40 feet of the width of the right of way.

Ms. Barron stated the Planning Commission held a public hearing on February 14, 2012 on the proposed vacation of Webster Avenue between S. Wall and Marple Streets which resulted in a

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tie (3 to 3). A tie vote, pursuant to City Council rules and Roberts Rules of Order, was a denial and the Planning Commission recommended denial of the proposed street vacation. Ms. Barron stated two central issues dominated the Planning Commission discussion: 1. Topographic conditions of the Webster Avenue right of way; and 2. Future need for the right of way. The area proposed for vacation may be developed in the future and the sewer line was located in the north half of the Webster Avenue right of way and extended from S. Empire Boulevard to S. Wasson. Both areas of Webster Avenue east and west of the area had drainage and environmental considerations which would need to be addressed prior to development. If vacated, easements would be required for the existing sewer line and the Hoffman's sewer lateral to their future home. Future need of the right of way was unknown and if vacated, the right of way would become part of the adjacent private property's ownership and would no longer be available for public use.

Councilor Muenchrath inquired if Webster Ave. was platted to be developed as a street; wherein Ms. Barron replied in the affirmative. Ms. Barron stated two additional items were received, an email from Tom Greaves with the Community Coalition of Empire which endorsed a pocket park; and a letter from Dennis Alichwer and Tanya Wiggins which requested denial of the vacation. Councilor Groth inquired as to the status of the alleyway changes; wherein Ms. Barron replied the Public Works & Development Department issued after-the-fact permits for the changes and Mr. Hoffman possibly did more work than originally planned. Councilor Melton asked if anyone spoke in favor of the vacation at the Planning Commission hearing wherein Ms. Barron replied in the negative.

Mayor Shoji opened the public hearing and asked if the Councilors had any bias or conflict of interest or ex parte contacts. Councilor Muenchrath stated he visited the site as did Mayor Shoji, Councilors Groth and Vaughan; and Councilor Kramer stated she knew the applicants. Mr. Siegfried Hoffman, Coos Bay spoke in favor of the vacation request and inquired if the Councils received a copy of the non-remonstrance agreement he previously signed. City Manager Rodger Craddock explained the procedures for a vacation and stated Mr. Hoffman requested the City Council initiate the proposed vacation on December 20, 2011. Mr. Craddock stated as part of the agreement for the City Council to initiate the request, Mr. Hoffman signed a non-remonstrance agreement regarding the City building a sewer treatment plant built on property adjacent to the property owned by Mr. Hoffman. Mr. Hoffman stated the drainage ditch on his property removed 30 feet of buildable property and he wanted the City to provide buildable property by approving the vacation or fill in the ditch. Mr. Hoffman stated there were several parks in the area including a pocket park and asked to read his response letter to Dennis Alichwer and Tanya Wiggins wherein City Attorney Nate McClintock recommended the Council not take the letter into consideration. Councilor Muenchrath asked if the stream was on the property when Mr. Hoffman purchased the lot wherein Mr. Hoffman replied affirmative.. No further public comments were given and the hearing was closed.

Councilor Groth stated she was not comfortable making an irreversible decision. Councilor Vaughan expressed concern regarding the waterway and the complex engineering needed to build a house over a creek. Councilor Melton stated he did not want to infringe on a private owner's property rights but did not agree with the fact the property owner did work on the property without permits. Councilor Muenchrath stated it might be best to retain the property as public property. Councilor Hanson agreed suggested the property may be needed in the future for water treatment plant upgrades.

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Mayor Shoji moved to deny the application for the vacation of Webster Avenue between S. Marple and S. Wall Streets and to adopt the following conclusions and findings of fact: Regardless of the fact that existing Pacific and Fulton Avenues provided adequate connectivity to the area at this time, future development and needs of the area were unknown; therefore, the review criteria had not been satisfied. It would be possible to develop the area proposed for vacation. Webster to the east and west presented environmental concerns. Unknown were the needs of the public in the future. Therefore it would not be possible to conclude the public interest would not be prejudiced by a vacation. The review criterion had not been satisfied. Councilor Kramer seconded the motion which carried with a voice vote whereby Mayor Shoji and Councilors Groth, Hanson, Kramer, Melton, Muenchrath, and Vaughan voted aye.

Ms. Barron stated there would be a 21 day appeal period from the date the decision was placed in writing.

Review of the City Council Committee Assignments

Mayor Shoji stated members of the City Council have served as City representatives on various City and community boards and committees and asked if Councilors had any corrections or suggestions to the list provided wherein no changes were noted. Mayor Shoji asked if Councilor Hanson would be interested in serving on the Coos Bay Downtown Association wherein Councilor Hanson expressed an interest and stated he had a vested interest in downtown Coos Bay and served on the Board of the Bay Area Chamber of Commerce. City Manager Rodger Craddock stated Essential Services Case Manager Laura Moore requested a Councilor consider serving on the Oregon Coast Community Action's (ORCCA) board and noted the North Bend City Council did not have a representative on the ORCCA board. The consensus was there were many requests for Council representation and not all could be fulfilled and possible requests such as this could be better addressed by the Charter/Rule Advisory Committee consisting of Mayor Shoji and Councilors Kramer and Muenchrath.

Consideration of Approval on a Constitutional Amendment to Overturn Corporate Personhood – Approval would Require Adoption of Resolution 12-04

Councilor Muenchrath read proposed Resolution 12-04. At the January 17, 2012 Council meeting, Councilor Muenchrath requested the Council consider approving a resolution supporting amending the Constitution opposing the Supreme Court's interpretation of the Constitution in *Citizens United* regarding the constitutional rights of corporations to provide that corporations were not entitled to the entirety of protections or "rights" of natural persons. Since the Supreme Court's ruling in *Citizens vs. Federal Election Commission* in 2010 upheld the rights of corporations to make political expenditures under the First amendment, there were several calls for a U.S. Constitutional amendment to abolish Corporate Personhood.

Mayor Shoji asked for public comments. Rick Staggenborg, Coos Bay: supported the Council for speaking up if our federal government would not. Monica Schreiber, North Bend: supported the statement made by the Council. Dana Cobb, Coos Bay: stated regardless of the political views of our citizens, we should support the amendment. Gerry Brouhard, North Bend: supported Councilor Muenchrath's proposal. Councilor Muenchrath moved to adopt Resolution 12-04 approving a Constitutional Amendment to overturn Corporate Personhood. Councilor

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Kramer seconded the motion which carried with Mayor Shoji and Councilors Groth, Kramer, Melton, Muenchrath, and Vaughan voting aye and Councilor Hanson voting nay.

City Manager Rodger Craddock stated he would draft a letter to our Federal and State Representatives regarding Resolution 12-04.

Consideration of Approval to Award Emergency Contract – Empire Boat Ramp Wave Boom Pier Repair

Public Works and Development Director Jim Hossley stated on March 1, 2012 staff discovered one of the vertical support piers for the wave boom at the Empire Boat Ramp had come loose. The boom protected the floating docks and ramp from wave damage and immediate repair of the pile would be critical to preserve the boom structure and dock. Due to the Oregon Department of State Land's (DSL) timeline for repair work, emergency contract rules would be implemented. Staff requested quotes from two local firms capable of performing the work; one firm could not provide a quote until later in the week and was most likely unable to meet the timeline and the other firm provided a quote and could complete the in-water work by the deadline.

Ordinance No. 365 allowed for a contracting method different than the normal formal bid process for emergency contracts. Mr. Hossley explained for projects under \$50,000, Section 11, (a) of the ordinance stated the Board could approve public contracts without competitive procurement in the event of an emergency. The findings describe the emergency conditions necessitating prompt execution of the contract as follows: City staff identified the problem on March 1, 2012 while the winter storm season was still in effect. High wave energy from southwesterly winds would damage the ramp and dock facilities the wave boom was intended to protect if immediate repair of the pile was not completed. For reasons related to natural resources within the surrounding bay, in-water work was ordinarily prohibited in Coos Bay at this time of year. The Oregon DSL would allow the City to replace the pier in the exact same location as long as the work was completed by March 15, 2012. The City's standard procurement method would not allow the City to complete repairs by the deadline and the wave boom, ramp and floating dock structures would have been subjected to more storm inflicted damage. Mr. Hossley stated Parks Improvement Funds would be used for the contract and clarified the project was not eligible for grant funding from the Oregon State Marine Board (OSMB) because the cost exceeded \$20,000. Mr. Hossley stated Federal Emergency Management Agency (FEMA) reimbursement would be requested and suggested the storm in January 2012 could have caused the initial damage.

Councilor Groth asked if a Parks project would be displaced since Parks funds would be used for this project wherein Mr. Hossley replied excess funds from the pool house upgrade project would be used. Councilor Vaughan suggested the City may need to build something more permanent such as a breakwater in the area where the damage occurred to protect City assets from strong seasonal storms. City Manager Rodger Craddock stated he was meeting with the OSMB Board in April and he would bring the issue up since the OSMB designed and paid for the boom construction.

Councilor Melton moved to adopt the findings describing the emergency conditions necessitating the prompt execution of the contract and approve the repair to the vertical support

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pier for the wave boom at the Empire Boat Ramp pursuant to the Emergency Contract rules found in Section 11 of the City of Coos Bay Ordinance No. 365 and authorized the City Manager to sign a contract on behalf of the City Council with Billeter Marine for \$31,245.50 to complete the repair. Councilor Groth seconded the motion which carried with Mayor Shoji and Councilors Groth, Hanson, Kramer, Melton, Muenchrath, and Vaughan voting aye.

City Attorney's Report

No report was given.

City Manager's Report

City Manager Rodger Craddock stated there would be an executive session held Friday morning, March 9, 2012 at 9:00 a.m. at City Hall in the Public Works conference room. Mr. Craddock reminded the Council it was budget season and staff had been working on the budget and the first meeting of the City Budget Committee was set for April 19, 2012 with subsequent meetings scheduled for April 24, 26 and May 3, 2012, if needed.

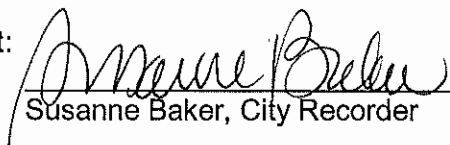
Council Comments

Councilor Vaughan stated the Egyptian Theatre steering committee would meet next week and things were progressing rapidly and to expect big things. Mayor Shoji attended the retirement celebration for Bill Parham at the mission and stated the mission served over 1,250 meals a month and was almost always full in the fall, winter, and spring; and they need funds for purchasing mattresses and programs to end homelessness. Councilor Groth attended a Wastewater meeting where Mayor Shoji and Public Works and Development Director Jim Hossley were present and stated citizens were concerned about noise and odor from the proposed wastewater treatment plant.

Adjourn

There being no further business to come before the Council, Mayor Shoji adjourned the meeting. The next regular Council meeting was scheduled for March 20, 2012 in the Meeting Room at the Coos Bay Public Library.

Attest:



Susanne Baker, City Recorder



Crystal Shoji, Mayor