Regular Meeting of the Yachats City Council
November 10, 2016
MINUTES

The regular meeting of the City Council was called to order by Mayor Ronald Brean at 2pm in the Civic Meeting Room at the Yachats Commons. Council members present: Barbara Frye, Max Glenn and Sandy Dunn; Greg Scott was excused. Also attending: City Administrator Joan Davies, Water Department Lead Rick McClung; Code Enforcement Officer Don Niskanen, and an audience of 8.

I. Announcements and Correspondence

Mayor Brean read a card from the League of Women Voters, thanking the City for hosting a candidates' forum prior to the General election. He also shared an email from the Lincoln County Addiction Prevention and Recovery Committee, in reference to marijuana use.

Yachats resident Ken Gagne had requested support for a beach safety program he is putting together. Councilor Frye said she supported the basis of the concept. Councilor Dunn supports the concept initially, and will have more to say when she sees the proposal. Mayor Brean said he appreciates Gagne's efforts and looks forward to seeing more details.

Councilor Dunn said that in the absence of Councilor Scott, she would move to approve the consent agenda; all ayes, motion carried.

Councilor Glenn said he would usually report on the Land Trust at this time. They have been discussing work force housing, and purchasing existing stock, process as needed, get it to the people who need it, and create a revolving fund. The cities of Newport and Lincoln City have entered into an agreement with the Land Trust to provide surplus lots the cities own.

Mayor Brean said there are two undersized pieces by Marine Drive and Aqua Vista Loop that join the 804 Trail. It would potentially be available for some other use. He has talked with County Counsel Wayne Belmont before about workforce housing, and those might be a good target for subsidized housing. Councilor Dunn asked if it is big enough to build on and whether there would be access to the beach. The County owns them and needs to get some money out of them as part of the 804 Settlement. They would probably go for less, because of the lots being undersized.

Councilor Glenn and Mayor Brean attended the OCWCOG meeting about cities and banking. They talked about ways to pool resources to get attention from the banking industry. Interested cities need a Memorandum of Understanding to say they are willing to explore the possibilities, along with Brownsville, Scio, Lincoln City, Benton, and Mill City. Mayor Brean said Brownsville was backing away from it, yesterday. The City of Scio is entertaining a deal with an out-of-town bank, which allows online and smart phone banking. It would be an opportunity for the bank to have a "remote teller" at the ATM, but you could still talk to a person in the auto teller, for example. When you need cash, you would have the ability to get it. Councilor Dunn asked why Siletz isn't on the list, since it is closer to Yachats than some of the other cities listed. Mayor Brean said he didn't

know. Mayor Brean met with local mayors yesterday and they mostly talked about the election. Last weekend, he went to a celebration of the Pendleton mayor for 28 years of service. Four past presidents of the League of Oregon Cities and various officials from all over the state attended.

II. Citizen's Concerns

(None)

III. Consent Agenda

A. Minutes of 10/13/16 Council Meeting

B. Bills for Approval

IV. Reports

A. Council Reports

B. Written Reports:

Administrator, Code Enforcement, Public Works, Emergency Planning Committee

V. Public Hearing Continued for Ordinance 346: Amendments to YMC Chapter 9

Continued hearing—no comments.

VI. Business

A. Tobacco-free and fragrance-free policy

Administrator Joan Davies advised the Council that she had met with Leon Sterner, Kimmie Jackson, Bobbie Benson, Violet Young and Jean Hearn, to discuss festivals held in City buildings, and the Council's desire to establish a policy to limit fragrance, chemical and tobacco use on City property. It does apply to all City property, but there is no penalty, unless it happens to be a juvenile with tobacco. Pam Lauritzen asked if the policy includes flowers, as she has seen signs in clinics that ban fresh flowers. Mayor Brean suggested not addressing fresh flowers at this time, since they have not yet been an issue. Councilor Dunn said to add a paragraph about no sale in City buildings of any products that fall under these categories, and moved to adopt the policy; all ayes, motion carried.

B. Mayor Transition/Council Goals

A matrix of duties and authority for Mayor, Council, City Administrator and employees was prepared by Administrator Davies, following a special meeting of the Council and a second review. Councilor Glenn moved to approve the matrix and attach it as an addendum to the City Council Rules; all ayes, motion carried.

C. Nuisance abatement - specific property

Administrator Davies advised the Council of a property on W. Third Street that had been identified as a nuisance, which would require the owner to rectify the code violations, and the occupant to

move from the building he occupies. Mayor-Elect Gerald Stanley said this distresses him, to declare where someone is living a "nuisance". He said it seems really heavy-handed. Mayor Brean said he had not realized the person was living there, but it is an unauthorized dwelling. Councilor Glenn said the property recently sold and the new owner needs this done in order to proceed with her plans. She has offered the occupant $1,000.00 to move, but he has refused. Mayor Brean said nothing prohibits the owner from tearing it down. Her attorney is asking the City for the nuisance abatement, and it is the City's obligation to enforce Municipal Code. Councilor Glenn moved to declare the property to be a nuisance 14-12-27-DA-06600-0-00; all ayes, motion carried.

D. Appoint interim Council President/Mayor for a 10-day period, due to absences

Mayor Brean said he will be in Florida and Councilor Scott will be in Antarctica, so they need a council member to step in as a pro-tem Mayor. Councilor Glenn moved to have Councilor Dunn act in that capacity; all ayes, motion carried.

E. Affordable Housing/Construction Excise Tax-council position

Developer Layne Morrill was in Arizona, so he was allowed to participate by phone. He had asked to be able to participate in the work session, but was told it was premature, because there were options the Council has not researched. Councilor Glenn just talked about the Land Trust Proposal and is getting information from the League of Oregon Cities and a lot of other cities. Administrator Davies is researching Construction Excise Tax use in Oregon by other cities, as well as other states, and how it has been used.

Mr. Morrill said he's asked about the waiver of systems development charges, in light of the crisis in Affordable Housing. SDC are recognized as a barrier to Affordable Housing, and the City Council should adopt a deferral of SDC during the period of affordability. He gave examples of cities that have done it, with Ashland being one of those cities. The house can go to market rates at the end of the Affordable Housing period. It's not just for one particular project. He didn't recall that the SDC deferrals were listed on our list and that's a big question for any project. There is a flat rate per lot. The deferral should be done, regardless of any project being looked at. Councilor Dunn asked for clarification on what the period of affordability is. Mr. Morrill said it is required to be 30 years, because of the tax credits involved.

As far as the Construction Excise Tax, Mr. Morrill had provided citations referring to the number of cities that have used them. Bend has had a CET for ten years, because it was established before the Legislature banned them, with great success. It doesn't make sense to not grab the revenue as long as it goes to Affordable Housing and not limited to one project. The delay will mean some loss of revenue, sales will be subject to tax, and it will generate revenue if you wait until the projects are done. It's been 75 days that the Council has been reviewing the project, Mr. Morrill pointed out, and said that if he can't get support from the City, he might as well give up. It's one thing that the State does look at – City support. He'd rather know now and scrap the project.

Mayor Brean said the CET will increase the cost of any project and the Council needs to consider the "greatest good for the greatest number", and it is more important to provide housing to 21 families, than to consider future homeowners who will pay one per cent more in building costs. Councilor Dunn asked if it was 50% to HUD and 50% to City, with 0% to Streets and 0% to future housing. Mr. Morrill said that residential construction is 15% to the State, after 4% is taken off the top, and after the project is done. Then of the 85% that remains, 50% goes to fund developer incentives for Affordable Housing. The remaining 35% can go to any other program related to Affordable Housing. Commercial construction is 50% to any kind of housing program after the 4% is taken off of the top. Then, 50% to anything and the City can do anything with that money. Only the Commercial percentage would go to Streets, or the Council's choice.

Mayor Brean questioned the durability of CET in terms of long-term outcome. Property will be built out, and there is less chance of collecting that much per year. Mr. Morrill said the commitment goes away when the funds so it wouldn't be prudent to say "to the extent of money from this tax, you will get this grant". Mayor Brean argued that Mr. Morrill is asking for a period of some duration, though. Councilor Dunn said it was 15 years, and questioned what would happen, if at Year 10, there is no money in the fund? Mr. Morrill said that it is drafted so that the City is not paying out of the General Fund, so if there is a limit to a source of funds, then you have no commitment, if the source goes dry. For implementation of the CET, the City needs an intergovernmental agreement with Lincoln County, and he had provided drafts.

Councilor Dunn questioned the referral to school district tax which is tax by the square foot, and why this one goes by value. Mr. Morrill said the legislative authorization was to tax up to the cost of the construction, and he doesn't know why it is different from the schools. The value of construction is determined by the building department, as a basis for their permits, anyway.

Councilor Dunn said she heard the school district is considering raising their CET, as they haven't raised it for eight years, and that would be a double-whammy for builders. She also noted that if the SDC is deferred, it is not really money out of City funds, and the City wouldn't get that amount anyway, unless the property was sold to a new owner. Councilor Dunn said it's just a deferral, not forgiveness, so we get the benefits from the tax, but take nothing out of the General Fund.

Mr. Morrill said absolutely not. Mayor Brean indicated the talk around town is building for more bang for the buck. In my letter of 10/14/16, Linda Hetzler seized one fact, "$250,000.00 per unit", but what she didn't realize or explain is that one-half of the money comes from State subsidies. The buildings will still be there when it ends. It is $139,000.00 per unit, net cost.

Mayor Brean said one "bang for the buck" being discussed is to do something to leverage part of the Food & Beverage Tax, to create a similar fund, with less restrictions. Tom Lauritzen said the City currently allow a five per cent discount to the business owner for the collection of Transient Rental Tax (TRT) and Food & Beverage Tax. Since this is supposed to be Work Force Housing, if the employers would forego the five per cent, the City could create similar funding without creating a CET. If there's no commitment from employers, why would the City be interested in building Work Force Housing? Mr. Morrill said the total tax is about $1 million; five per cent equals about

$50,000.00, and asked if the City would do a partial or a full discount. Mayor Brean said it would be negotiable.

Linda Hetzler said the Work Force Housing is best left to businesses because of what happened with Fisterra Gardens – the housing got filled up by people other than local workers. She is not opposed to Layne Morrill's project, but asked that they not call it "Work Force Housing". She doesn't think the City should put the burden of a CET on someone who just wants to live here. Adobe Resort & Restaurant, Overleaf Lodge, Ona Restaurant and she have talked about doing something. She said they don't need a tax, because they can come up with something else. It's whatever you folks want to do, Ms. Hetzler said, and explained that she didn't mean to negate Mr. Morrill's numbers, but she doesn't think they should do both the CED and forgive (sic) SDC fees.

Mayor-Elect Gerald Stanley said he sees the value of having the City plan to do this and how it works in with Mr. Morrill's plan, but the "goodness" of the idea should first be decided upon.

Mr. Morrill said the issue about Fisterra Garden Apartments is easily explained because there was no owner support of preference. The employees were told they had to get their applications in as it was on a first-come, first-served basis, but they failed to do so. The new project will be owner support preference driven. If you have a job or an offer of a job, you go to the top of the list, even if 100 from the Valley applied sooner. He understands Linda Hetzler's issue is that some of her employees make more than 60% with tips, and they couldn't qualify to live in the new place. He's sure the intentions of local employers are good and pure, but it's been at least 10 years since he's been a part of Yachats, and nothing has been done. Four years ago, the housing crisis was already here, and still nothing's been done. To reject 21 houses because employers are "talking about doing something" is not viable. They will never develop 21 houses themselves.

Mr. Morrill went on to say that he is asking local employers and others to make an investment of $399,000.00 in this project, which will be repaid. Before the commitment of Food and Beverage tax percentage could be tested, he would have the housing built. If they want to use five per cent, fine. A $19,000.00 investment is better than a $200-300,000.00 investment. This can be accomplished because of funds from the State, of $2.5 million. He needs to show the State that the City is serious about it. He doesn't see what the City has to lose, and it has a lot to gain.

Mayor Brean repeated Mayor-Elect Gerald Stanley's question: "Should the City support the project?" He thinks the City should. Should the City participate in the financing? We don't know. What are other cities doing for financing and programs? Where should the money come from to do that? The CET has a few built-in concerns. Funding comes from a distinct source. Can we use Transient Rental Taxes for that? Should we defer the SDC, when there's an increase to the system? By deferring for this project, are we setting aside money that could break any given project? We need to build a raw water storage and where should that money come from?

Councilor Dunn said that if the City isn't getting SDC now anyway, she is not concerned about it, but they should be deferred, and not excused altogether. Even if the 21 units turn into low income

housing units, they are still needed. If the City can help 21 new rentals being placed, since there is no General Fund money, or expenses, she thinks it's worth pursuing a study of the CET and TRT.

Councilor Frye asked, if this is "Work Force Housing", is this going to fix it? Maybe, maybe not. Businesses should play a role and they have done nothing in the past few years. Yachats needs housing, but there are all kinds of issues, like maintaining the character of the city, with 21 units being built. We aren't talking about huge amounts of money.

Councilor Glenn said it is helpful to have it categorized, and although he is in favor of Work Force Housing, he doesn't see that Mr. Morrill will provide dedicated Work Force Housing. There's negativity from the community. Do we want to create a low-income ghetto on the north side of town? Parking for 21 units and their visitors could be an issue. He wants to see employer participation; likes the 5% F&B Tax proposal, and no money spent out of the General Fund. He also understands that Mr. Morrill and his investors want to get their money out of the proposed 21 units of low-income housing, but he is not sure it will be dedicated to "Work Force Housing".

Councilor Frye said that the Council is missing Councilor Greg Scott today. He has a lot of history and analytical thinking skills, that she would find beneficial in this matter. Councilor Dunn said there is a process in place to give power to employers. If no one has a job, they won't be there. Ones that don't want to live in a townhouse, or are making too much money, won't be there.

Mr. Morrill said that at an earlier meeting, Yachats resident Fran Morse asked him to run the numbers on dedicated Work Force Housing, and he had done that. It would cost about $500,000.00 in State funds to convert five units to dedicated units. He said there is no absolute guarantee it will be Work Force Housing, but there are at least 90 workers in this town earning at 60% income, who would be eligible for the 21 units.

Mayor Brean pointed out that those 90 workers didn't show up for Fisterra Gardens Apartments. Mr. Morrill said some did, but it was too late. It was filled with motel workers and assisted living employees. Mayor Brean asked if they could apply if they were only employed for six months, recalling he had spent his days in low-income jobs, and it's hard to plan ahead. Mr. Morrill said the Aqua Vista Square project is very successful and there are no shortages. There is someone there now who was living in a tent while working and is now in a nice apartment. If they have to ride the bus to work, as opposed to living next door to work, they would live next to work. Surveys of workers at the Overleaf and Sea Aire Assisted Living were done, and the employees are excited about the project. He said he believes it will become housing for workers. Councilor Glenn reiterated that they have to sign a one-year lease and asked if it is possible to change, because the job is not guaranteed. Mr. Morrill said they probably would be unable to change the lease.

Councilor Glenn asked if the lease goes away in one year, why couldn't it start now? Mr. Morrill responded that it is required by either HUD or Fair Housing, and he will have to check. It was required at Fisterra Gardens, too. Councilor Frye said that when she was young, the idea of a one-year lease would have freaked her out. Linda Hetzler said it's the same for people now, and most local jobs last six months. She asked the Council if they would do it for others, if they do it for Mr.

Morrill (developer incentives). Councilor Frye said it's important to not make it just for Mr. Morrill, so it doesn't penalize others. They want a good, solid project, as there's only so much money.

Mr. Morrill said his proposed ordinances make it for all, not strictly for his project. First decide on the ordinance about the SDC, then decide on the ordinance about the CET dedicated to Work Force Housing. Then if adopted, he will ask for a grant of $15,000.00 for 15 years. Adopt the ordinance first and then deal with the Fisterra Gardens Townhouses project later.

Mayor Brean said he knows Mr. Morrill is anxious to get an answer, but the Council needs to do their due diligence. Mr. Morrill said he will help with focus groups or respond to questions, and requested that this be on the December agenda. Mayor Brean asked to have two council members, Mr. Morrill, food industry representatives and the Mayor-Elect on a task force to discuss the proposals. Councilor Dunn, Councilor Frye, Linda Hetzler and Gerald Stanley volunteered.

Tom Lauritzen said there are multiple components to the SDC. If the Council is entertaining the deferral, it should not necessarily be for 100%. SDC is reimbursing your share and then preparing for the future. He suggested not deferring the whole thing. Mayor Brean asked Mr. Lauritzen to explain the rate structure sheet in their packet. He said he looked at the three preceding years, February-October. Accumulation was approximately $80,000.00 before. The goal is $100,000.00. The City is on track to achieving $100,000.00. The model worked and the results are directionally correct, and will exceed the goal, but not by much.

F. Review of Progress Matrix/Shepherding Goals-moved from work session

Councilor Frye asked if the Council was going to wait for the newly-elected members, or assign goals now. She said she wants outgoing Councilor Dunn's assignments, especially the Library Commission and South Gateway Sign, and public transportation. Mayor Brean said he has nothing new on the 804 Trail subject. Camas plants, cultural site, archaeology have complicated the discussion. Visitor Amenities will be discussed with the new Mayor.

Councilor Glenn brought up Bob Bennett's memo and the committee recommends two images for tsunami warnings. Rick McClung said they will paint a blue line at 100' on streets going up the hill, with a symbol on one side that says "Leaving Tsunami Zone". Councilor Dunn asked if there was any gravel to worry about. Rick McClung said Crestview is gravel, but they can put up a sign. A consensus was reached that Councilor Glenn will have a work party on December 8 at the two storage containers. Don Groth said it might have to be moved to December 15. Rick McClung said they need to split the food into all of the containers, one by the big reservoir on Radar Road and the other on Crestview. Right now, the basic City key unlocks the containers.

Councilor Glenn said a pre-management plan is underway as part of the County plan. He had nothing on the communications or finances goals. It mostly comes from TRT, constantly trying to figure out streets funding. Councilor Dunn said there is progress, as the committee was formed.

Councilor Frye said the Library needs help; they need a bigger vision. Councilor Dunn said she was unable to attend the last library meeting, because it was at the same time as another meeting.

The banking goal was covered earlier in the meeting and the 101 project was discussed. There is nothing new on parking or Alder, and the South Gate sign is on hold, Councilor Dunn reported. Oceanview Drive and 804 Trail were mentioned earlier. Nothing new on health care, although they are concerned about the repeal of Obamacare. Councilor Dunn has sent emails to the transit people, but has had no reply. Gerald Stanley said there is a transportation meeting in January. Nothing new on bio-solids from the other cities, Mayor Brean reported, and nothing on raw water storage. Dark Sky initiative is a worthy goal, but the Planning Commission has been focusing on other issues. Councilor Glenn asked to have the housing goal name changed to "Work Force".

VII. Other Business

A. From the Council

A special meeting is set for January at the Work Session to swear in the new Mayor.

B. From the Staff

None.

There being no further business before the City Council, the meeting was adjourned at 4:44pm.

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Ronald L. Brean, Mayor

Attest:

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Joan Davies, City Administrator