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REGULAR GARIBALDI CITY COUNCIL MEETING

Tuesday, February 18, 2020

Council Chambers, 107 6th Street, Garibaldi, 6:30 P.M.

- I. PLEDGE OF ALLEGIANCE
- II. CONVENING OF MEETING

Mayor Judy Riggs called to order the Regular City Council meeting at 6:30 p.m.

- III. CALL TO ORDER

Present were Council members Paul Daniels, Melissa Elmore, Tim Hall (via Facetime video chat), Judy Riggs and Marlene Westerfield. Citizens present were Star Popplewell, Mark Payne, Carl Kopacek, Linda Shattuck, James and Donna Buker. City staff present were Deputy Michael Reeves, Fire Chief Jay Marugg, City Manager Geoff Wullschlager and City Recorder Laura Schmidt. Other citizens who did not sign in for comment were present.

Mayor Riggs explained that it was necessary to jump ahead to new business item C as the fire department was expecting a guest speaker at 7pm. Mayor Riggs explains that 2.05.060A "Order of Business" allows for this action.

Changes to draft fire chief contract are still under review by the City Attorney. Once review is complete a special council meeting will be schedule and a 24-hour notice will be given to the public.

Fire Chief gave his staff report. He discussed Tillamook County's study regarding systems for emergencies and adding a new channel for fire and potentially police, as well. He also discussed how incidents are currently reported locally, statewide and federally. He expressed the need to update the current program that is used to report incidents to a more time efficient system. He notes the system cost \$1,400. He explains in more detail the additional capabilities of the program to include an ability to transfer any data input from an originating 911 call and the ability to map out fire hydrants and the amount of water in each. He reports that a representative from the Tillamook County tourism committee confirmed that they are willing to foot the bill for two years for a total of \$2,800. The main incentive for them is to gather data to understand how tourism affects emergency services. He also reported that he had a vendor

coming into the fire station that evening to do a demo for the replacement of the SCBA units.

IV. CONSENT CALENDAR

Approval of Minutes - January 21, 2020 Regular City Council Meeting

MOTION made by Cn. Elmore to approve the consent calendar. Seconded by Cn. Daniels. AYES: Daniels, Elmore, Hall, Riggs and Westerfield. NAYS: None. Motion passed.

V. PUBLIC COMMENT

Mayor Riggs reminded those in attendance that comments were to be limited to three minutes and that the nature of the topic needs to be listed prior to speaking. Linda Shattuck expressed concern regarding this as she did not list a topic to discuss. Riggs explains the purpose of public comment is to address the council with a concern. Cn. Daniels interjects that council meetings are not a place for debate and Wullschlager further explains the purpose for listing a topic is so the Mayor or council or whoever is handling the proceeding understands the nature of the topic that is going to be brought up. Wullschlager further states it is under the same ethos as not adding items to the agenda after the fact, that way no one is caught off guard. Riggs quotes 2.05.080A - "it is the policy of the council that all citizens shall have the right to speak before the council on matters of public concern, but each citizen shall be responsible for abuse of such right. Consequently, to ensure that the greater public interest is fostered, each citizen or group of citizens who desire to speak before the council shall have the duty to exercise this right in a manner that furthers the greater public interest." Riggs goes on to quote 2.05.080B, "Any member of the general public wishing to address the council on a matter of public concern may do so at the time set for public comments during each regular session of the council. Any member so addressing the council shall be limited to a period of three minutes within which to make themselves heard". "All persons or groups wishing to address the council during the time set for public comments shall, prior to the convening of the meeting, sign the roster provided by the city recorder, indicating the name of the person, the residence of the person, and the subject of public concern on which the persons or groups wishes to address the council."

Star Popplewell regarding Misapplied Codes:

Popplewell requested the code that states she is not able to make comments or ask for amendments for the minutes. She states in the past she was able to do so and is now being told she cannot do that. Would like clarification. Riggs replies that the council reviews the minutes and approves them. Popplewell goes on to reiterate concerns involving misapplied codes and orally rereads previous minutes. Expresses concern regarding the City Attorney reviewing this issue. Riggs states this issue will be revisited at the special meeting at a time still to be determined once the City Attorney returns the complete Fire Chief contract, as that takes priority. Also, Riggs notes it would cost \$2,000 in

attorney fees to have this issue reviewed.

Wullschlager clarifies that he did not create the minutes and therefore, it was not his interpretation of what was discussed during the meeting. Wullschlager further clarifies that the decision was not legislative, if it were it would have been in the form of an ordinance or resolution. If council takes a legislative action, they are passing an ordinance or resolution. Acting as a body of legislators does not mean that everything done is legislation. When it is said the issue is administrative, it is meant that the issue is a day to day one as opposed to an issue that will be voted on to create an ordinance or resolution. That is not to say that an administrative decision cannot be voted on by council or that council cannot take action. Wullschlager restates that he offered an opinion as that is what he was hired to do. The City Attorney is aware of the ask and they are happy to review the issues when they have time.

Cn. Daniels questions which meeting minutes have not been approved yet.

Wullschlager attempts to clear up the confusion regarding previous meeting minutes and states that past minutes cannot be changed. Minutes can be amended but you cannot take out something that was said just because a member of the public did not like it.

Riggs reiterated what she was told by the City Attorney that you cannot unsay something, so if it was said in the meeting it is part of the recording, unless its profanity.

Mark Payne regarding System Development Charges (SDC's):

Payne recites code 13.25.080, "The city recorder or his/her designee shall collect the system development charges from the person responsible for or receiving the benefit of the development. The city recorder or his/her designee shall not issue any permit or allow connections described in subsection A of this section until the charge has been paid in full or until provision for installment payments has been made within the limits prescribed by resolution".

Paynes also recites Resolution 2015-06 approved by Mayor Pro Tem Terry Kandle and City Manager John O'Leary section 3 reads, "Interest for such SOC installment payment agreements shall be set at two percent (2%) over the prime rate for installment payment agreements with a term of between ten (10) and thirty (30) years, one point five percent (1.5%) for installment agreements with a term of between five (5) and ten (10) years, and one percent (1 %) for installment agreements with a term of less than five (5) years".

Payne states that currently Mr. Daniels project is only paying 2% and he

believes it should be 5.75% and that we are in violation of our own Resolution. He believes there is an additional one that is wrong as well. Payne states that Mr. Taylor's should be 5% but it is at 2% as well.

Refers to Carl Kopacek with regard to how the numbers all play out, basically stating the City is losing out on money by not following their own Resolutions.

Wullschlager states that he will check with the City Engineer on the matter and that there are 4 current SDC agreements which include Mr. Taylor, Mr. Daniels, Watseco Barview, and the Port that are set at 2% across the board. The schedules were set up before Wullschlager's arrival but will check to see how the numbers were derived and come back with that information.

Carl Kopacek regarding Arizona Way Apartments SDC's:

Kopecek goes into detail regarding what he believes the correct payment should be and what was actually made. Stated he would leave copies of his findings for the council. He believes the installment agreement should be changed to reflect City law and if it is not corrected the City stands to lose a lot of money.

Kopecek also notes that he believes a late payment should have been assessed on the January payment.

Wullschlager replied that staff did not follow protocol and bill Mr. Daniels at the appropriate time and once this oversight was noticed a bill was issued immediately.

Kopecek shares that if he owed the IRS money on an installment agreement, he would make sure to make the payment even if he was not issued an invoice.

Crowd member asserts that there is nothing in the statute that says the City will invoice.

Riggs states that the matter will be looked into.

Cn. Hall requests that this matter is included in Old Business for next month's meeting.

Riggs responds that it would be New Business.

V. PRESENTATIONS

NONE

VI. CORRESPONDENCE

- A. Ms. Cheryl Gierga-Hamilton - Garibaldi Tourism Commission (Citizen at Large)
- B. Mr. Mark Payne - Garibaldi Planning Commission
- C. Mr. Roger Cooper - Garibaldi Planning Commission
- D. Donna Buker - Garibaldi Planning Commission
- E. Mr. James Buker - Garibaldi Planning Commission
- F. Ms. Carolee North - Garibaldi Planning Commission

VIII. COMMUNITY REPORT

- A. Planning Commission - January 27th meeting

IX. OLD BUSINESS

- A. None

X. NEW BUSINESS

- A. Applications for Tourism Commission

Cheryl Gierga-Hamilton introduced herself and expressed how her experience and outsider perspective would benefit the Tourism Commission.

MOTION made by Cn. Hall to appoint Cheryl Gierga-Hamilton to the Tourism Commission. Seconded by Cn. Elmore. AYES: Daniels, Elmore, Hall, Riggs and Westerfield. NAYS: None. Motion passed.

- B. Applications for Planning Commission

The Council reviewed the letters as submitted under correspondence.

Riggs questioned Payne directly regarding his opposition to multi-family housing or a project of that nature and his ability to remain impartial and fair. Payne states he is not opposed, but we should be following our comprehensive plan and codes.

Riggs introduces Roger Cooper and informs him of his duty to recuse himself as a real estate agent if there was a conflict of interest with a piece of property.

Riggs introduces Donna Buker. Buker mentions that she had unintentionally omitted from her letter that she used to deal with zoning issues at her previous employer.

Riggs introduces James Buker.

Riggs introduces Carolee North and questioned her ability to remain impartial and fair. She elaborated on her thoughts and history in planning.

Cn. Hall asks if Cn. Daniels has any pending applications and if he will recuse himself from voting on the Planning Commission. Cn. Daniels states he will recuse himself.

Riggs states Cn. Hall brings up a good point and she reminds everyone that ex parte communication is against the code and if there is any communication with the Planning Commission then they must reveal that information. Technically, each commissioner should be receiving the same information, so that no one has an advantage over another.

Cn. Hall nominated Mark Payne for the Planning Commission. Cn. Daniels recused himself. Mayer Riggs seconds. AYES: Hall and Riggs. NAYS: Westerfield and Elmore. MOTION failed.

Cn. Elmore nominated Roger Cooper for the Planning Commission. Cn. Daniels recused himself. Westerfield seconds. AYES: Westerfield, Elmore and Riggs. NAYS: Hall. MOTION passes with majority.

Cn. Hall nominated Carolee North for the Planning Commission. Cn. Daniels recused himself. MOTION dies for lack of a second.

Cn. Westerfield nominated James Buker for the Planning Commission. Cn. Daniels recused himself. Elmore seconds. AYES: Westerfield, Elmore and Riggs. NAYS: Hall. MOTION passes with majority.

Cn. Hall would like to go on record stating that the loss of service of Mr. Payne on the Planning Commission is doing a disservice to the City of Garibaldi.

C. Fire Chief - Draft Contract - discussed at beginning of meeting due to schedule conflict.

XI. STAFF REPORTS

Public Safety Report. Report provided in packet. Discussed school visit, the speed limit change and the change in behavior he has seen from drivers, the found golf bag, and watching for suspicious activity. Call 503-815-1911 to report non-emergencies. Thefts and vehicle break-ins are still occurring. Please request a home check if you plan on leaving town for an extended amount of time or even if it's a couple days.

Traffic stops- 28 citations issued, 25 warnings, 1 no action taken - 49 total traffic stops.

Warrant arrests- 1 (1 warrant arrest in Tillamook); Other arrest: 1- menacing (1-

disturbance in Tillamook); Total Arrests: 4

City Manager's Report. Report provided in packet.

Wullschlager discussed the onboarding of newest employees and the formation of the Tourism Commission. Noted that there has been an increase in staff time in assisting public works during our rainy periods responding to constituent concerns and infrastructure inspection.

Wullschlager discussed the status and details of the draft contract for the Fire Chief.

Wullschlager discussed working on the tentative Comprehensive Plan update and noted that at this time, no letters of interest for the proposed Citizens Advisory Committee had been received.

Wullschlager asked for direction on whether they want to continue to form a Citizen Advisory Committee or turn the work over to the Planning Commission.

Riggs mentions the concern people have had was the amount of time necessary to be on the Citizen Advisory Committee.

Wullschlager describes how lengthy the process to make change is and therefore it does in turn take time.

Wullschlager mentions that if the Comprehensive Plan is going to be updated then we will need to hold off on making changes to the zoning codes.

Westerfield questions who is able to join the committee and Wullschlager confirms that any citizen can join. Three citizens are needed.

MOTION made by Cn. Daniels to table the topic of Citizens Advisory Committee until there is more citizen involvement. Westerfield seconds.

MOTION made by Cn. Hall to amend Daniels motion and requests that the topic of Citizens Advisory Committee be tabled and establish a deadline of 60 days to revisit the topic. The topic will be brought under Old Business at the April meeting. AYES: Daniels, Elmore, Hall, Riggs and Westerfield. NAYS: None. MOTION passed unanimously.

Wullschlager continues with his report. Wullschlager informs that there were complaints recently made regarding his past decisions and reports during council meetings that he caused issues with past employees, and suggestions that he attempted to subvert an employee. He mentioned it should be noted for the record that all actions taken with respect to personnel were always conducted under the guidance and recommendation of the City Attorney. Furthermore, the only thing offered to past employees were separation agreements, again under the counsel and suggestion of the City Attorney.

Public Works Report.

Wullschlager explains that Public Works had a busy month due to weather. The increased rainfall has caused an increase in the I&I, inflow and infiltration into our wastewater system. This caused the system to work harder as more effluent must be processed in any given day. The good news is that Mr. Theoharis, our WW operator has been working to reduce I&I and we will be scheduling camera work in areas where we know there is an abundance of these increases. Additionally, we are mandated under the terms of our USDA loan from the wastewater plant construction to perform a level of work each year that reduces this problem.

Wullschlager states that Mr. Theoharis continues to find deferred maintenance from the plant's inception 16 years ago. His ingenuity is keeping costs as low as possible as he continues to come up with affordable alternatives. Most recently he performed maintenance on a blower motor that resulted in a \$150.00 expenditure, instead of the \$5,000.00 rebuild. This approach has been embraced by the whole public works staff and recently Ms. Bennett found a low-cost solution to an ongoing problem with our street sweeper, resulting in an expenditure of \$250.00 as opposed to an expensive rebuild of a malfunctioning part. Ms. Bennett also has employed a vehicle maintenance program that now tracks each vehicle.

Wullschlager reports that Ms. Bennett has initiated monthly safety meetings. These meetings extend beyond the concerns of the public works locations and include City Hall as well. In an extension of this, the non-compulsive audit she introduced with OSHA should be complete this month, with the City meeting all recommended compliance measures.

Public works will be busy through the rest of the month with the meter reading as they had to re-learn the routes as we had no recorded mapping of meter locations for every end user in the City. It should be noted that Port of Garibaldi staff have assisted us with this and by next cycle we will have it economized as Ms. Bennett has been marking each meter throughout the system with blue paint.

Cn. Hall asserts concern over crosswalks and the cancellation of the contract with Marie Mills.

Wullschlager responds with regard to the crosswalks that ODOT has informed in the past that only one of those crosswalks is approved and they will not take care of the others. They can be repainted, but it may be in the best interest to wait until the Highway 101 update comes through as ODOT may add a second crosswalk and they will maintain both. If it is decided to repaint, it would require some logistics because one lane of the road would need to be shut down, flaggers would be needed to redirect traffic and ODOT would have to approve

the lane closure. Wullschlager suggests the City Engineer reach out to traffic engineers to get an informed opinion on what would be the safest solution. Wullschlager notes that statistics show that just because there is a crosswalk does not mean people are going to stop. Inadvertently, crosswalks tend to give pedestrians a more inflated sense of security because they are in a safety zone, therefore they pay less attention to traffic.

Wullschlager confirms the contract with Marie Mills was cancelled and noted that it was discussed 2-3 months ago and that the City will be saving approximately \$4,800 per year and that City staff, primarily he and the Assistant City Manager, have been doing the maintenance of the building.

Cn. Hall expresses concern over taking jobs away from disabled workers.

Wullschlager responds that although he respects what Marie Mills stands for, the City was not getting the quality of work that they were paying for.

Riggs informs that the Transportation District also amended its contract with Marie Mills because there were multiple complaints about the quality of their work.

Riggs states that this issue will be brought up under Old Business for March.

XII. COUNCIL REPORTS

Cn. Westerfield commented on the amount of rain.

Cn. Daniels comments that the Oregon Coast Scenic Railroad had record crowds for the two Valentine's Day trains.

Cn. Elmore thanked everyone for coming out to the meeting and that she appreciated seeing new faces and hearing feedback.

Cn. Hall thanked people for coming and greetings from Jerusalem.

Mayor Riggs as a reminder relayed information regarding 2.05.030(B) which states "the mayor or administrator may at any time call upon the city attorney for an informal oral opinion". Riggs states that only she or the City Manager should be contacting the City Attorney.

Cn. Hall asks if he is permitted to respond to questions if he is contacted directly by the City Attorney. Riggs directs him to speak to her regarding this if it happens or has happened.

Mayor Riggs informs that council suspend the regular City Council meeting and will move into Executive Session pursuant to ORS 192.660 section 2(b)(i) at 7:59p.m.

XIII. EXECUTIVE SESSION

Mayor Riggs called to order the Executive Session at 8:07p.m. Present were Council members Paul Daniels, Melissa Elmore, Tim Hall (via Facetime video chat), Judy Riggs and Marlene Westerfield. City staff present were City Manager Geoff Wullschlager and City Recorder Laura Schmidt.

Mayor Riggs adjourns Executive Session and reconvenes the regular City Council back meeting at 8:31p.m.

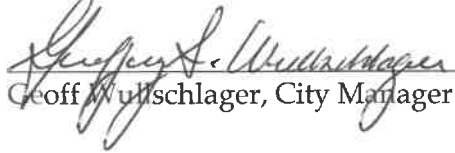
XIII. ADJOURNMENT

Mayor Riggs adjourned the regular council meeting at 8:31p.m.



Judy Riggs, Mayor

ATTEST:



Geoff Wullschlager, City Manager