

MINUTES
Warrenton City Commission
September 14, 2021
6:00 p.m.
Warrenton City Hall - Commission Chambers
225 S. Main
Warrenton, OR 97146

Mayor Balensifer called the meeting to order at 6:05 p.m. and led the public in the Pledge of Allegiance.

Commissioners Present: Mayor Henry Balensifer, Tom Dyer, Mark Baldwin, Gerald Poe, and Rick Newton

Staff Present: City Manager Linda Engbretson, City Recorder Dawne Shaw, Finance Director April Clark, Police Chief Mathew Workman, Public Works Director Collin Stelzig, Public Works Operations Manager Kyle Sharpsteen, Planning Director Scott Hazelton, and Building Official Van Wilfinger

CONSENT CALENDAR

- A. City Commission Meeting Minutes – 8.24.21
- B. City Commission Work Session Minutes – 8.24.21
- C. Monthly Finance Report – June 2021
- D. Monthly Finance Report – July 2021
- E. Warrenton Community Library Quarterly Report – June – August 2021

Commissioner Newton asked to discuss the year-end numbers. Finance Director April Clark noted these are unaudited numbers. Commissioner Newton requested to add this as a discussion item. There were no objections to add it as item 8B. Commissioner Baldwin asked to add nuisance properties as discussion item 8C. There were no objections.

Commissioner Dyer made the motion to approve the consent calendar as presented and the amended agenda. Motion was seconded and passed unanimously.

Newton – aye; Dyer – aye; Baldwin – aye; Balensifer – aye; Poe - aye

COMMISSIONER REPORTS

Commissioner Poe met with David Reid to discuss options for revenue and working with LCTC.

PUBLIC COMMENT – None

PUBLIC HEARINGS

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Mayor Balensifer opened the public hearing on the Advanced Financing District application from Dale Adams. Formalities followed and no conflicts of interest or ex parte contacts were reported. Public Works Director Collin Stelzig reviewed the staff report. They received an application over a year ago. It was reviewed and determined they did not get all the information they needed. He noted invoices provided by the applicant included expenses for private utilities and other property work. More detailed invoices were requested. No response was received. City Manager Linda Engbretson noted notification issues and requested the hearing be rescheduled for October 12 to ensure proper notice of property owners. It was noted no public comment has been received. Mayor Balensifer stated he will keep the public hearing open and continue it until October 12. City Attorney Spencer Parsons suggested holding off on taking testimony at this meeting until all property owners have received notice.

Commissioner Newton made the motion to continue the public hearing on the Advanced Financing District to October 12th. Motion was seconded and passed unanimously.

Newton – aye; Dyer – aye; Baldwin – aye; Balensifer – aye; Poe – aye

BUSINESS ITEMS

Mayor Balensifer recused himself from discussion and vote on the city manager recruitment firm agreement and left the room. Mayor Pro tem Dyer took over presiding. Ms. Engbretson discussed the contract with Jensen Strategies for city manager recruitment services. She noted it is within her signing authority but feels it should be reviewed by the commission. She discussed the selection process and requested authority to sign the agreement with Jensen Strategies for city manager recruitment in the amount of \$24,000 plus expenses as outline in their proposal. Commissioner Newton questioned items 7 and 14 in the contract. Ms. Engbretson noted the language is standard. Mr. Parsons reviewed and clarified that 7 allows for cancellation of the contract. He explained “damages for breach” is discussing damages to the city and further clarified. Regarding 14 he stated the first and second paragraphs are the consultant indemnifying the city. The one caveat is under professional liability claim. Discussion continued. Mr. Parsons is comfortable with this language. There was brief discussion about the insurance language.

Commissioner Newton made the motion to approve the city manager to sign the contract. Motion was seconded and passed unanimously.

Newton – aye; Dyer – aye; Baldwin – aye; Poe – aye

City Recorder Dawne Shaw stated the city received a request from Mr. Roy Wheatley for a License to Occupy a 25-foot portion of the right-of-way in front of his SW Juniper property for use as parking. She noted this was reviewed by public works with no objections. Ms. Engbretson noted this is not for commercial use. It is personal use.

Commissioner Newton made the motion to approve the License to Occupy a 25-foot portion of the SW Juniper right-of-way, adjacent to 689 SW Juniper also identified as Tax

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Lot No. 810020D001300 by Roy Wheatley, for parking stipulated it is for residential and non-commercial parking. Motion was seconded and passed unanimously.

Newton – aye; Dyer – aye; Baldwin – aye; Balensifer – aye; Poe - aye

Ms. Engbretson discussed the Sturgeon Paul lease transfer request. She noted the outstanding building inspection issues have been addressed to the city's satisfaction and the personal property tax has been paid. Staff believes all items have been addressed within the timeline of the Notice of Default and the of the zoning and building code violations. US Foods has been notified via certified mail that the sublease will not be continued and must vacate by October 1. Commissioner Newton feels the late fee in the agreement is cheap and asked Mr. Parsons about a hold harmless clause. Mr. Parsons noted the agreement is between Paul Leitch and the Fowlers. The city is just consenting to it and is not a party to this agreement. The consensus was to go to executive session to discuss this with legal. Mayor Balensifer requested to move the executive session to the end of the meeting. There were no objections.

Ms. Shaw reviewed the staff report for Resolution No. 2611. Mayor Balensifer noted two different exhibits A's. It was noted the exhibit including 515 Russel Drive should not have been included. It was noted this is the total number of allowable vacation rentals in residential zones. Ms. Engbretson clarified if they are in a commercial zone it is allowed. Mayor Balensifer clarified this is the final list that will get smaller with the sale of properties. Ms. Shaw confirmed.

Commissioner Dyer made the motion to approve Resolution No. 2611, Repealing Resolution No. 2610, and Amending Resolution No. 2588, Exhibit A; Approved Residential Zone Vacation Rentals with the last page of that exhibit being the actual exhibit A, striking the first exhibit A. Motion was seconded and passed unanimously.

Newton – aye; Dyer – aye; Baldwin – aye; Balensifer – aye; Poe - aye

Mayor Balensifer discussed an appeal of the presiding officer's ruling, stating it will be under formal rules. There was a request from Commissioner Newton related to how to deal with an interjection that was made during his good of the order. Mayor Balensifer noted the Rules Violation Opinion document has been vetted by legal. The question is, was the action sufficient for its own rule violation or was the question procedural. Mayor Balensifer noted the rules violation at the August 24th meeting and reviewed rules in Appendix A. Mayor Balensifer noted that legal feels the question was procedural. The question before the commission is if the presiding officers' actions were sufficient per the rules of procedure or insufficient and the presiding officer should be reprimanded for failure to preform duties and Commissioner Baldwin as well for the interruption. Mayor Balensifer read the decorum and behavior rules and the transcript in Appendix B. The presiding officer finds the actions taken sufficient, but Commissioner Newton is leveling an appeal of the sufficiency. Mayor Balensifer stated there are 3 issues before them. He noted that while Commissioner Newton requested an executive session, per state law, the accused party has the right to an open session which has been requested. All three issues will be discussed in open session. Commissioner Poe believes it was procedural and covered in the meeting. Commissioner Baldwin agreed and noted he has been spoken over many

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times. He would never level formal complaints against another commissioner. Commissioner Dyer felt it was correct and dealt with at the time. Commissioner Newton noted discussion from early 2020 about Commissioner Baldwin's behavior and stated all he wants to do is go to work. He no longer wants to feel harassed or abused. Mayor Balensifer stated that while there may be more going on than this interaction, the issue before them is this interaction. The commission rules were adopted after the interaction Commissioner Newton mentioned. He further noted the pandemic has taken its toll. He restated the charge leveled and stated he will stand by his decision that it was sufficient per the rules of procedure. He feels the point Commissioner Newton made may fit in Issue 3.

Commissioner Poe made the motion to dismiss the Issue 1 and find the presiding officer's actions sufficient per the rules of procedure. Motion was seconded and passed.

Newton – abstain; Dyer – aye; Baldwin – aye; Balensifer – aye; Poe - aye

Mayor Balensifer discussed Issue 2. This was discussed in length with legal. Mayor Balensifer felt dutybound to bring it forward because the rules do not exclude it. He read the email from Commissioner Newton dated August 26, 2021, the definition of hearsay, and the transcript of the May 25 Urban Renewal meeting. Taking aside the unexcused absence, the issue is whether or not the commission will consider hearsay unless Commissioner Newtons has substantiating evidence. Commissioner Newton stated the harassment started in 2019 and stated he did not pull the transcript of the meeting. He was told by someone he trusted that a remark was made. Mayor Balensifer asked if he disputes the transcript. Commissioner Newton stated he has not seen the transcript and wants to listen to the audio. The mayor will forward the audio and attested to the accuracy of the transcript. He further noted this was the only place on record that Commissioner Baldwin had stated something about going home. Mayor Balensifer asked if hearsay can be a basis for initiating a formal disciplinary process. His opinion is no, and it needs to be decided in the commission rules update. He asked if the commission would like to hear the matter on the issue of hearsay. The consensus was to not proceed

Commissioner Dyer made the motion to dismiss the Issue 2 and declare hearsay inadmissible as a basis for complaint under the rules. Motion was seconded and passed.

Newton – abstain; Dyer – aye; Baldwin – aye; Balensifer – aye; Poe - aye

Mayor Balensifer discussed Issue 3 about commissioners personalizing issues, creating a hostility or animus between members, which distracts from the issues of the city. Mayor Balensifer suggested amending commission rules to clarify the discipline process. He stated the question before the commission is issues of personalizing issues and hostility. He noted there will be personality differences and heated debate within political bodies. This commission generally gets along and generally votes along the same lines. He discussed responsibilities as the presiding officer noting meetings have not generally been run with extreme formality. Mayor Balensifer noted heated exchanges this year and asked if this is a disciplinary issue or difference of opinion. Commissioner Newton stated Mayor Balensifer made him angry when he called him and asked what his grudge was against Commissioner Baldwin. He stated he does not have a

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grudge against Commissioner Baldwin and wishes him the best. He is tired of having things flipped at him. He has had enough. Mayor Balensifer asked for clarification. Commissioner Newton stated he does not want more harassment or abuse. He feels Commissioner Baldwin ~~and the press~~ disagrees with anything he says. He feels this makes Commissioner Baldwin a really ineffective commissioner and noted it is up to the mayor to reign this in. Mayor Balensifer stated he can only issue warnings of the rules. He cannot issue discipline. That is up to the commission as a body. Commissioner Dyer stated he is really disappointed. He discussed experience in law enforcement and noted you need to let it roll off your back or sit down and talk it out. He made comments of appreciation to Commissioner Newton. Commissioner Dyer does not perceive this as a personal attack. He did not appreciate a formal hearing on a small issue and thanked the commissioners for their service. He would like to look at this as a learning process and would like to focus on the things they do agree on. Commissioner Baldwin does not believe that he has ever called Commissioner Newton out by name at a meeting or in person. He feels to say that he is bullying, or belittling creates such a friction on the commission it difficult to approach Commissioner Newton. He noted to say that a deal was made with his landlord was false and that could be attested to. He noted talking over each other happens on this commission. He feels saying what is on your mind is how the commission works best and noted he is embarrassed to be a part of this right now. Commissioner Poe agreed with Commissioner Dyer. They all need to be able to take a little bit of heat and let it go. After Commissioners Newton and Baldwin shook hands, Mayor Balensifer noted he feels a positive outcome occurred and would not like to repeat this. He noted the time he invested. He would always prefer parties deal with their differences in private but is supportive of a path forward in public setting as well. He appreciates the collegiality the hearing ended with and unless the commission wants to issue disciplinary action this item will be considered dismissed.

DISCUSSION ITEMS

Mayor Balensifer asked the commission's permission to write a commission rules update on excluding hearsay as a basis for bring forth a rule's violation. There were no objections. Mayor Balensifer asked if there should be a threshold for leveling complaints against commissioners or leave it open-ended. He noted he can only issue warnings. Actions must be taken by the commission by the commission rules. The consensus was to leave it open.

Commissioner Newton discussed the importance of year-end numbers noting they all look good even with COVID-19. He reviewed statistics noting expenses are down, and revenue is up. Ms. Engbretson noted the building department revenue is down because a big permit was paid the fiscal year before expected. Commissioner Newton praised staff for ~~being~~ ^{#revenue} being overbudget. Ms. Clark noted an economic shut down while creating the budget and an effort to be very conservative on revenues. She discussed expense reduction. Brief discussion continued.

Commissioner Baldwin requested to move the nuisance properties discussion to the next meeting. There was consensus.

GOOD OF THE ORDER

Commissioner Newton requested a thank you letter be sent to the three part-time employees for helping out at the marinas. He spoke about a young local man that passed away from COVID-19. He noted frustration about family members refusing to get tested.

Commissioner Dyer noted he is extremely pleased with the results of tonight's discussion.

Mayor Balensifer noted there will be some interesting trainings in the community soon including resiliency training through the military. Commissioner Newton noted Cannon Beach's city manager was in Florida during Hurricane Katrina, *So if we need experience, he has it.*

Ms. Engbretson noted two letters of support requested by the Port of Astoria for two grant applications. Both are for COAR grants for a regional airport masterplan and new fencing. There was consensus to add the mayor's signature to the letters of support.

Mayor Balensifer stated there will be a decision about the Sturgeon Paul lease transfer after the executive session. Mayor Balensifer stated there will be a two-minute recess. There was brief informal discussion.

At 7:05 p.m. Mayor Balensifer recessed the regular meeting and announced the Commission will now meet in executive session under the authority of ORS 192.660(2)(e); *to conduct deliberations with persons designated by the governing body to negotiate real property transactions.*

At 7:33 p.m. Mayor Balensifer reconvened the regular meeting.

Commissioner Newton made the motion to approve the mayor's signature on the consideration of agreement sale of building, equipment and leasehold interest after legal and city manager have made updates to the information in those packets. Motion was seconded and passed unanimously.

Newton – aye; Dyer – aye; Baldwin – aye; Balensifer – aye; Poe - aye

There being no further business, Mayor Balensifer adjourned the regular meeting at 7:35 p.m.

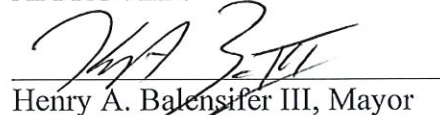
Respectfully prepared and submitted by Rebecca Sprengeler, Deputy City Recorder.

ATTEST:



Dawne Shaw, CMC, City Recorder

APPROVED:


Henry A. Balensifer III, Mayor