

Minutes of the
CANNON BEACH CITY COUNCIL
Tuesday April 6, 2010
Council Chambers

Present: Mayor Mike Morgan; Council President Sam Steidel; Councilors Nancy Giasson, Melissa Cadwallader and Wendy Higgins

Excused: None

Staff: City Manager Rich Mays, City Attorney Tamara Herdener, City Planner Rainmar Bartl, Public Works Director Mark See, Police Chief Gene Halliburton, IT/Finance Director Renee Sinclair and Administrative Assistant Brandy Brien

CALL TO ORDER AND APPROVAL OF THE AGENDA.

Mayor Morgan called the meeting to order at 7:00 p.m.

Motion: Steidel moved to amend the agenda to add item #10; Giasson seconded the motion.

The new item is consideration of filing an appeal regarding the approval of the partition request by Oregon Buyer LLP. The County did not restrict access onto the 9th Street as the City had requested.

Vote: Steidel, Giasson, Higgins, Cadwallader and Morgan voted AYE; the vote was 5/0 in favor and the motion passed unanimously.

CONSENT AGENDA

(1) Introduction of New Police Officer Josh Gregory.

Halliburton introduced with pleasure new police officer, Josh Gregory. Halliburton provided Council with some background information, noting that Gregory hails from Arkansas and graduated from Woodland Hills Christian High School in 1998. His wife, Leah, and two children, Scott and Jacie, unfortunately were unable to attend tonight introduction. Halliburton also noted that Gregory has experience as a chef, has worked in a State Juvenile Detention Center as well and was a Deputy Sheriff of Corrections Officer. His family moved to the area last July, as a result of his wife's reassignment with the Coast Guard to Astoria. Halliburton welcomed Gregory aboard.

Gregory thanked all for his employment at the City of Cannon Beach and stated that he is blessed to be here, the community has been extremely hospitable and he is looking forward to a long tenure in Cannon Beach.

Council thanked Josh and welcomed him.

(2) Consideration of the Minutes of the Council Regular Meeting of February 2, 2010 and the Council Work Session of March 9, 2010.

Motion: Giasson moved to approve the minutes; Higgins seconded the motion.

Vote: Steidel, Giasson, Higgins, Cadwallader and Morgan voted AYE; the vote was 5/0 in favor and the motion passed unanimously.

PUBLIC HEARINGS

(3) Public Hearing and Consideration of ZO 10-02, Cannon Beach Farmer's Market Committee, Zoning Code Text Amendment, Modification to Outdoor Merchandising Standards to Permit The

Sale Of Cut Flowers.

Mayor Morgan stated that this is a legislative matter.

No one objected to the jurisdiction of the City Council to hear this matter at this time. No Councilor stated a conflict of interest.

Bartl reviewed his staff report.

It was noted that there was no additional correspondence with regard to this matter.

Mayor Morgan called for public testimony, stating that the pertinent criteria to be considered regarding this request are in the staff report and criteria sheets next to the west door; testimony, arguments and evidence must be directed toward those criteria; persons who testify shall first receive recognition from the Chair, state their full name and mailing address, and if appearing in a representative capacity, identify whom they represent.

Mayor Morgan asked if there was a presentation by the applicant.

The applicant, Bob Lundy, P.O Box 1357, Cannon Beach, OR, stated the he is appearing on behalf of the Cannon Beach Farmers Market, to request a zoning ordinance text amendment to permit the sale of cut flowers in conjunction with the Farmers Market. He noted that this request is as a result of overwhelming comments requesting that cut flowers be sold at the Market.

Mayor Morgan asked if there were presentations by proponents. There was none. He asked for opponents.

Jeff Ter Har, P.O. Box 8, Seaside, OR 97138, owner of Ter Har's, stated that he does not perceive an issue with the sale of cut flowers at the Farmers Market. However, to allow the outdoor display of cut flowers, while continuing to prohibit the outdoor merchandising of other items, is unfair. As an example, he stated that he is prohibited from displaying sandals outside his store for sale. Ter Har concluded by stating that business owners are all competing for that same dollar. The exception for the Farmers Market is reasonable, but to allow other businesses to do so does not seem fair. Items excluded from the prohibition on outdoor merchandising should not be selected on a pick and choose basis.

In response to a question from Morgan, Bartl replied that the proposed standard would allow any business in a commercial zone have an outdoor display of cut flowers for sale, not just businesses that may currently be selling flowers.

Mayor Morgan closed the public hearing.

Motion: Steidel moved to tentatively approve the request subject to the preparation of final findings of fact and an ordinance. Cadwallader seconded the motion.

Vote: Steidel, Giasson, Higgins, Cadwallader and Morgan voted AYE; the vote was 5/0 in favor and the motion passed unanimously.

(4) Public Comment and Consideration of a Potential One Percent (1%) Increase to the City's Transient Lodging Tax from Six Percent (6%) to Seven Percent (7%) to Provide Funding for the Arts and Tourism.

Mayor Morgan introduced the item and stated that the Council will be accepting public comment on this matter. Higgins stepped down from the public comment and consideration on this matter due to her association with lodging industry.

Mays summarized his staff report. He noted that tourism and the arts are directly related and Cannon Beach has

always been one to promote the arts. Mays reviewed that this subject has been discussed at several work sessions, other various public settings and meetings with representatives of the local and state lodging industry to review tentative proposals for Cannon Beach and, as a result, it was suggested that Council consider a lodging tax increase.

Mays also reviewed changes that were made, as a result of the March 9, 2010 meeting, to direct the City Attorney to draft a resolution and ordinance to include two members from the lodging industry, one member from the arts community and two members at large for the reviewing board. Council also discussed and asked staff to amend the powers and duties section of the proposed ordinance to reflect that changes to rules are subject to the City Council's approval.

Mays also referred to a letter sent to the editor at the Cannon Beach Gazette from Ken Quarles regarding the Oregon Department of Tourism (ODT) study that refutes the City's claim that Cannon Beach's lodging tax is low. As a result he asked his administrative staff to phone call coastal cities to verify lodging tax percentages and on average the tax is approximately a 9% average not 5.9% as stated by Quarles. Mays will follow up with ODT regarding the misinformation that Mr. Quarles received.

Mayor Morgan called for public testimony.

Valerie Ryan, P.O. Box 364, Cannon Beach, business owner and resident, noted that individual businesses spend their own money to promote their business. The issue as to how many of the Tourism and Arts Commission (TAC) members should be from the lodging association is irrelevant, the issue is to promote tourism, even if all five TAC members were from the lodging industry there would not be an issue. It is necessary for the community to have to spend money for tourism to promote tourism. Ryan continued that the lodging association wants visitors to stay and the purpose is to create a fund to launch projects. She supports the increase and would like Council to proceed.

George Vetter, P.O. Box 164, Cannon Beach, stated on behalf of his business, that he agrees with Ryan, however not necessarily through an increase in lodging tax, although it may be the only way to be able to follow through with promoting tourism. He reviewed that its not to invest in the income of the future, it is to continue to look forward to ensure that the income continues and in order to accomplish that, there needs to be public relations (PR) to invest money in promoting Cannon Beach. Vetter noted that 1% is a modest number, communities nationwide use this same means and Cannon Beach's lodging tax is lower than most.

Gary Hayes, P.O. Box 455, Cannon Beach, OR, stated that he supports this increase, on behalf of a lot of businesses that he works with. He publishes the Cannon Beach Magazine which helps promote Cannon Beach and at times he is concerned that there will not be enough money to mail out the magazine and it is necessary to spend money on promoting and marketing tourism. Hayes reviewed statistics with regard to the lodging tax rates around Oregon. Hayes asked Council to consider that in 2007, 18% of the lodging tax was used to promote tourism in the State and Cannon Beach spends nearly \$0. Coast wide transient room tax accounts for 15% of tax contributes to promoting, marketing and tourism, Hayes reviewed that Lincoln City spent \$806,000, Seaside \$522,000, Cannon Beach \$81,000, Astoria \$270,000 and Gold Beach \$267,000 to promote tourism. He thanked the Council.

Julie Walker, P.O. Box 1243, Cannon Beach, represents Center Diamond, she is also the President of Cannon Beach Business Associates. She agrees with previous speakers, noting that our City depends on this money, without lodging tax we could not function and expending some funds to increase overnight visitors to Cannon Beach is necessary. She supports this effort and trusts that all members interested in serving on the proposed TAC will have the best interest of the City in mind. The number of lodging representatives on the TAC whether it be two or three will not make a difference.

Sue Meyers, P.O. Box 54, Cannon Beach, stated, on behalf of business owners, the Georges Family, supports the lodging tax increase if the funds are used wisely.

Ed Johnson, P.O. Box 241, Cannon Beach, OR, stated that he is here as a citizen and Parks and Community Services Committee member for 8 years and during that time his biggest responsibility has been in making recommendation to the City Council regarding community grant awards. He agrees, as Morgan has stated in the past, that the most under funded programs in the City are the Arts. He urged Council to proceed with the increase.

Ken Quarles, P.O. Box 646, Cannon Beach, stated on behalf of Sea Breeze Court Owners, referred to the discrepancy in the numbers, that Mays numbers are correct, however Fort Stevens, Nehalem Bay State Park is 0%, unincorporated Tillamook County is 0% and Cannon Beach competes with them. He reviewed that in 1990 the transient tax collected was 600,000 and the following year the City proposed increasing the rate, there was a fair amount of opposition, so the committed that the funds would be used for tourist related items.

Quarles reviewed that \$2.5 million was collected this year in transient lodging tax, yet the City still maintains the same soggy soccer fields, bus service, less parking spaces, same old restrooms, no pool, no bike path, etc. He also noted that he believes that the increase in the monies budgeted for the City's payroll from \$1 million to \$3 million over the last 20 years has consumed the lodging tax revenue. Quarles thanked Council and urged the Council to, if approved, strictly commit those funds to tourism.

Jeff Hampton, 8600 SW Salish Lane, Suite 3, Wilsonville, OR 97070, agreed with Ryan. He is an opponent to the reorganization to the proposed TAC, originally the TAC members was to be three from the lodging, one from the arts and one at large. He urged Council to reconsider the reorganization of the TAC. He reviewed that he agrees with all other aspects of this proposal.

Hampton thanked the City Manager for his forthright fullness and consideration throughout the process; however he reiterated his concern regarding the reorganization of the TAC.

In response to a question from Giasson, Hampton replied that members of the lodging industry are a vital piece to serve on the TAC, at least three individuals from the lodging industry are necessary to effectively oversee and review applications since promoting tourism is directly related to their trade. This also ensures the proper implementation of ORS 320. The goal is to award this money to promote tourism.

In response to Giasson's comments regarding the advantage of lodging representatives on the TAC, Hampton stated that it is incumbent of the TAC to take the long view and this is the use of lodging dollars to promote overnight visitors. The TAC is responsible for promoting overnight visitors since research shows that overnight visitors yield the most dollars; they are engaged in the process constantly and are marketing experts.

He asked that Council re-establish, as previously proposed, three TAC members be from the lodging industry and proceed with the increase.

In response to a question from Steidel, Hampton stated that he is not necessarily implying that three members would be more expert; it would more so send a clear message that the City values the industry. This is based on lodging dollars and the lodging industry needs to be a big part of this process.

Cadwallader agrees that the lodging industry needs to be a big part of the process; however she questioned why the necessity to be even bigger. Hampton stated that from his perspective if you consider 60% of the City's budget is generated from lodging, and this is a proposal that would bear the burden on the lodging industry and a lodging majority would be appropriate.

Ryan Snyder, P.O. Box 219, Cannon Beach, OR, read from a prepared statement. He thanked the community for being proactive in promoting Cannon Beach. He noted that tourism is critical and he assisted in crafting the ordinance. The lodging industry's goal is to support the arts groups initiatives and the main purpose is to generate overnight stays and to satisfy the letter of the law from the State of Oregon. Snyder reiterated that the majority on the TAC committee should be from the lodging industry, noting that who would better know how to promote the lodging industry and generate overnight stay in Cannon Beach. He urged Council to revert back to the original draft of the ordinance by establishing three lodging industry TAC members and proceed with the increase.

Patrick Nofield, P.O. Box 843, Cannon Beach, OR, provided an example from his own personal experience of the impact of just one overnight stay and how it boosts the economy of Cannon Beach. He also noted that this entire process has been phenomenal for the community to come together and talk about Cannon Beach. Nofield has supported this effort up until the change to the ordinance at the last work session.

He noted that all involved have discussed a criteria and a metrix to focus on return for your investment, marketing is key in the lodging industry, his lodging establishment maintains two full time employees that are solely responsible for marketing. Cannon Beach is one of the leaders for having higher rates for lodging and guests do factor in that 6% of higher rate is more money than other cities with lower lodging rates.

Linda Beck Sweeney, P.O. Box 215, Cannon Beach Vacation Rentals, noted her support for the increase and she too opposed the change in the ordinance.

Jeff Ter Har, P.O. Box 8, Seaside, OR, stated that he supports funding tourism and suggested that the TAC be seven members, rather than five as Seaside's TAC is. Also, he suggested that the member at large be more clearly defined. Ter Har also noted that Council may want to consider a 2% increase rather than one to boost the further boost the economy, marketing is the best investment for this town. He thanked Council.

Bob Necker, P.O. Box 1021 , Canon Beach, OR, of NW by NW Gallery, stated that he believes that the Council should further explore their options and evaluate the utilization of these funds before moving forward with the increase. There are different levels of marketing depending on the business and he would like further study. He thanked the Council.

Mayor Morgan closed the public hearing.

Steidel stated that he supports the proposed 1% lodging tax increase, however he cannot support a built-in majority on the proposed TAC, and he suggested that the voting members of this commission be five at large.

Giasson is conflicted, she appreciates the great energy on this issue, however the City Council is delegating their duties to a committee and must look at the City at large in order to represent the entire community. She agrees with Steidel that the Council cannot establish a committee with a built in majority.

Cadwallader also agreed with Steidel. She noted that the change in the committee make-up was not a last minute change, these types of issues are typically a lengthy process with many refinements along the way.

Morgan stated that he has been working with a group of people on this matter for quite some time and he believes that any community member in Cannon Beach would be appropriate to serve on the TAC and would serve in the best interest of the economy of Cannon Beach. He would support five members at large or he suggested another option may be two lodging, one lodging with a connection to the arts, one arts and one at large.

Giasson suggested that the issue be postponed. She would like to spend some more time considering the issue and not make a decision tonight. Council concurred.

In response to a request from Steidel, Mays stated that if anyone wishes to make further comment or suggestions on this matter, please send correspondence to the City Manager's office.

Motion: Giasson moved to re-open this matter for discussion at a special work session in April and continue public comment and consideration to the May 4, 2010 City Council meeting. Steidel seconded the motion.

Vote: Steidel, Giasson, Cadwallader and Morgan voted AYE; the vote was 4/0 in favor and the motion passed unanimously.

Council agreed to hold a special work session on Tuesday, April 20, 2010 at 6:00 p.m.

Higgins returned to the dias.

ORDINANCES

(5) Consideration of Ordinance 10-04, for the Purpose Amending Municipal Code, Title 8, Health And Safety, Chapter 8.08 Burning, Section 8.08.010, Burning Permit—Requirements.

In response to comments made by Morgan, Halliburton agreed to further the recreational fire permit requirement at a later date, the matter before the Council tonight is to consider a minor amendment to the text to reflect current administrative changes.

Motion: Steidel moved to read Ordinance 10-04 twice by title only. Giasson seconded the motion.

Vote: Steidel, Giasson, Higgins, Cadwallader and Morgan voted AYE; the vote was 5/0 in favor and the motion passed unanimously.

Herdener read the ordinance twice by title only.

Motion: Steidel moved to adopt Ordinance 10-04. Giasson seconded the motion.

Vote: Steidel, Giasson, Higgins, Cadwallader and Morgan voted AYE; the vote was 5/0 in favor and the motion passed unanimously.

RESOLUTIONS

(6) Consideration of Resolution 10-02, For the Purpose Of Authorizing Fiscal Year 2009-10 Budget Amendments and Transfers.

Sinclair summarized her staff report and reviewed the debt service and roads funds.

Motion: Cadwallader moved to adopt Resolution 10-02, Higgins seconded the motion.

Vote: Steidel, Giasson, Higgins, Cadwallader and Morgan voted AYE; the vote was 5/0 in favor and the motion passed unanimously.

(7) Consideration of Resolution 10-03, For the Purpose of Entering into a Loan Agreement with the Bank of the Pacific to Provide Interim Financing for the Purchase of the North Klaskanine Parcel from Agency Creek Management Company as Part of the Land Exchange with the Oregon Department of Forestry for the Acquisition of the Ecola Tract.

Bartl summarized his staff report and directed Council to the loan proposals and comparison put together by Sinclair. Staff recommends proceeding with the interim loan with Bank of the Pacific by adopting Resolution 10-03.

Council discussed next steps in the process for the acquisition of the Ecola Tract.

Motion: Steidel moved to adopt Resolution 10-03, Giasson seconded the motion.

Vote: Steidel, Giasson, Higgins, Cadwallader and Morgan voted AYE; the vote was 5/0 in favor and the motion passed unanimously.

(8) Consideration of the Contract between the City of Cannon Beach and Community Action Team

(CAT), Inc.

Mayor Morgan noted that this item will be tabled tonight and considered at the May 4, 2010 Meeting.

(9) Consideration of the Authorization of the Mayor to Sign Appropriate Real Estate Documents in Conjunction with the Purchase of the North Klaskanine Parcel, in Conjunction with the Proposed Land Exchange with the Oregon Department of Forestry for the Acquisition of the Ecola Tract.

Bartl summarized his staff report.

Motion: Steidel moved to authorize the Mayor to sign the appropriate real estate documents. Cadwallader seconded the motion.

Vote: Steidel, Giasson, Higgins, Cadwallader and Morgan voted AYE; the vote was 5/0 in favor and the motion passed unanimously.

(10) Consideration of Filing an Appeal regarding the Approval of the Partition request by Oregon Buyer LLP. The County did not restrict access onto the 9th Street as the City had requested.

Mayor Morgan stated that the City made comment to Clatsop County on a proposed partition by Oregon Buyer LLP, the partition on forest land just north of Cannon Beach. The City had requested that the County condition the approval of the partition on restricting access onto 9th Street due to concerns with regard to logging trucks utilizing Ecola Park Road. In approving the partition, the County did not apply the condition the City requested. Morgan stated he would like the Council to consider authorizing the City to appeal the County's decision

Bartl confirmed that the appeal would be of an administrative decision made by County staff and that the appeal would request that access onto 9th Street be restricted.

Motion: Cadwallader moved to appeal the decision, Clatsop County Resolution and Order 10-03-05, specifically that the County did not act on the request from the City to restrict access onto 9th Street. Steidel seconded the motion.

Vote: Steidel, Giasson, Higgins, Cadwallader and Morgan voted AYE; the vote was 5/0 in favor and the motion passed unanimously.

Bartl stated that the appeal must be filed by 5pm on April 12, 2010.

DISCUSSION / INFORMATIONAL ITEMS

(10) Monthly Status Report

There was none.

(11) Mayor Communications

There was none.

(11) Councilor Communications

Bartl noted that the Oregon Department of Forestry will hold a public hearing on May 3, 2010 from 5:30 and 6:30 in the Boyington Building in Astoria. The purpose of the hearing is to accept comment on the City's proposed land exchange for the Ecola Tract. He recommended that the Councilors attend.

(12) Good of the Order/Public Comment

Mays noted that the City's Potluck in celebration of Earth Day is scheduled for Friday night at 6:00 p.m. at the Presbyterian Church. Also, tomorrow night at 7:00 p.m., the Coaster Theatre will be hosting the City's Annual Public Forum regarding Emergency Preparedness.

ADJOURNMENT.

The meeting was adjourned at 9:00 p.m.

Brandy Brien, Administrative Assistant

ATTEST:

Mike Morgan, Mayor