

MINUTES

REGULAR COUNCIL MEETING
OF
JANUARY 11, 2010
5:30 P.M.
CITY HALL COUNCIL CHAMBER
313 COURT STREET
THE DALLES, OREGON

PRESIDING: Mayor Nikki Lesich

COUNCIL PRESENT: Bill Dick, Carolyn Wood, Jim Wilcox, Dan Spatz, Brian Ahier

COUNCIL ABSENT: None

STAFF PRESENT: City Manager Nolan Young, City Attorney Gene Parker, City Clerk Julie Krueger, Senior Planner Dick Gassman, Engineer Dale McCabe, Community Development Director Dan Durow, Public Works Director Dave Anderson, Police Captain Ed Goodman

CALL TO ORDER

Mayor Lesich called the meeting to order at 5:33 p.m.

ROLL CALL

Roll call was conducted by City Clerk Krueger; all Councilors present.

PLEDGE OF ALLEGIANCE

Mayor Lesich invited the audience to join in the Pledge of Allegiance.

APPROVAL OF AGENDA

It was moved by Wilcox and seconded by Ahier to approve the agenda as presented. The motion carried unanimously.

PRESENTATIONS/PROCLAMATIONS

Update from Jerry Tanquist Regarding Local Efforts to Provide Emergency Housing to the Homeless During Extreme Low Temperatures

Jerry Tanquist, 4696 Fifteen Mile Road, The Dalles, reported that a group of local agencies, including Community Action Program, County Health Department, Fellowship of Churches, Bread and Blessings, City and County representatives, and others, had met to discuss the lack of shelter for the homeless during times of extreme low temperatures. He said Hope Ministries was working with the group to develop a very simple shelter for occasions such as the very cold weather experienced during a week in December. Tanquist said the group created committees which would 1) develop a proposal to use the St. Vincent de Paul meal site for a shelter; 2) develop guidelines and rules for operation of a shelter; and 3) to find volunteers to staff the shelter. Mr. Tanquist said the group intended to keep it very simple and just provide a warm place for people to rest on the coldest nights. He said the next meeting would be on Tuesday, January 19th, 5:00 p.m. at 315 West Third Street and invited anyone to attend.

Councilor Wood complimented Mr. Tanquist for volunteering to get a group together to resolve a problem in the community. Mayor Lesich thanked Mr. Tanquist for working on the project.

AUDIENCE PARTICIPATION

John Nelson, 524 West Third Place, The Dalles, provided photographs of scenes along the Riverfront Trail. He described the photos, including sights of beauty, graffiti, trash, and wildlife. Mr. Nelson said with one property up for sale, he hoped there could be negotiations with a prospective purchaser to move the trail along the river instead of out on the road in that area.

Councilor Wilcox said he had recently walked along the Riverfront Tail and had been angry to see graffiti on the Crates Building. He said the Police worked on patrolling, but it was difficult to catch people vandalizing property.

Police Captain Goodman said Wasco County had a work crew that would remove graffiti for property owners if they reported the graffiti. He recommended property owners call the County if they had problems so the work crew could go to the sites and remove the graffiti.

It was also noted there had been significant damage to the signage at the Lewis and Clark Rock Fort property. Councilor Wood said there were grant funds available for restoration of historic signs and said she would provide the contact information to the City Manager.

In response to a question, City Attorney Parker said the State statutes were followed in prosecuting graffiti vandalism as a criminal mischief charge. He said the laws were in place for prosecution.

Community Development Director Durow said he had chaired the Riverfront Trail committee for some time and had been involved on the committee since its inception. He said the primary trail had been established, but it may be possible to work with property owners in the future to develop loop trails that would add to the ambience of the trail experience.

Doug Leash, 1623 East Ninth Street, The Dalles, said he had photographed graffiti in other parts of the community and had reported it to the Community Development Department because he didn't know where to report it. Leash said it was a problem in many areas of the community and should be removed immediately so people didn't continue to add to it.

CITY MANAGER REPORT

City Manager Young said the Planning Commission had forwarded a recommendation that the City Council appoint an ad-hoc committee to make recommendations for enhancing trees in City rights of way. He asked if the Council wished to form a committee, saying staff would work on developing the tasks and providing suggestions for membership.

It was the consensus of the City Council to direct staff to prepare the necessary information to establish a committee as recommended by the Planning Commission.

City manager Young reported the preconstruction meeting for the upper elevation reservoir project would be held on Tuesday, January 12th. He said the project should begin within 30 to 60 days.

CITY ATTORNEY REPORT

City Attorney Parker reported he had been working with Wal-Mart attorneys to draft the findings of fact and conclusions of law for the Council's consideration later in the meeting. He said he had also been working with a surveyor on issues regarding the widening of East 10th Street.

Parker said staff was working on the restatement of the Police retirement plan, as required by law. Councilor Wilcox asked if there were any economic issues related to the restatement. Parker said there were not, although the City would be required to pay for the PERS Study to ensure the City's plan was equal to or better than PERS. City Manager Young said that cost would be between \$25,000 and \$30,000.

CITY COUNCIL REPORTS

Councilor Ahier said he had been watching and hearing about the financial conditions of other cities and the State and wanted to commend the City staff for working so hard to keep The Dalles financially stable over the years. Ahier said he was grateful not to be in the situation many other cities in the State were in.

Councilor Wilcox said the Airport Board meeting had been changed to January 22nd at 7:00 a.m. for the month of January.

Wilcox said the annual Lions Club Christmas Tree pick up event, in partnership with The Dalles Disposal had been successfully completed. He expressed gratitude to The Dalles Disposal for helping with this project.

Wilcox thanked the Public Works Department for their work to keep the City's streets in good condition during recent snow events. He said he had also received very positive feedback on the professionalism of the City's Police Department.

Mayor Lesich congratulated the Chamber of Commerce on their annual recognition event and welcomed new President Celeste Hill-Thomas to the Board of Directors. Lesich noted the YouthThink program was helping to collect canned food at the free Saturday movie events.

CONSENT AGENDA

It was moved by Ahier and seconded by Wood to approve the Consent Agenda as presented. The motion carried unanimously.

Items approved by Consent Agenda were: 1) approval of December 14, 2009 regular City Council meeting minutes; 2) approval of December 2, 2009 special City Council meeting minutes; and 3) approval of December 18, 2009 special City Council meeting minutes.

PUBLIC HEARINGS

Public Hearing to Receive Testimony Regarding Proposed Annexation of Properties Located in the Urban Growth Boundary

Mayor Lesich reviewed the procedures to be followed for the public hearing.

The staff report was reviewed by Senior Planner Dick Gassman. He distributed one additional consent to annexation form which had not been included in the original staff report.

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There was a discussion regarding the new State law, how it should be implemented for notification purposes when properties are sold and thus annexed into the City at time of sale. City Attorney Parker said staff was working with the County and title companies to ensure proper notification of these annexations.

Testimony

No testimony was offered.

Council Deliberation

It was moved by Wilcox and seconded by Spatz to approve the annexations and direct staff to prepare an ordinance for adoption at the February 8, 2010 Council meeting. The motion carried unanimously.

CONTRACT REVIEW BOARD ACTIONS

Approval of Amendment to Contract With HDJ for Construction Management of the East Gateway Project

Community Development Director Durow reviewed the staff report.

It was moved by Spatz and seconded by Wood to authorize the City Manager to sign the second addendum to contract for construction management services for the East Gateway/Brewery Grade project with HDJ Design Group to increase the amount of compensation to be paid to a total sum not to exceed \$370,000. The motion carried unanimously.

ACTION ITEMS

Deliberation for Decision Concerning Remand of Decision Approving Site Plan #379-08 for the Construction of a Wal-Mart Store

City Attorney Parker reviewed the staff report. He noted the public hearing had been closed to further testimony and this was the time for the City Council to deliberate and review the information provided by the applicant and opponent, and consider the findings of fact and conclusions of law.

Parker said the City Council was entitled to choose between conflicting evidence if their reliance was reasonable and said that the Land Use Board of Appeals (LUBA) would not substitute their judgement for the City's. He said the LUBA opinion also cited a case used in determining

whether there was substantial evidence in the record to support the local government's decision, saying the critical issue for the local decision maker was generally whether any expert or lay testimony offered by permit opponents raised questions or issues that undermined or called into question the conclusions or supporting documentation presented by the applicant's experts, and if so, whether the questions or issues were adequately rebutted by the applicant's experts.

Parker highlighted the five issues regarding the opponents letter, contained in the staff report to assist City Council in its deliberations. He said staff believed the applicant had adequately rebutted the issues raised by the appellant and recommended the City Council adopt Resolution No. 10-001 with attached findings of fact and conclusions of law.

Resolution No. 10-001 Affirming the City Council's Approval of Site Plan #379-08 for Pacland, to develop Lot #2 of Subdivision #62-08, With a 150,000 Square Foot Building, Parking, Landscaping and Utilities for a Wal-Mart Retail Store

It was moved by Ahier and seconded by Wilcox to adopt Resolution No. 10-001 affirming the City Council's approval of Site Plan #379-08 for Pacland to develop Lot #2 of Subdivision #62-08 with a 150,000 square foot building, parking, landscaping and utilities for a Wal-Mart retail store.

Councilor Wilcox said a lot of work had gone into this application and he was disappointed that when it was appealed, the appellants did not present any new information. He said Greenlight Engineering had acted in an unprofessional manner in their responses to the applicant information. Wilcox said the attorney and engineering firm had said the information presented by the applicant was wrong, but they never provided evidence to show how or why it was wrong. He said a lot of staff time and tax payer money had been spent on the process and that if it was appealed further, he hoped the City would ask for reimbursement of legal fees. Wilcox said the City was required to approve the application if it met the criteria and it had met the criteria.

Councilor Dick said he would support the motion to adopt the Resolution. Dick said it was important to note the appellants cared very much about their community and this was demonstrated throughout the process. He said the experience had been educational and he hoped there would be future discussions regarding criteria for large retail developments. Dick said the City and tax payers had been well served by the debate and he looked forward to working with everyone to develop Land Use Development Ordinance standards that would be appropriate for the community.

Councilor Spatz said he did not regret the amount of time spent on such a complicated issue. He said he looked forward to future discussions regarding development issues.

Councilor Ahier agreed it was an important issue and the time spent was necessary. He agreed there should be future discussions regarding development issues. Ahier thanked the appellants for their dedication to the City and thanked staff for their work throughout the process.

Mayor Lesich said she was sorry the appellants didn't have good legal leadership but was glad there had been some opposition, saying she would have been disappointed if no one had been opposed to the development. Lesich said everyone had learned from the experience and thanked everyone for their participation.

The motion to adopt Resolution No. 10-001 affirming the City Council's approval of Site Plan #379-08 for Pacland to develop Lot #2 of Subdivision #62-08 with a 150,000 square foot building, parking, landscaping and utilities for a Wal-Mart retail store was voted on and carried unanimously.

Resolution No. 10-002 Amending Certain Provisions of the Revised Exempt Employee Handbook Concerning Personnel Policies, Records, and Compliance With the 2008 Federal Genetic Information Nondiscrimination Act and Senate Bill 928

City Attorney Parker reviewed the staff report.

It was moved by Wood and seconded by Dick to adopt Resolution No. 10-002 amending certain provisions of the revised Exempt Employee Handbook concerning personnel policies, records, and compliance with the 2008 Federal Genetic Information Nondiscrimination Act and Senate Bill 928. The motion carried unanimously.

Request by Mid Columbia Medical Center for a Waiver of Systems Development Charges for Expansion of the Celilo Cancer Center

Councilor Ahier said he would not participate in the discussion because he was employed by Mid Columbia Medical Center.

City Manager Young reviewed the staff report.


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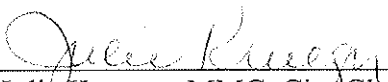
It was moved Dick and seconded by Spatz to approve 50% credit of transportation systems development charges for Mid Columbia Medical Center's Celilo Center Linear Accelerator. The motion carried unanimously, Ahier abstaining.

ADJOURNMENT

Being no further business, the meeting adjourned at 7:03 p.m.

Submitted by/
Julie Krueger, MMC
City Clerk

SIGNED: 
Nikki L. Lesich, Mayor

ATTEST: 
Julie Krueger, MMC, City Clerk