

**REGULAR CITY COUNCIL MEETING
BANDON CITY HALL
October 6, 2014**

Present: Mayor Mary Schamehorn, Council President Chris Powell, Councilors Mike Claassen, Nancy Drew, Claudine Hundhausen, Geri Procetto, Brian Vick

Staff: City Manager Matt Winkel, City Attorney Shala Kudlac, Minutes Clerk Blythe Tiffany

1. Call To Order/Invocation/Pledge of Allegiance

Schamehorn called the meeting to order at 7:00 p.m. Roll Call was taken as indicated above. The Invocation was offered by Pastor Jim Minkler, Seaview Chapel Church of God. The Pledge of Allegiance was led by Powell.

2. Public Request(s)

2.1 Extension of Stop Work Order - 1530 Beach Loop - Mike Vaughan, Landscaper

The Council had been provided with copies of a report from the City Manager, along with attachments, including the request for the extension of the Stop Work Order, site plans, and numerous pictures of the site. Winkel's report stated:

Mike Vaughan, Landscape Designer, submitted the attached request for an extension and modification to the Stop Work Order from the City for the work being done at 1530 Beach Loop Drive.

On August 18, 2014, the City received several calls from an individual complaining that work was occurring on the face of the bluff at 1530 Beach Loop Drive, but there was no evidence of a building permit or City permit. The subject house is located immediately north of the Vern Brown Addition to the Sunset Motel, and is owned by the Rex Roberts Credit Shelter Trust. City Planner/Code Compliance Officer Michelle Hampton responded to the site, and issued a Stop Work Order to Mike Wallace, who was the contractor on the project, and for whom Mr. Vaughan was working. The property is located in the CD-1 Zone, in a particularly sensitive and hazardous area of the bluff. It has also been subject to a prior lawsuit filed by the adjacent homeowner, Ann McMackin, against the City and the adjacent property owner for damages caused by land sliding into her home. In that case the City's insurance carrier paid \$51,221.61 in attorney's fees and damages. The City does not know whether or not the co-defendants were assessed damages.

On September 2, as requested by the City, Mr. Vaughan attended a Development Review Board (DRB) and was advised that he needed to submit plans for the work that was already completed, and for the remaining work. Based on photographs submitted by Mr. Vaughan at that time, the work involved removing and replacing earthen materials and rock, replacing deck materials and expanding that deck, replacing stairs, and altering the drainage. City staff also advised Mr. Vaughan that he would have to submit adequate reports and plans prepared by licensed engineers regarding the stability of the bluff, methods of construction, and drainage.

Staff remains concerned that the work could negatively impact the subject property, adjacent properties, and the stability of the bluff. Since a great deal of the previously existing drain lines have been removed, staff is unsure of exactly where they ran, and into what they were connected. So, there is a question as to whether the existing drain line which serves Beach Loop Drive and the Sunset Motel has the capacity to handle any additional water that may

flow from the house, gutters, downspouts, and French drains. Since the rainy season is approaching, staff set a deadline of October 2, 2014, to submit the requested engineering reports.

The plans attached to Mr. Vaughan's September 29, 2014, request to the City Council are all of the plans submitted to date, in addition to the photographs of the previously completed work. The City has not received any of the required engineering plans or engineering reports. Although the October 2 deadline has passed, no citations have been issued, pending a decision on Mr. Vaughan's appeal. State Building Codes has determined that a building permit is required for an extension to the deck, but that the drainage issues are subject to City regulations and are the City's responsibility.

Mr. Vaughan indicated in his letter that Stuntzner Engineering and Cascadia Geotechnical will be visiting the site on October 2nd as part of their preparation of a professional opinion. When that opinion and/or associated engineering and geotechnical work has been submitted, the information will be forwarded to the City Engineer for review and approval. Due to the time of year, the upcoming rainy season, and the critical nature of construction and drainage on the face of the bluff, staff will direct the City Engineer to raise this matter to the highest priority on their list of projects and expedite their review of those reports and plans when they have been submitted.

RECOMMENDATION:

That the City maintains the Stop Work Order on the construction and drainage work at 1530 Beach Loop Drive; extends to November 3, 2014, the deadline for the submission of the required engineering reports and plans; but denies the request to remove the requirements for providing the necessary engineering reports and plans.

Mike Vaughan Referenced various site plan drawings projected on the view screen, and spoke of the work that had been done, including removing unsafe steps, removing the clogged French drain and replacing it with "traditional" drainage, replacing rotten boards in wing walls, and seeding the slope with grass which has already begun to grow. He stated that the former steps were directing water toward the building, which would lead to deterioration of the site; the new pipe directs drainage to the City system.

Schamehorn explained that the issue is whether to extend the deadline to November 3 for the engineering plans.

Vaughan stated that he had expected to have those reports for the meeting, but did not have them; however, his engineer was present, if the Council chose to hear from him. He stated that he was trying to maintain compliance, but felt that the report requirements probably exceed what was done; the slope was not altered; the safety factor has been increased.

Schamehorn noted that written reports are required.

Winkel explained that reports in the CD-1 high-hazard area are required for the City's engineers to review. He suggested that Mr. Vaughan's engineer and the City Engineer meet to discuss the exact requirements. He stated that he had recommended extending the deadline to November 3, as staff is not qualified to make a judgment on the matter. It is necessary to make sure that the neighboring properties are protected.

Claassen stated that the main concern is liability, as the City has been “hit” before due to damage in that area. There could be damage to properties on both sides. He stated that he is not concerned that the requirements might be too rigid, given what has happened in the past.

Drew asked why a permit had not been obtained before the work was begun, and Vaughan stated that he is a consultant, and he relied on the contractor who had been working on the house. He added that the liability factor is very low, and that the issue is not something that a lay person can look at and understand.

Schamehorn pointed out that this is why it is necessary to have the engineers meet and work it out.

Hundhausen noted that, if there were a problem, and the City were to end up in court, the engineering reports would be necessary.

Procetto moved that the City maintain the Stop Work Order on the construction and drainage work at 1530 Beach Loop Drive; extend to November 3, 2014, the deadline for the submission of the required engineering reports and plans; but deny the request to remove the requirements for providing the necessary engineering reports and plans.

Powell seconded the motion, which was passed unanimously, 6:0.

Vaughan stated that the project was about two days from completion and asked if there was a problem with finishing it up at this time.

Winkel stated that Vaughan should have his engineer check with the City’s Engineer (Dyer Partnership).

3. Presentation(s)

3.1 Update on Youth Center - Angie Smith

Councilors had been provided with copies of a brief memo from Winkel, noting that Angie Smith, Chair of the Bandon Community Youth Center Board would attend the meeting, along with other Board members, to update the Council on the current status of the Youth Center. The memo also noted that the City has, for several years, contributed to the Center out of the State Revenue Sharing Fund.

Angie Smith stated that she has worked with youth for a number of years, has written grants, and has a Masters in Education. She listed the new members of the Board and stated that they are currently meeting every other week. It was felt that the Center needed to close until January in order to prepare for its new mission, including various workshops for youth, led by community volunteers. Some of the new programs will include a Teen Idol competition, knitting, bicycle care, improvisation, basic theater skills, conflict resolution, Cooking with Chef Bob from Edgewater, and financial skills, as well as dances and other special activities.

She stated that a new Director has not yet been hired, as the first priority is programs for youth. Another priority is dealing with debt, so the Board has decided to sell the thrift store to pay debt and hire a Director to lead programs. There is discussion of having pre-school in the mornings. Volunteers will be needed to fix up the building and property. The Board is looking forward to presenting the community with a new, different, quality program.

Drew asked if the issue of the wash station had been dealt with, and Smith stated that she would be making an appointment with the Health Department to look the site over and determine what may be needed.

Vick raised concerns regarding funding, with the income from the thrift store going away and the possibility that grants will not be received.

Smith stated that the \$10,000/month profit from the thrift store would not keep the Center open, and that she believes that it can get a Ford Foundation grant. The Center will also have other fund-raisers. She stated that the Board was also looking at charging a minimal annual fee.

3.2 Announcement: Resignation of Water Resource Committee Members

Schamehorn read the following statement:

This is to formally announce that all members of the Water Resource Committee submitted their resignations following last week's September 30th meeting. At that meeting, the City Attorney's office advised them that the presentations they had put together to inform the public and various organizations regarding Ballot Measure 6-150 were too slanted towards supporting the measure. That measure was originally proposed by the Water Resource Committee, and would amend the City Charter to give limited utility rate setting authority back to the City Council. As members of a City Committee, they were precluded from advocating a position on a measure once it has been placed on the ballot. Now that they have resigned, since they are no longer members of the Water Resource Committee, there is no limitation on their activities supporting or opposing the measure.

Schamehorn noted that former Committee members were present, and invited them to speak, if they so chose.

Peter Hughes, 1195 Face Rock Drive, former Chair, stated that he wanted to make sure that everyone understands that they did not resign in anger; that their resignations were necessary in order for them to speak as individuals.

Don Starbuck, 8746018th Street, former member, stated that the decision to resign was impromptu. The Committee members have studied the City's water problems and alternatives, trying to determine how to best serve the City, and the more these things were discussed, the more determined and excited the members got about what needed to be done. It is a very emotional thing. They cannot be neutral, as they are too close to the problem. They have to speak out and give the facts as they know them to be. There is counter argument out there, and now that the Committee members have resigned, they can address that argument aggressively, with the facts.

4. Hearings

4.1 Garbage Rate Increase - Resolution 14-17

Councilors had been provided with copies of a report from Winkel, along with attached correspondence from Bandon Disposal and Recycling, and proposed Resolution 14-17. The report stated:

Per the attached correspondence, Bandon Disposal & Recycling, the City's garbage franchisee, is requesting an increase of 2.1% in solid waste collection and disposal rates. The last solid waste collection and disposal rate adjustment was a 1.66% increase on November 1, 2013.

As required by the Bandon Municipal Code, a public hearing on the proposed rate increase has been advertised.

The requested 2.1% adjustment will result in an increase of \$0.35 per month for a basic 35 gallon cart, with other rates adjusted proportionately.

Bandon Disposal pays the City a franchise fee of 5% of gross revenues from City collection customers. The fiscal year 2014-2015 budget anticipates receiving \$32,974 in garbage franchise revenues, which are deposited into the Community Beautification Fund and utilized primarily for maintenance of landscaping on City properties and tree trimming. The total franchise fee paid in 2013 was \$32,648.14.

In addition to the garbage franchise fees, Bandon Disposal provides no-charge pickup and disposal for all City dumpsters, provides extra no-charge dumpsters when requested by the City for special events (Park Clean-up, 4th of July, etc.), operates the Recycling Center, and provides no-charge brush pick-up programs three times per year, in January (including Christmas tree pickup), May, and October. As shown on the attached spreadsheet, the total value of those services in 2013 was \$82,606.75.

Bill Richardson, representing Bandon Disposal, was present to answer questions.

Drew stated that the company has done a wonderful job, and asked when the next brush pick-up will be. Richardson stated that it had started today.

Vick asked about tipping fees and the Beaver Hill site, and Richardson explained that all except the County's garbage goes to a facility in Medford.

In response to Procetto's inquiry about recycling, Richardson stated that it goes to Vancouver and Portland.

Claassen agreed that Bandon Recycling does a fabulous job, noting that it is owned by a national company, "a billion-dollar-plus company that's profitable," but granting the increase will not benefit local employees.

Richardson noted that the increase requested is 75% of inflation. The money goes into a district pool, which will help with employee costs, however, he will see no personal gain.

No testimony was offered from the public.

Procetto moved to adopt Resolution 14-17. Vick seconded the motion, which was passed by a vote of 5:1 (Claassen).

4.2 Comprehensive Plan Amendments - Parks Master Plan

The Council had been provided with copies of a report from City Planner Michelle Hampton, stating:

At the September 8, 2014, regular meeting, the City Council opened the Public Hearing, took testimony, and continued the Hearing to October 6, 2014.

During the Public Hearing, Mr. Roger Strauss testified the demographics in Chapter 1 should be removed from the plan and placed in a separate appendix. This proposed amendment allows updating of the demographics without requiring a Comprehensive Plan Amendment.

This proposal was presented to the Parks and Recreation Commission at their regular September 11, 2014 meeting. The consensus of the Commission was to incorporate the suggested change to the proposed comprehensive plan amendments.

Additional typographical and grammatical errors were noted by the Planning Commission and City Council during the amendment process. The proposed changes to correct these errors did not constitute substantive changes to the body or text of the amendments, but the Parks and Recreation Commission has requested to be able to review all proposed changes and amendments.

To allow for objectivity and transparency, staff is recommending restarting the process for the proposed amendments by allowing the Parks and Recreation Commission to review the changes and make a recommendation to the Planning Commission. The Planning Commission will hold a new Public Hearing to allow for public testimony, and will make a recommendation to the City Council for approval of amendments.

To accomplish this proposal and process, the City Council will need to close the existing public hearing, take no action on the existing amendments, and allow the process to start again.

Hundhausen moved to close the public hearing amending the Comprehensive Plan and take no further action on this proposal as presented. Drew seconded the motion, which was passed unanimously, 6:0.

5. Proceedings

5.1 Action & Discussion - (None)

5.2 Resolution(s)

5.2.1 Resolution 14-18: Appoint City Manager as City Recorder

The Council had been provided with copies of proposed Resolution 14-18 and a memo from Winkel, stating:

Following the departure of the prior City Recorder in 2010, the City Council did not hire a replacement employee, but appointed the City Manager as the City Recorder. In June, 2013, primarily to address issues associated with getting meeting minutes for the various City committees and commissions prepared on time, and to provide oversight of the ballot boxes during elections, the City Council appointed the Finance Officer as City Recorder.

With the impending retirement and upcoming replacement of the existing City Manager, as well as other organizational considerations, it is being recommended that the City Manager be re-appointed as the City Recorder. As part of the proposed reorganization, it is being recommended that the Administrative Assistant position held by Beverly Lanier, who is also

retiring (the workload of which was previously split between Administration and Finance), be moved completely back into Administration. This person would provide administrative assistance to the City Manager, and would assist with a variety of continuing City Recorder responsibilities such as elections, local improvement district administration, system development charge assessments, mail distribution, and improving certain activities which are not being adequately addressed such as meeting minutes and records filing. It is recommended that the lost part-time position in Finance would be offset by hiring a new part-time employee. This would be necessary to continue providing uninterrupted coverage at the front desk, while still allowing time for vacations, sick leave, lunches, etc.

Over the next few months, and depending on the qualifications of the new applicants for the City manager position, it is recommended that the City Council and City Manager work together to determine how to best proceed. To fill the vacancy created by Beverly Lanier's retirement, the City Council will at some point have to decide whether to hire a full-time or part-time City Recorder who would work for the City Council, or continue with the City Manager is a huge saving as the City Recorder and hire a full-time or part-time Administrative Assistant who would work for the City Manager.

Claassen noted that the Council is in the middle of hiring Winkel's replacement, and the list of responsibilities he has is already quite long. He stated that he is not sure that it would be the right thing to do right now, either for Winkel or for his possible replacement. He stated that it would be better to have whoever would be taking on the responsibilities of the City Recorder be under the authority of the City Manager, as the City Council does not manage employees well.

Schamehorn agreed, and stated that the employee should not be part of Finance.

Claassen noted that the City Recorder is an important job, with huge responsibilities, but he also wanted to be sure that the Finance Director is all right with the change.

Schamehorn stated that the change would be better for her, and Winkel noted that he had spoken with her, and she is fine with it.

Procetto moved to adopt Resolution 14-18. Powell seconded the motion, and it was passed unanimously, 6:0.

5.2.2 Resolution 14-19: Opposing Marine Sanctuaries off the Southern Oregon Coast

Councilors had been provided with copies of proposed Resolution 14-19, and a brief memo from Winkel, stating:

Following a presentation by the Port of Bandon and testimony at the September 8th City Council meeting regarding the matter of designating marine sanctuaries off the southern Oregon coast, the City Council directed staff to prepare and bring back for City Council consideration a draft resolution opposing the designation of such marine sanctuaries. Resolution 14-19 was prepared, and is modeled after similar resolutions adopted by the Port of Bandon Commissioners and Coos County Commissioners.

Drew moved to adopt Resolution 14-19. Powell and Vick seconded the motion, which was passed by a vote of 5:1 (Claassen).

Claassen stated that “there is currently no proposal out there,” and the Council is passing a resolution against it. It precludes possible future protection of ocean resources and is bad policy.

Hundhausen stated that, after the September meeting, she had done a lot of research about sanctuaries, and also regarding a comment that a marine sanctuary would protect from offshore drilling. She studied the structure of what a marine sanctuary is about and looked at where offshore wells are currently located, and she came to have some serious concerns and suspicions about whether or not a sanctuary actually protects the area that it is designed to protect.

She stated that she had “learned enough to be genuinely concerned about the value of such a proposal. A system is currently in place involving local and state and federal representatives; not friends of an appointed sanctuary manager. And they monitor sea life and its continued survival. It isn’t a tidy process. It is a system that protects Oregon industry, and it is a system that is democratic and that involves the people who are really affected by this kind of proposal. I think that our local participation is absolutely crucial. A marine sanctuary could actually eliminate the opportunity of local people to be involved. If you’re concerned about the idea that the federal government views Oregonians as angry or uninformed, I would say that when people make their living fishing the waters or observing Oregon’s shores, they know more than some might think. In fact, if Oregonians are thought to be fierce and possessive about Oregon’s natural resources, I say, so much the better.”

6. Consent Agenda

The Council considered the following items on the Consent Agenda:

- 6.1 Approval of Council Minutes**
 - 6.1.1 September 8, 2014**
- 6.2 Review of Commission & Committee Minutes**
 - 6.2.1 Planning Commission - None**
 - 6.2.2 Parks and Recreation Commission - None**
 - 6.2.3 Committee for Citizen Involvement - None**
 - 6.2.4 Community Center Advisory Committee - None**
 - 6.2.5 Water Resource Committee - None**
- 6.3 Information Only: Department Reports**
 - 6.3.1 Police Report for August, 2014**
 - 6.3.2 A/P Report for August, 2014**
 - 6.3.3 Library Report for August, 2014**
 - 6.3.4 Wastewater Plant Report for August, 2014**
 - 6.3.5 Public Works Report for September, 2014**
 - 6.3.6 Water Treatment Plant Report for August, 2014**
 - 6.3.7 Finance Report for August, 2014**
- 6.4 Information Only: Other Items**
 - 6.4.1 Authorization of Accounts to be Written Off**

With regard to items 6.3.4 and 6.3.6, Vick noted that both our water treatment plant and wastewater treatment plant had been hit with spot inspections recently, with the water plant coming close to qualifying as “outstanding,” and the sewer plant at a “high level.” He offered kudos to the plant operators and Public Works crews and pointed out the importance of the City’s need for proper funding to maintain these plants at these high levels.

Winkel stated that Bill Nielsen, the operator of both plants, has been doing an amazing job, as has Public Works Director Richard Anderson.

Claassen noted that Nielsen had taken the necessary training about a year ago in order to run the water plant. He noted that one of the failings on the water plant report assessment was a no on operator certification, and asked for clarification.

Winkel explained that the City currently has a certified operator on contract, and Nielsen is in the process of working to get certified.

With regard to item 6.4.1, Drew commented that it was one of the smallest total amounts she had seen on one of these reports, and thanked the City staff for its collection efforts.

Winkel noted that staff has been diligent in its collection efforts.

7. Public Comment

Rob Taylor, Division Avenue, stated that he wanted to give credit where credit is due, thanking Winkel for his prompt response to his email request of an itemized accounting of how much it cost for Winkel, the Mayor and Councilors to attend the League of Oregon Cities Conference. He noted that anytime he makes a request of Winkel, he usually responds within a couple of days. He stated he has never had animosity toward anyone, regardless of what side of an issue one is on, adding, “We just disagree.”

He stated that, as opposed to the information that Winkel had given him freely within 24 hours, the Manager of Coos Bay wants to charge him \$70. He has appealed it and taken it to the District Attorney, so it will now cost a great deal more. He does not understand, as he feels government should be transparent. He stated that the City of Bandon is usually “pretty forthcoming” with information.

Taylor thanked Hundhausen for her vote on the marine sanctuaries resolution, and stated that he agreed with everything she had said. He stated that there is a huge fight now in the US Congress, and the coming election is going to be pivotal in the effort to stop any sanctuary off the Oregon coast.

Dan Stadelman, 54507 West Chandler Road, stated that he had “ruffled feathers” over the issue of how Bandon got paved streets; that, although the City always gets the credit, it was actually due to the Street Committee—basically Margaret Gorman and his father.

Vick stated that he had been Mayor at that time, and that he, Winkel, Mrs. Gorman and Francis Stadelman had met and “Hammered it out.”

8. Other: Council/Mayor/Staff Remarks

Procetto stated that she had attended the “Bandon Feeds the Hungry” variety show, and it was one of the best she had ever seen.

Powell stated that he was glad he had gone to the League of Oregon Cities Conference; that it was a good educational experience.

Schamehorn commented that the Conference had been one of the best ever in her experience.

Hundhausen stated that she appreciated being able to go to the League of Oregon Cities Conference, and that much can be learned from listening to various speakers and talking with other City leaders. She noted that Winkel had been recognized as an outstanding public servant, and pointed out that nine other community leaders had written letters in support of the award.

Drew stated that the League of Oregon Cities Conference had been informative, with great classes, and opportunities to meet and network with other city leaders.

She noted that there will be two meetings regarding the water issue; one at the VFW Hall on October 9 from 5-7 pm, and one on October 15 at The Barn from 6-8 pm.

People will have an opportunity to meet the candidates and ask questions on October 8 at 6 pm at The Barn, and on October 10 at 6 pm at Brewed Awakenings.

Drew stated that apparently someone is removing some people’s election signs, and Schamehorn noted that the State will remove them if they are in the right-of-way.

Drew concluded that there are 78 days to “Shop Bandon” for Christmas.

Claassen stated that the candidates forum is always interesting, and is a fair way to judge the various candidates. He noted that the election ballots would be out soon.

He pointed out that the award that Winkel received is the League of Oregon Cities’ “premier award” for the outstanding public employee in the State of Oregon, and offered kudos to Winkel.

9. Adjourn to Joint City Council/Urban Renewal Agency Special Meeting

Winkel noted that he had expected to have some information by this time, but that has not materialized, so no meeting is necessary.

There being no other business before the Council, Schamehorn adjourned the meeting at 8:34 p.m.

Blythe Tiffany
Minutes Clerk