
**City of Florence
City Council Minutes
January 19, 2010**

**EXECUTIVE SESSION
Per ORS 192.660(2)(i)
Performance Evaluation of Public Officers and Employees
6:00 p.m.**

Mayor Phil Brubaker opened the executive session at 6:00 p.m. In attendance were City Councilors Nola Xavier, Alan Burns and Suzanne Roberts. Councilor David Franzen was absent and excused. Also in attendance were City Manager Robert Willoughby and City Recorder Pat Heinze. The council discussed the city manager's evaluation. Mayor Brubaker adjourned the meeting at 6:52 p.m.

CALL TO ORDER - ROLL CALL - PLEDGE OF ALLEGIANCE

Mayor Phil Brubaker opened the regular council meeting at 7:00 p.m. with the pledge of allegiance. Other members present included Council President Nola Xavier; Council Vice President Alan Burns, and Councilor Suzanne Roberts. Councilor Dave Franzen was absent and excused. Staff in attendance included City Manager Robert Willoughby, Assistant City Manager Jacque Morgan, Community Development Director Sandra Belson, Public Works Director Mike Miller, Police Chief Maurice Sanders, Finance Director David Armstrong, Associate Planner Melissa Anderson and City Recorder Pat Heinze.

EMPLOYEE RECOGNITION

Mayor Brubaker said the meeting was going to start with a life changing event for someone who wouldn't know what to do with himself starting February 1st. PWD Miller introduced public works employee Ron Rainwater and said that Ron had been with the city over 30 years and was now able to retire. Mayor Brubaker then presented Ron with a plaque of appreciation and a beautiful watch from the city.

APPROVAL OF AGENDA

Mayor Brubaker asked if there were any changes to the agenda, hearing none, the agenda was approved as published.

PUBLIC COMMENTS

Mayor Brubaker offered an opportunity to members of the audience to address the council regarding any matter not already on the agenda for that evening. With no one coming forward, he moved forward with the Consent Agenda.

CONSENT AGENDA

MINUTES

Consider approval of the minutes of the January 4, 2010 regular council meeting.

LIQUOR LICENSES

Consider approval of a liquor license for Best Thai Cuisine and Grapeleaf Wineshop and Deli.

Councilor Burns moved for approval of the minutes of January 4, 2010 and the liquor license for Best Thai Cuisine and Grapeleaf Wineshop and Deli. Second by Councilor Roberts, by voice, all ayes, motion carried unanimously. It is noted for the record that Councilor Franzen was absent and excused.

ACTION ITEMS

FLORENCE SENIOR CENTER

Consider authorizing the Mayor and City Manager to enter into a management agreement with the Boosters Senior Center, Inc dba Florence Senior Center, Inc. for the purpose of operating the new Senior Center located at 1570 Kingwood Street.

Mayor Brubaker said this was a management agreement between the city and the Senior Boosters for the new Senior Center. Mayor Brubaker summarized the agreement and said it would set the ground rules for the next twenty years for the Center. He said the Florence Senior Center Inc. would operate the Senior Center but the city would continue to own the building.

CM Willoughby said there is a current management agreement with the Senior Boosters, but we need a new one for two reasons. First, because of the funding of the CDBG grant, the operational rules and what is permitted in the operation of the new Senior Center is different than what had been the case back in 1954. Second, the current management agreement involved a 99 year period of time which the current group inherited. ACM Morgan added that the original agreement was in 1954 and the current group took over in 1995.

CM Willoughby explained the two primary changes: 1) more restrictions in what is permitted for the operation. He said we need to be very clear that this is a senior center and not a community center and it needed to be operated for the exclusive benefit of those who were 60 years and older. 2) the new agreement has a twenty year term, so that shortens what is left of that 99 year agreement.

He said the agreement had been reviewed by the Senior Boosters and they have had an opportunity to provide input. It has also been reviewed by the city attorney and the agreement before the council that evening incorporates the changes the attorney had made. He said we still have to get the approval of the State CDBG coordinator and she has a copy, but any approval that the council makes that evening needs to be subject to the state's approval as well.

Councilor Roberts asked for clarification that the Senior Center needed to follow the rules for the first 5 years. CM Willoughby said that the Center would need to follow the rules of the CDBG grant for the first 5 years and after that if the council wanted to make this more of a community center as opposed to a Senior Center, they could do that, but not in the first 5 years.

Councilor Roberts questioned the word “operator” throughout the agreement and asked if the operator was the grant people. CM Willoughby replied, no, the operator would be the Senior Boosters.

Councilor Roberts questioned the fact that the operator would make written reports to the City Recorder regarding the operation of the Senior Center every 6 months and asked if that report would come to the city council. After some discussion it was decided that the motion to approve the agreement would direct staff to submit those financial and operational reports to the city council when they were received.

Councilor Roberts said the insurance was something that was unclear to her in the agreement and asked if the Boosters pay for the insurance. CM Willoughby said both the city and the Boosters would buy insurance; but to put it in perspective the city owns the building and we’re going to insure the structure and the Boosters would buy the operating insurance so if someone trips and falls they would have liability insurance. Councilor Roberts asked why the Boosters were not charged for the insurance on the building. CM Willoughby said the Boosters were required to have a million dollars of general liability and the city has confirmation that they have obtained that.

Councilor Roberts said she was interested in the workings of the Center that they have this new obligation. She said they currently have a Board and asked if they would report to the City Manager; as it is our building. CM Willoughby replied that they are required to do whatever the management agreement requires and that means before they make any changes to the building there are certain things that require them to get the city manager’s prior approval.

Councilor Roberts asked how many people were on the Senior Board. CM Willoughby said that question would be best answered by the Seniors who were in the audience that evening.

Councilor Burns expressed his concern about what would happen to the rules at the Center after the 5 year period and asked if there was any way that we could take that option out of the equation. CM Willoughby said this agreement limits the operation of this facility to a Senior Center, but the agreement can be amended by a future council. He went on to say that there is a limit on what city council’s can do to tie the hands of future councils. CM Willoughby said the agreement could limit use of the facility to a senior center for 20 years if the council wished.

Mayor Brubaker said as far as he was concerned this is a twenty year agreement to operate and maintain a Senior Center, that is clearly what people gave money for; there are other needs in the community for community centers

but his vote would be for at least twenty years, but certainly for the life of this agreement as a Senior Center. He said that doesn't mean that after 5 years and we're unstrapped from some of the legal limitations of the grant itself. He said for example, maybe someone under the age of 60 gets married in town and everyone at the reception is under the age of 60 and we can't allow that in the Senior Center for 5 years. He said the agreement entrusts to a group of dedicated experienced seniors in this town to carry through this transition and he thought the question that Councilor Roberts was asking, was one that he would also ask and that is, "where am I going to be in twenty years?" And where will the operators be in twenty years? He hoped as we go operational that we can deal with transition from one board to another.

Mayor Brubaker asked for input from the members for the Senior Center and wanted to know if they were comfortable with the agreement.

Paul Culy, Linda Lauck, Walt Kunsek - Senior Board Members: Mr. Culy said they had reviewed the agreement, and there were a few changes that they passed onto the city. He said the agreement before the council that evening reflects all those changes and they were comfortable in signing it.

Mr. Culy said we are restricted in our operation because of the CDBG grant money, and we've been working hard to prepare for that. He said we will suffer a bit on our rentals because in the past we have rented to those that are under 60, and we no longer can do that.

Ms. Lauck referred to the agreement and section 1.2 "Incidental Use" and the 5%. She expressed her concern about the 5%, because that can open up a lot of problems. For example if you have 10 people who are playing cards and if it is 5%, then you're only allowed 1 person under the age 60. Then the next week people are sick and you have to tell that one person under the age 60 that they can't come in and play that day. She said we were originally told that the Senior Center was for people 60 and older; senior was defined by the state as being 60, not 55, and she thought to put that in there would cause problems and hard feelings. Those that have to monitor that are put in a hard spot.

Mayor Brubaker said our city manager is an attorney and asked for his response. CM Willoughby said this isn't something that the city has any ability to change; it is the rule that is in the agreement with the state that we have signed and we have agreed that we cannot allow any use that exceeds that. He said there are several things that might be uncomfortable and that are different from the original agreement. For example the Seniors are going to have to provide the city with reports that we will forward to the state for 5 years on the age and some other information about people who are using the facility. He said you're going to have to ask people not only "not to play" if they're not 60, but you have to ask them how old they are and you have to keep records in terms of ages of those who attend functions at the Center. He said the penalty for violating those rules is pretty severe; the city would have to repay \$800,000 to the federal government.

Mayor Brubaker said although he was not an attorney, he interpreted this differently. To him, this agreement says that not more than one out of twenty events can involve people who are not seniors. He said if there are twenty five events and a card game every day, it would be five events. He said the example of a wedding reception where no one is over the age of 60 that probably is something to avoid, but in terms of the age counting for an event that is routinely done for seniors as long as there are non-routinely conducted events that are not for seniors to exceed one out of twenty then it makes what the intent is here.

CM Willoughby said he wished that were the case, but according to our grant administrator, Jan Nieberlein, who has asked these specific questions of Louise Birk at the state, we have to apply the 5% to every event. That is why they have to keep track of the ages of the people involved in every event because they cannot exceed more than 5% of those under 60 at an event. He did say that if it happened once a year we probably wouldn't have a problem, but if it happens very often we will.

Mr. Culy said that he believed the word that was used is attendance and specifically 5% attendance. He said what it not specific is attendance by day, month, year, contract, it does not specify. CM Willoughby said that just to be safe we're going to apply that to each event.

Mr. Culy said they were aware of the problem and they have plans for documentation so that we will abide by that regulation. He said what bothered him is if it is in the contract and the contract is for 20 years, and the state's stipulation is for only 5 year and he didn't think the seniors should be saddled with it for twenty years.

CM Willoughby replied that it could be in the agreement; but we could also change the agreement after 5 years. He went on to say that if we amend the contract we'll need to send it to Louise Birk at the state for her review.

Councilor Roberts said she was hearing the different interpretations that evening and she would like to hear the interpretation directly from the grant people. CM Willoughby said we have an email that answers Jan's question regarding this issue from the state. Mayor Brubaker said if Jan Nieberlein had specifically made this inquiry of the administrator, and found out that it was by attendance and by time, he would be comfortable with that; but he would certainly side with the idea that the agreement could be amended so that that requirement would only last for 5 years. CM Willoughby said that could be done.

Ms. Lauck said they were developing forms to address everything the city is asking. For example they are developing a form for the 6 month reports; and one to tally the age of those participating. She said the form would ask the participants to sign in and check if they were over or under 60; we weren't going to ask for specific ages. CM Willoughby recommended that the seniors develop the forms and then have Jan review them for compliance.

Ms. Lauck said she presumed that they could contact Jan with questions on anything they plan to do. She said anytime we look at initiating something at the new Center it brings up questions. For instance we're having our last indoor garage sale on the 20th of February. She said to raise money we sell tables to the community vendors. The money that we receive goes back into the Senior Center and we also have "Friends of the Senior Center" and we have donations from citizens and we sell things and that brings in money. She said according to Jan when we get into our new facility we will no longer be able to have indoor garage sales, where we sell tables to the community because they're going to be selling their own product even though they are paying for the table, they will take their profits with them and not donate it to the city. A lot of these things will constantly come up and as long as we can run our questions by her; we can be compliant.

Councilor Roberts said if the only time we can have people in the Center under the age of 60 is for raising money that goes directly to the Senior Center, then she thought you can have a function. She said presently they have art classes, Weight Watchers and both of them will have to find a new home. Ms. Lauck said the only thing that won't harm us is that we can have volunteers for the Alzheimer's group and they can be under the age of 60. She went on to say that Jan had said because the volunteers are not participating in a program within the facility; but that they were assisting seniors. So the people that will man our desks 5 days a week need not be age 60.

Mayor Brubaker said he was planning on inviting LCOG to our new Senior Center during their June meeting and he thought everyone was sixty in that group. CM Willoughby said he thought it was okay to invite people to come and look at the new facility who were under 60.

ACM Morgan added that on February 16th, we have to do a public hearing on the building rental policy which means we can get into more of these types of questions about who will be renting the building and how much the seniors would be charging. She said that will also be a time when we'll be sharing financial statements with the council. She said this management agreement is just one piece of the organization.

Ms. Lauck asked about the time frame for getting equipment for the Center, and she expressed her concern about the Center being completed earlier than expected and that we might not have furniture in time for the opening. ACM Morgan said this item would be on the next council agenda which is February 1st.

Mayor Brubaker asked how many served on the Senior Center Board. Mr. Culy replied we have 10 board members and they were all over 60.

Ms. Lauck said if we could take an average age, the average age for our water color class could be as high as 79.

Walter Kunsek - Building Committee: He said earlier that evening it was mentioned that the city was liable for the insurance for the building. He said

that they had prewired the building for a fire alarm and intrusion alarm which the Senior Board had agreed to. He said he contracted with a local group in town, and then called Monster to monitor the system and found out that the cost would be \$35.00/month. He assumed that it would be a cost to the city and not the Senior Center and asked the council if they agreed.

CM Willoughby said the question is if that is an operational issue or a capital issue; he suspected that if the city paid for it, it would impact the public works budget and PWD Miller would be the one to answer that. He said he suspected that public works didn't have \$35/month in their budget. He said that is something we would have to discuss and it would have to be resolved before we put the budget together for next year.

Mayor Brubaker said this question couldn't be answered at this time and asked Mr. Culy if they were comfortable proceeding without that being answered that evening. Mr. Culy replied, yes. Mayor Brubaker went on to say that we are going to amend this agreement to have the age requirement terminate after 5 years, but wondered if there was a mechanism in this agreement for items like this that we haven't thought of yet.

ACM Morgan said if you look at the fiscal impact on your agenda item; in the original agreement it stated that the Seniors would pay for the stormwater, city well rehab fee, and the city street light fee and in the current agreement the city has decided to take on those particular expenses because it is our building and not operating expenses.

Mayor Brubaker said it appears that the \$35/month would be the responsibility of the operators.

Mr. Kunsek said he would like an answer and he didn't think from what they had heard that evening about the loss of revenue due to the age restriction that they could afford to pay the \$35/month bill.

Mayor Brubaker responded that it was a point well taken and the council would take a vote later that evening to answer his question.

Del Phelps: Mr. Phelps said that this issue on the table before the council is a discrimination situation and it amazed him that it was allowed. He said we're forcing the seniors to give up revenue avenues and he thought the city should stand up and somehow force the issue to delete this restriction.

Mayor Brubaker thanked Mr. Phelps and said we're all aware of the challenges of lower level of government receiving money from the state or federal government because it comes with strings attached. He acknowledged that he was confused about the accounting methods for the 5% age and as the city manager had reported it was clarified by our grant administrator we have to live with the restriction because we've accepted the money for the grant.

Councilor Burns moved to approve the agreement with the change to Section 1.2 that this particular paragraph of incidental use will be out at the five year

anniversary of the CDBG grant; that part is terminated as of the date the grant is over with.

CM Willoughby said there was an expression of desire to continue to have this be a Senior Center for 20 years; he said he would prefer (if it meets the intent of the motion) it to say, “the definition of incidental is 5% as we defined it for the first 5 years and then after 5 years it means that no more than 5% of the events in any calendar year are exclusively for senior citizens.”

Councilor Xavier said that would mean that the seniors could never have the realtors rent from them. CM Willoughby said no, they could, if no more than 5% of them were under the age of 60.

Mayor Brubaker suggested saying, “after 5 years the forgoing will not apply after a 5 year period, however the center will continue to operate as a senior center.”

Councilor Burns said it was the intent of his motion that at the end of 5 years that incidental use of 5% was out of the picture and he did not want to saddle the senior booster club with keeping track of the ages. He said if they want the Weight Watchers, or other organizations to use the facility they should not be saddled with 5%. If it gets out of line then there are other ways to correct it, and that was his motion.

Councilor Xavier asked if the motion was just for that amendment or to also approve the agreement. Councilor Burns said his motion was to approve the agreement with the amendment that at the end of 5 years the part of incidental use is out of there. Councilor Xavier said we also wanted to direct staff by minute order to see that the written reports from the Senior Center come to the council. Councilor Burns said that was understood in the motion. Councilor Xavier seconded the motion.

Mayor Brubaker said this council intends this to be a senior center for twenty years. Councilor Xavier pointed out that it does say that in the title of the agreement.

CM Willoughby said if you just change Section 1.2 and eliminate the definition of incidental use after the fifth year, there is still discussion of incidental use after 5 years. Mayor Brubaker asked if Section 1.2 couldn't just be deleted and have it say that. CM Willoughby said that gives more discretion.

CM Willoughby said you would rewrite Section 1.2 to say, “for the first five years of the agreement, incidental use means.....”

Mayor Brubaker called for the vote on the motion, by voice all ayes, motion carried unanimously. It is noted for the record that Councilor Franzen was absent and excused. Mayor Brubaker said this agreement is approved as amended and a copy will be sent to the state and it is in a minute order the requirement to send the Senior Center reports to the city council. CM

Willoughby asked if the motion also included this agreement was subject to approval by the state and Mayor Brubaker replied, yes.

Mayor Brubaker asked the Council for their opinion on who would pay the \$35/month for the security company. Councilor Burns asked staff when the work was done was there a change order that came to PWD Miller for his approval to change the wiring. ACM Morgan said the Senior Boosters paid for the wiring out of their operations fund. Councilor Burns asked for clarification that the wiring of the building was done by the Seniors and not through the city with a change order; staff replied that was correct.

Mayor Brubaker said the underlying issue that needs to be on the record is that even the furniture becomes the property of the city after it is deployed into the Senior Center, the fact that it is a fixed wired system designed to protect the building, it still becomes city property, the question is who is the beneficiary of it. He said he felt it was a shared benefit with both the city and the Seniors.

Councilor Burns said what concerns him is that wiring is a structural thing and that belongs to the owner of the building. He asked how the wiring was done and approved if it was not in the specs. PWD Miller said the building was built with the intention of low voltage wiring; with the ability to pull wires at a later date because the city did not have the money to pull the wires under contract. He said city staff met with Seniors and their contractor and talked about the low voltage wiring (computers, phones, security systems) and we knew about the wiring before it was done

Councilor Roberts said it sounds like this wasn't approved, but the Seniors thought it would be something nice to have and they went ahead and did it.

CM Willoughby said the conduit was put in there so there would be the possibility of phone service, computers, and internet. City staff did not know the specifics or discussed an alarm monitoring system that we would pay for, that's not something we talked about.

Councilor Roberts said one of her jobs is to oversee the expenditures of the city for the taxpayers. She said we have an \$800,000 grant and we're paying for a lot of the facilities; she felt the seniors should pay the \$35.00/month and not the city.

Councilor Burns said PWD Miller said he was aware of this going on and he would recommend that we take it out of the city's coffers.

Mayor Brubaker suggested that this decision be tabled until they hear about Part B – how the revenue/expenses were going to be administered and handled under this agreement. He said this probably won't be the last example of something like this and he would like to address the broader picture and come back to this.

Councilor Roberts asked how much difference in relation to the city's output is there going to be between the insurance costs of the two different buildings as we will have a much higher value building than we have now. CM Willoughby said our costs will go up.

Report to the Council on the fiscal sponsorship agreement that is being prepared by the City Attorney for approval at a later date.

CM Willoughby said clearly the discussion we've had about the alarm system is just the tip of the iceberg in terms of who will be paying for what. He said we certainly have a stake in making sure the Senior Boosters have adequate funds to operate the facility and clearly the city considers this a city program and he thought we were fortunate to have the volunteers in the Senior Boosters who have operated the facility for years and have done it very well with little or no assistance from us.

He said this is a new experience for all of us in terms of what it is going to cost to operate this new facility and where the money is going to come from. At the same time from a staff perspective, we need to be somewhat cautious that we have sufficient funds to meet our part of the obligation. We already know that we're picking up additional costs for insurance and those things already mentioned in terms of sewer, water, stormwater and other utilities. He said we're going to have to find the funds and we're just getting started with that discussion.

FD Armstrong said under the current agreement the city took no role in the operation; we did pay some of the utility; because it was our building, but the Senior Boosters operated pretty much on their own in terms of their operation. He said under the new agreement with the new building we've been asked to play a bigger role. He said we drew up an agreement that the Seniors reviewed and made their recommendations and that agreement was submitted to our city attorney. Our city attorney has made some changes to the agreement. He said the attorney's biggest concern was that we were too closely allied in the building and we would be taking on a big portion of the liability of the operations.

FD Armstrong said we are requiring liability insurance of the Senior Boosters to do their operations, but one of the attorney's concern was if we were too closely allied in the operations, and a legal situation should arise whoever might be suing the Senior Boosters would also be coming after the city. He said the second concern of the attorney was that we had agreed to be a fiscal agent for the Senior Boosters so that they could provide deductibility for their donations. He said as it turns out that would not be the case, if money were given directly to the city for the benefit of the Senior Boosters then that money takes on the characteristic the same as if it were given directly to the Seniors. Since the Seniors are a Sec. 503 (c)(4), where donations would not be deductible if given directly to them, they would also not be deductible if given to the city for the benefit of the Seniors. He said the third issue was the name, and "fiscal agent"; agent implies a legal arrangement or relationship that we

really didn't want to provide between the city and the Seniors. FD Armstrong then laid out the city attorney's recommendations:

1. The agreement would be fiscal sponsorship rather than fiscal agency; in the legal world that makes a big difference.
2. In terms of the deductibility, if we are a sponsor and we are primarily interested in the welfare and the continuation of the building itself, rather than the operation - we can take donations which are deductible as long as the city and the Seniors make it clear that the donations are being made to the city and not to the Seniors. If the donations are made to the city they are tax deductible and the city would use them for the continuation for capital expenditures for the building.
3. In terms of the separation of what the Seniors were doing for operations and the city; we already talked about the fact that rather than pay all the bills or approve everything; the city would do a once a year reimbursement of their operating fund to bring them back up to their reserve level if they should run a deficit over a year period.

He said that the attorney said that was the only way it could work; if we were to take any more of a role in their operation it would be considered the same as public funds; they would be subject to all public fund usage rules, purchasing rules, and any of the same rules that the city has to abide by. He said we would need to make it clear in the agreement that the Seniors were autonomous in their purchasing and operations and that the city would only be transferring funds to them to insure their viability basically as the operators of the facility and we were not taking any direct say in the purchases or the daily operations.

FD Armstrong said the city attorney was in the process of drafting an agreement that reflects all of these concerns and all of the things that we have discussed and it will come before the council at their February 1st meeting.

Mayor Brubaker asked where the city would get the money to make the Seniors whole once a year if necessary. FD Armstrong replied, that would be from donations, donated to the city with fund raising to be done by the Seniors. He said with the understanding that the donations go to the city for the building and capital expenses and the continuation of the facility as a Senior Center.

Mayor Brubaker asked if a separate fund would need to be set up in the accounts for this purpose. FD Armstrong replied, yes and we would still have a "trusted agency fund," which is state budget term.

Councilor Burns referred to the agreement that the city attorney was working on; and asked if we have one already and if we don't, why we need one. FD Armstrong said the Seniors had requested this agreement. He said there was a time when the Seniors believed that donations directly to them were deductible; and they found out that it was not the case.

CM Willoughby said one of the issues is that the fund that the Western Lane Foundation has, cannot be transferred directly to the Seniors as a Sec.

501(c)(4) entity. It has to be transferred directly to the city or a Sec. 501(c)(3) entity.

Councilor Burns said if this agreement is something the Senior Board requested then he was okay with it.

FD Armstrong said the Seniors are looking into forming a “Friends of the Senior Center,” and that group could be formed as a Sec. 501(c)(3) entity where donations to that group would be deductible and that money transferred to the Seniors as needed and if that group were formed then the city could be out of the “Trusted Agency” business.

CM Willoughby said another reason we need this agreement in the short term is that Western Lane Community Foundation has funds that are needed to buy some of the furniture; in the short run in order to get the building furnished before it opens there needs to be some mechanism for transferring that fund out of the WLCF to the city so those purchases can be made.

Councilor Roberts said she had heard six things that had come out of the woodwork – more attorney fees because the Seniors want this agreement and she was thinking of the city’s budget process that would be coming up in about a month or so and we don’t have any money now.

Mayor Brubaker asked when this is implemented how much money would be transferred from the WLCF to the city’s new trust account. FD Armstrong replied, approximately \$200,000. Mayor Brubaker said this is enough to sustain the operation, pay our appropriate costs and those are funds that are going to accumulate from a variety of sources. He said from a financial standpoint he had absolute confidence that this will work, the details need to worked out in advance as much as possible.

CM Willoughby said the purpose of this report this evening was to make the council aware of these issues. He said if we get the agreement worked out with the city attorney this would be on the council agenda at the next meeting of February 1st. FD Armstrong said once the agreement is drafted by the city attorney then we’ll have specifics to talk about.

Mayor Brubaker said he was going to make a massive political faux pas and said since the security fee is monthly; it is an operating expense and the Seniors should pay it. He said if they are \$35/month in the red, then worst case, they would get the money from the city during the “once a year make up.”

CM Willoughby said that certainly could be the approach as we start out in the first year as we learn how much it will cost us to operate this, knowing that we have some funds in reserve and it may have to change in the future if their ability to raise funds becomes limited. He said he was not saying for twenty years that was going to be what happens, but it may be the way that we want to start out knowing there is money in reserve if needed and the city would not have to budget for the \$35/month.

Mayor Brubaker said he would not be in attendance at the meeting of February 1st and that is why he wanted to make his opinion known that evening.

FLORENCE CITY CODE TITLE 12 CHAPTER 1 SECTION 3: NEW HOUSING LOAN PROGRAM

Report to the Council on the City's New Housing Loan Program and ask for direction on continuing the program as is or amend the ordinance to address sustainability.

Mayor Brubaker said this item involves Florence Habitat for Humanity. He said this is a policy decision that the council has been requested to make with regard to the future of the housing loan program.

ACM Morgan said staff had done some background work on this portion of the code, as this was mentioned during last year's budget cycle about the sustainability of the program. She said Councilor Xavier had also brought this up at a June council meeting and requested that staff research the program to see if there was a way that the city could get some money revolving in it. She said there is \$92,000 left in the budget for organizations that are focused on building affordable housing and she said that Florence Habitat for Humanity was the only organization that had ever utilized this program and she thought they currently have sixteen homes that have utilized this program in the past.

She said right now the system development charges (SDC's) are approximately \$13,000. Habitat raises all the money to build the home before it is built; there is no mortgage on the home. She said they come to the city and fill out the request to defer the SDC's; they are allowed two of these deferrals a year. With \$92,000 left in the fund and the cost of \$13,000 for SDC's there is roughly enough left for 6 homes or about three years. She said staff reviewed some options, right now if the city wanted to re-coop their deferrals it would be dependent upon the 30 year mortgage being paid off by the homeowner or if the homeowner sold their home then the city would get paid off; but that had not happened in the past. She said there are sixteen homes, none have been sold and the city hasn't received their money from those as of this date.

She said staff had met several times with Habitat and discussed some options; one option which staff recommends is to try to start getting some of our deferral back in ten years versus the thirty years which would require twenty payments and that total would be a \$600 payment. She said referred to the agenda staff report which had detailed information that substantiates why the Habitat homeowners would not be able to pay back these fees; Habitat would have to make that payment. She said in their discussions, Habitat have said that they would prefer that the program stay the way it is; when the money is gone they understood that they would then have to pay for the SDC's upfront. She said the council needs to decide if they want to keep the program the way it is and when the money is gone there is no more affordable housing funding, or amend the current ordinance and recoup some of that money in the first ten years.

Mayor Brubaker asked where the money came from in the first place. CM Willoughby said there was a CDBG housing rehab program and then the city entered into an agreement with St. Vincent's and they got a grant and this the money left over from our grant and it has been used for affordable housing. Councilor Xavier said this money is from loans that have been repaid and that is why the money is now de-federalized.

Don Stewart and Kate Redwine - Habitat for Humanity: Mr. Stewart said they had built sixteen homes but only nine of them fall under this grant, the other homes were built before we received this deferral. He said the Board would like to see the money used as it has been until it no longer exists. He said our homeowners are under some guidelines that are set by Habitat International. No more than 40% of their income can be for housing which includes utilities, principal, taxes, insurance and long term debt, which would be like a car payment. He said anything that's over a year is classified as a long term debt. He said when they fill out the application they have to be within that 40-45% range of their income for those items, the rest of it has to go for regular living expenses. He said to maintain that we need to keep their mortgage payment under \$450/month which includes principle, taxes and insurance.

He said of that approximately \$200 of the payment goes to Habitat and the rest of it goes to taxes and to insurance. He said if the homeowners had to pay this extra, they would have to come up with another \$100/month; that puts them well over the guidelines for Habitat. He said for the city to get paid back with this ten year proposal it would be Habitat who would be making the payment back to the city and not the homeowners.

Mr. Stewart said under the current situation as ACM Morgan said, we would get about 5-6 more permits and then Habitat would have to find the money to start paying for future permit fees. He said if we are saddled with payback of the \$93,000 over the ten year period plus going out and picking up the additional permits fees for the future when this is not available it's going to cut down on our ability to build homes. He said currently the \$13,000 building permit fee is quite a lot for Habitat. When we build the home, if we own the land, we can build a three bedroom 1½ bath home for \$45,000. He said when we sell these homes to these people we sell them at appraised value, but as you well know, we do a two mortgage type thing. For example the townhouses were appraised at \$150,000, the homeowner's first mortgage is \$90,000 and their second mortgage is \$60,000. If they make their payments on time through the period of the first mortgage their second mortgage is forgiven, that's how these people can afford to live in these houses. We're trying to give them a chance to come up and live like the "rest of us." He said when you're talking about the lower income working class that make \$8-\$10/hour they cannot afford \$900/mortgages.

He said last week we held interviews to pick three new families for upcoming homes and we gave out 32 packets to interested people. He said out of the 32 packets only 10-12 qualified and now we have to eliminate it down to three. He

said if we have to start paying our fees back plus looking at additional fees in the future we're going to be cutting back even further on our ability to build.

Kate Redwine - Executive Director Habitat: Ms. Redwine said they had been working with the figures trying to figure out if they took out 2 permits a year from the remaining money and pay back 1/10 of each permit each year it was going to accumulate the amount we have to pay back. She said as she had figured it in three years we would be paying the city back at the rate of the cost of buying two permits and paying in cash. She said it doesn't pay us to enter into this program if we now have to budget to pay back this amount, we'll have to raise funds to pay it again when we pay for a permit. She said we figured it would cost an extra 20% per house to buy the permit and it is fiscally more sensible for them to raise 20% extra for each house to pay for the permit than to take on this accumulating sum of each permit fee paid than to pay back another 1/10; it adds up in three short years approximately to the value of two permits. She said it makes sense to them, maybe not to the city, to pay down these funds to zero and start looking for ways to start raising funds in the future.

Mayor Brubaker said he understood that if the house resells the city gets the money back at that time and he asked what had happened to the first nine houses that you have built that are under this. Mr. Stewart said there was one house sold under the sixteen. He said under the program of the first and second mortgage the forgiveness of the second mortgage really encourages the people to stay in their homes and live there, which is Habitat's intent for them to have a stable home for children. He said it's a safe environment for children to live in; he said they always do a home visitation to the people who apply and they have found very sub-standard housing. He said one of the last owners lived in a manufactured home that had holes in the floor, no doors on the bathroom, there was mold growing in the bedrooms; and yet they were also paying \$600/month. He said these are things Habitat was trying to help people get away from.

Mayor Brubaker said the program encourages homeownership and if they sold prematurely they would be responsible for the second mortgage at that time. Mr. Stewart said if they sell their house they have to pay the first and second mortgage off and then they have to pay the city off. He said he hopes that discourages them from selling; they had one house sold, people eventually moved back to Florence were very sorry they had sold.

Councilor Burns said he concurred with Mr. Stewart about leaving the program alone and he liked the idea when the house sells the city gets paid back. He said unfortunately once the funds are gone the program is gone.

Councilor Xavier said she understood if they have someone who wants to sell, Habitat would have first right to buy that house and put another family in it, then that lien would not get paid because Habitat would still be keeping that house. Mr. Stewart said they were told if they had the first right of refusal and they purchased the house that would be equivalent to one building permit that the city is now issuing them.

Councilor Roberts thanked Mr. Stewart and Ms. Redwine and the Habitat crew for all the hard work and said it was a fantastic program. She said she had a hard time finding out where the donation warehouse was located and when it was open. Mr. Stewart said anyone can call the Habitat office, it's listed in the phone book and they would send someone to pick up any donations.

Councilor Xavier said she wanted to address the issue because this discussion had reached this point because of her concern about the fund running out and not having anything further to offer to Habitat or another affordable housing group. She said she was trying to see if this couldn't be turned around to be sustainable; she thought if it had been set up to revolve right from the very beginning it would have worked, but she agrees that it is so far into it that she didn't think it was possible to do that. She said it would be her preference that we have a way to do that, but Habitat was the only organization that has used the funds and their preference is when it's gone it's gone; and as long as that is clear and on the record she would not continue to push on this issue, she would go along with their request and let it go if that was the consensus of the council. She stated her unhappiness about it, but said there was not a good solution at this point.

Councilor Burns moved to have Habitat continue to be the sole beneficiary of this program unless a new entity emerges and when the money is gone, it's gone. Second by Councilor Roberts, by voice all ayes, motion carried unanimously. It is noted for the record that Councilor Franzen was absent and excused.

INDUSTRIAL ZONES CODE AMENDMENTS

Consider initiating code amendments to the Industrial zones which will include amendments to the zoning districts, allowed uses, development standards and the land use application process.

Mayor Brubaker said this item was a follow up of the council's intent to make developing faster, friendlier and more flexible of what we have to offer in what we call the Industrial zones in our city.

CDD Belson introduced AP Anderson as the lead planner on this project.

AP Anderson said staff was hoping the council would make the decision to initiate some changes to these industrial zones and what was in the packet were proposals that staff was recommending, although they were open to any changes the council may have.

She briefly went over the major points of the major points of the amendments.

She referred to the overhead and what staff was proposing:

- To consolidate the industrial area from three zoning districts to two. She referred to the Port property, the Pacific View Business Park, and said they are in three different zones. She said at the last meeting

council had indicated that they would like to have one zone for all of the Pacific Business Park including the Port property; staff is proposing that all of this be under the Pacific View Business Park district zone. The Airport Industrial Park would stay under the Limited Industrial District zone. She said the Port property would be rezoned from Limited Industrial to Pacific View Business Park zone and the southern half of the Pacific View Business Park would be proposed to be rezoned from the Industrial Park District to Pacific View Business Park (PVBP) zone.

- Expand the land uses allowed in the PVBP and the Port property while maintain the same type of land uses already allowed in the Airport Industrial Park
- Streamline the permit process by removing the requirement for a public hearing before the Planning Commission on new construction and allowing administrative (staff) review for permitted uses.
- Include land use category definitions that are limited to those proposed for the industrial zones and remove many of the examples from the model code.

She said in addition to these basic changes there are a few technical changes staff was proposing after some discussions with a couple of the council members.

1. Add a reference to the administrative review process and the two separate zoning districts.
2. Delete transportation facilities from the list of uses because that is dealt with in Chapter 2 of the zoning code.
3. Add more generalized reference to the Airport Overlay Zone in each of the zoning districts to make sure there is a clear reference that standards must be met according to the Airport Overlay zone.

Mayor Brubaker asked for the rational for the three technical changes staff was proposing, we have these already. AP Anderson replied that there is a reference to streets and roads in Title 10 Chapter 2.

CDD Belson said that those types of uses are permitted without any kind of review process, they are already allowed outright and instead of listing them as a use in that district we can delete it because there was a question from one of the council as to what that meant.

AP Anderson then listed four issues that staff would like clear direction from council.

1. Metal Buildings. Now in the PVBP metal clad buildings are not allowed, however in some of the Industrial zones they are allowed. Staff would like to know if the council wanted to allow or disallow metal clad buildings; or would like to allow them; with conditions. For example you could allow them outright, or only in specific colors, only accessory buildings to be metal clad; or to allow them but on areas fronting the street on the façade other building material would have to used to improve the aesthetics. In the code in that zone there is something not allowed and there were some comments with regard to the proposed

Airport museum and also on the Port property, the cost issue in terms of new developers. It also has to do with aesthetics and how you would like to see that area developed. She reminded the council that we're just looking to initiate the package and there will be future public hearings; you can make changes when it comes back to the council.

2. Size of the Caretaker Unit: Is listed as a maximum of 1,000 sq. ft.; is that adequate or do you want a different size?
3. Public Buildings Process: Would you like to make sure there is always a public hearing whenever a new public facility is to be constructed? Right now public buildings are listed in the PVBP as a conditional use; that would definitely require a public hearing process and would also have to meet the criteria of the conditional use chapter. You could also have it as a permitted use; it is a philosophical question; as a public entity if we are proposing a development in a sense we would be regulating ourselves through that process. If you keep it as a conditional use you would have to have a public hearing or if you would like to have it as a permitted use it would be less process and potentially less money; it's really more time than cost with the conditional use process.
4. Buffer Reduction Process: In terms of the process, of potentially reducing the buffer between the Port property and the adjacent residential zone. In the Comp Plan there is a requirement of a 100' buffer between the Port property and adjacent residential zone which is just north of the Port property. You could reduce that down to 50'; however, the language is rather subjective and if we propose to reduce that, it would have to go to the Planning Commission. We would also ask council for their direction in the type of process preferred for making a decision to reduce the buffer. Options could include: a) Planning Commission decision with a public hearing b) Planning Commission decision without a public hearing c) staff decision through an administrative review by establishing clear and objective criteria for the subjective considerations.

AP Anderson said these are the basic issues from staff and asked the council if they had other issues to bring forward.

Mayor Brubaker asked if council had any policy issues they would like to raise. He said for examples on the last page of the Limited Industrial District – Section 10-20-5-C: Outdoor Storage – it appears that staff was recommending inserting a new subparagraph: “All outdoor storage shall be enclosed with a sight-obscuring fence or wall.” He asked staff if they were recommending keeping that and just moving it from another location. AP Anderson said we had added that for a site obscuring fence or wall; some type of screening for outdoor storage. Mayor Brubaker said we have had that in the PVBP; AP Anderson replied, yes and we added that in the PVBP with a little bit stronger language that it would have to be a solid fence or wall as opposed to site obscuring as in the Industrial District. Mayor Brubaker asked if it would be the same for the entire PVBP; CDD Belson replied, no. She said site obscuring would be in the Limited Industrial, and a solid fence in the PVBP.

Mayor Brubaker said there is a group who want to build a Military Heritage Museum; are we going to allow them to have outdoor displays without a fence. CDD Belson said a display would be different than storage, if the idea is for it to be viewed by the public it is not storage, but an outdoor display which is different from storing their building materials.

Mayor Brubaker said we got into this with another developer and there was confusion about the definition of storage and parked vehicles, etc. He asked if we would get this correct this time by sharpening up the definitions.

CDD Belson said we don't have a definition in the code for storage; Mayor Brubaker said he thought staff needed to add one as buildings that are not museums could also have outdoor displays. CDD Belson said in general she was not familiar with the situation that occurred before she was hired, but an outdoor display - or outdoor storage was not specific to the Industrial zones, we have that throughout the code. Outdoor displays are generally commercial merchandise that you have for sale in the Commercial District. She said in the commercial districts for example the developers need to tell us about that as part of their design review; so they can be approved for an outdoor display of merchandise. She said that is different from what is in the back of a business; it's more like storage where they keep extra inventory or tools, etc. She said it is dealt with in other places in the code, but that does not mean that it wouldn't be helpful to have definitions of storage and display, if it has been an issue, it could become one again and we could add definitions to that.

Councilor Roberts said in both the Business Park and Industrial zone we mention waste related materials and the Park considered a conditional use area where we can put some additional criteria for fencing or landscaping. She said it is found in both areas, and both areas had been looked at in relation to our new compositing waste material area, biosolids. She said apparently we've looked in both areas; at the same time we could then visit the machinery penthouse in the Industrial Zone. She said she was sure this was from the old model code. She said she would like to see something done in regard to something visual in relation to the biosolids in those areas.

Councilor Roberts asked about the PVBP and the radio frequency facility; which she questioned if we were going to get interference with our airplanes and the automatic weather system. She asked if this had been approved by the FAA. She said the other area she questioned was on page 4 of the Industrial and added that is the same place where the machinery penthouse is located. We have criteria of 60' for towers, spires, chimneys, water tanks, etc.; she asked if this had been approved by the FAA and exactly where would we put these things, they can't be in the fly zone of the airport. She said in the Industrial Zone we have airplane hangar lots that abut the airport development district; this is on the exterior of the airport, but it abuts the airport and is this some magic airplane garage; because she didn't know what else an airport hangar was; other than to store an airplane.

AP Anderson said it is listed in the Airport Industrial Park. She said the question is; should we include that or keep it there as a conditional use.

Councilor Roberts asked why we have a hangar outside of the airport. Mayor Brubaker said we'll put this on the list for discussion.

Mayor Brubaker said in addition to the four that staff has proposed he had written down the following questions from council:

- Waste material question
- Outdoor displays versus storage definition
- Hangars outside the airport fence, but abutting thereto
- Antenna and height of obstruction
- Radio frequency

Mayor Brubaker said there is a list of 9 questions and asked if there was anyone in the audience that would like to address any or all of these. He noted that in the packet there was a letter from Mark Freeman from the Port addressing the metal building issue and requesting it to be more flexible in using wood siding and the caretaker residence should allow for more than 1,000 square feet as families would require more space.

Joshua Greene - Port Commissioner: Mr. Greene said after speaking with Port Manager Freeman, they liked the idea of not promoting metal buildings especially for that area, because that is the high end real estate location and you want to discourage that type of industrial look. You want a dental office and funeral home which are cleaner and bigger office buildings that attract more jobs and less storage. He said obviously if you're going to use a metal building you need to store your stuff; do it in a way that is attractive.

He said his concern about the buffer, was what if someone wanted to buy property from both the city and the port. Councilor Burns said the buffer relates to the residential area. Mayor Brubaker asked if we do a lot consolidation would you need a buffer between the two.

Mr. Greene said regarding the buffer reduction process (100' down to 50'), make it as simple as possible for staff by putting in language where it is done by an administrative review based on who the owner is and what do they want to do.

Mark Freeman - Port Manager: Mr. Freeman said just to reiterate with regard to staff decisions through administrative review; a lot of these entities look at the time frame as "time is money" and if there is restrictive criteria that can be addressed make it a permitted use and make it under a staff review basis. He said that would be far better to the entity that may be attracted over the hill to come here. It is difficult to attract business to seriously consider Florence for their developments. He said allowing as many uses as possible would help to sustain and retain our existing business base as well as attract outside business.

Del Phelps: Mr. Phelps gave the council some history and said about two years ago the realtors in the community were asked by CM Willoughby and staff to weigh in why the Park wasn't selling lots and what could be done. He said we had those meetings and part of their recommendation was to simplify

the process and the zoning; put in a process to allow people to get on the ground as quick as they could along with getting through the process as quickly as they could. He said we recommended that the city should get a professional study done and he expressed his pleasure that things had been done. He said the study was in place and he thought the recommendation of the study was quite good. He said he was pleased to see at this point the recommendations coming out of the Planning Commission. He told the council he hoped they would move forward with those recommendations and anything you add, take out or change make the process simply and quick.

Gary Rose - Airport Manager: Mr. Rose said he had attended several meetings with the Airport Management Association where they meet with the FAA and the FAA had made a hard policy to get a “through the fence” operation where you would put a hangar on the lease property with the back of the hangar up against the fence and access the airport that way. He said the FAA would probably not consider a “through the fence” operation, especially if they had a caretaker facility inside - that would be the real hardship in doing something like that. He suggested before the city allows anything of that nature that you check with the FAA thoroughly because it could jeopardize the funding for the airport. He said there was plenty of space on the airport itself for airport hangars without putting them on that side of the fence.

ACM Morgan reported that Friends of Florence had just completed a land exchange so they now have Lot 1 of Ling Cod Court and it is their understanding under the current code that they are allowed to put up a metal building for their bus barn with façade improvements. She said she just wanted to make sure the council was aware of that.

When Mayor Brubaker asked what was meant by façade improvements; ACM Morgan replied that she was following item 1 in the staff report, and the part of the building facing the street is called a façade and it would have to have something other than metal siding.

Mayor Brubaker added some background and said that the first city volunteer job that he held was for Sandi Young’s Economic Development Committee which was formed back in 1994, or 1996. He said some of the other members included James Genereaux and Bob Friedman. He said the concept at that time was that the Pacific View Business Park was the premier area and should have buildings that were more gussied up than the buildings down in the lower area. He said now we’re talking about unwinding that concept to be fairer, faster and more flexible and therein develop the concept of a metal building with special treatment of the area facing the street. He said it was his opinion that it didn’t work very well and no offense to the property owners, but he felt the least attractive buildings are at the top of the hill; one has a façade of wood and the rest of the buildings are of different material and different color and to him it looks a little bit off. He said personally, if we’re dealing with aesthetics he would personally prefer uniformly looking buildings all the way around that are attractive, however we can get there. He said with T1-11 some goes horizontal/vertical we have variations on Councilor Burns’ building as well as the building behind his. He said that does not jump out at him as a bad thing

or something that he objected to for the entire area. Certainly where the Friends of Florence want to build their building for their van he didn't see where they needed to go to the extra expense of a façade unless they wanted to. He said Dr. Holmes' building was fixed up very nicely; it is a personal choice.

1. Metal Buildings

Mayor Brubaker said regarding item one, he would like to be more flexible or lenient, but where the test comes in is in the blending of colors; then it brings up an issue in common with item number four, which is the set back waiver and he asked if all of this has to go through design review and if so at what level.

AP Anderson said most of the uses were permitted uses which go through an administrative review; property owners are notified and are allowed 14 days to comment before a staff decision is issued. A conditional use permit requires a public hearing.

Mayor Brubaker said at the administrative level would staff get to see what the buildings are going to look like including colors, etc. AP Anderson said we could require that by criteria if the council had a natural color scheme that they wanted to stick with. Mayor Brubaker said this would be worked out over a desk top rather in front of the Planning Commission. He told the council that was where he was going on this issue and noted that if it didn't work out the applicant could appeal. He thought the color and blending was more important than if it is was metal or wood.

Councilor Burns said he would allow metal clad buildings with the façade on the street side, but he wanted to make sure that it was required that the developer provide staff with some sort of idea of what it's going to look like – for example, what colors and what the landscaping would look like. He said he didn't want this to have to go to the Planning Commission. He said he saw the need for a façade on the street side. He concurred with the area of upper Kingwood and he thought that could have been controlled by staff.

Councilor Xavier said when she met with CDD Belson and AP Anderson this was a discussion that they had; she thought allowing the building to be metal could reduce the cost to the potential buyer and that has some economic sense, but she expressed her concern about the aesthetics. She thought the façade needed to be nice on the street side, something other than metal and she thought color wise it has to look like it belongs to the rest of the building. She said there shouldn't be a disconnect; aesthetics were important and there was no reason it couldn't look nice. She said staff had indicated that they could come up with criteria that would allow them to be able to do that administratively and that would be her preference.

Councilor Roberts said she also felt strongly about the façade and agreed with what both Councilors Burns and Xavier had said. She said as long as the rest of the building is going to be metal it's going to have to go with the earth tones and she thought this could be administratively controlled so it looked good.

Mayor Brubaker said he agreed with the administrative process and agreed with the natural, earth tones, but his point about the façade was there is no building that he had ever seen, that all you looked at was the front as you drove or walked by. He said if we think just fixing up the façade is going to make it all gussied up he guaranteed that it wouldn't. He said if we forced the school district to put a different façade on the bus barn, it wouldn't have made any difference because the bus barn is a big industrial building. He said if someone wanted to preserve their façade he would encourage them to design it in a way that it blends in with the rest of the building.

2. Size of Caretaker Units: Mayor Brubaker said we've gone down this road before and on one of the most attractive lots in the upper part of the PVBP there was someone who wanted to build a home and make rubber stamps in the garage. The city said no, because it would be a single family house which is ancillary to the intended use. He said the size of the caretaker unit became an issue and he remembers the 1,000 sq. ft. where people could get a very generous small family caretaker unit, 3 bedrooms and 2 baths in 1,000 ft. He said he didn't see any reason to change it and thought they should stay with the 1,000 sq. ft.

Councilor Burns said relating to having a home up above; they were originally making RV storage units on paper, but inside they were doing other things. He said he didn't have an issue with 1,000 sq. ft or even 1,500 sq. ft; he said if he remembered the code to have a caretaker use, it had to be a business that normally had a caretaker with it. He said he wanted to maintain that restriction.

Councilor Burns said he was the first one to build a caretaker unit but he had to come in front of the Planning Commission and the Planning Commission required that his business had to normally have a caretaker unit. Mayor Brubaker said he assumed the mortuary was a permitted use. Councilor Burns said it was not necessarily a permitted use but he had to go in front of the Planning Commission and the use had to normally have a residence on the facility. Most dentist offices don't have a caretaker unit; and we need to keep to the fact that the business would normally have a caretaker unit.

AP Anderson said it was only allowed as a conditional use so when it is determined that the business requires an onsite residence the burden of proof is on the applicant. Councilor Burns said when he went before the Planning Commission he was asked if his business could operate without the caretaker unit and he replied yes, but it would be easier on him and his family and the people they serve to have it there. He said that CDD Sandi Young had provided information to the Planning Commission on other funeral homes that had a residence on site. Councilor Burns said the size is immaterial; if he was a business owner and the home wasn't more than the business he would allow 3,500 sq. ft.

Councilor Roberts said the size does not matter to her as long as the criteria for caretaker exist. She said large is not necessarily tasteful; she didn't think anyone would put up something that was 4,000 sq. ft.

Councilor Xavier said she thought a 1,000 sq. ft. was adequate for a caretaker unit and it was not meant to be anything more than that.

Mayor Brubaker asked staff to consult with Councilor Franzen and get his input on this matter as at that time they had a 2-2 on this.

Councilor Burns asked Mayor Brubaker and Councilor Xavier how they felt about keeping that in there if the business is normally has a caretaker with it. CDD Belson said that was in the existing code and staff was proposing to leave it as it is.

Mayor Brubaker said he wanted to avoid the abuse on making this a residential zone, de facto. Councilor Burns said it would be fine with him to maintain a 1,000 sq. ft. and Councilor Roberts agreed.

CDD Belson said they would leave it at 1,000 sq. ft. now but stated that it doesn't obligate the council because it would come back for a public hearing at a later date.

3. Public Building Process: Mayor Brubaker asked what happens to a public building if the city is not the applicant. CDD Belson said we wrote this to apply to all public entities, but if you wanted to change that, we could change that to say, "city owned." Mayor Brubaker said the idea here is that we shouldn't have staff have the ability to administratively approve something the city council had "cooked up," the tax payers should have something to say about that. CDD Belson said she worked at a city where it was the philosophy that if it's their own project they would automatically have a public hearing.

AP Anderson said the way it is written now is that public buildings could be county, state or even a community college. CDD Belson said no matter what type of public building there is some type of taxpayer involved or you could say, is the city regulating ourselves and limit it to city, or you could say there is no reason to have a public hearing, people will have the same opportunity to comment as if it were a commercial business and we want to make things as easy for ourselves as we can.

Mayor Brubaker said he would think that we should require a public hearing for proposed city owned buildings, other public agencies that come to the city should run that process through their public process; but it would be irresponsible for the Port to have a project without a public hearing to satisfy their constituents then they would come to us.

Councilor Burns agreed and said the State Forestry building was done without public process.

Councilor Xavier said she thought if we're going to spend the taxpayer's money we need to have a public hearing.

AP Anderson said city owned property would be a conditional use permit and other public buildings would be an administrative decision.

CM Willoughby said it would be the same process as any other administrative decision.

4. Buffer Reduction Process: Mayor Brubaker said this is the buffer between the Port property and residential zones. He asked if this was only talking about the housing to the north. CDD Belson said in the code it says “adjoining” so she would take that to exclude Marine Manor.

She said there is the little corner that is white on the map which is also residential. Mayor Brubaker asked about a design review question; staff said we can do this administratively. CDD Belson said as this is worded right now, we don’t feel that it’s clear and objective. It says, “reduction may be considered for research and development or office uses which address compatibility issues with adjoining properties through high quality architecture, significant landscaping and screening protection and use of existing vegetation or dunal formations and compatible building massing.” Staff feels that is somewhat subjective in terms of meeting those criteria; subjective decisions would go to the Planning Commission as a public hearing such as conditional use permits or variances. She said it may be possible to write objective criteria that would meet that in which case it could be done administratively. She said if someone wanted to go fast and not go through the Planning Commission they would provide that 100’; it’s only if the developer wanted to reduce it down to 50’ that they would go through the potential process.

Mayor Brubaker asked if that was 50’ for any development (like streets or roads) or just buildings. CDD Belson said an undisturbed buffer

Mayor Brubaker said what we’re dealing with is a very particular case, that if we really want to market these 40 acres we better front end it as much as we can. He suggested that we develop criteria up front, so if the buyer of the property wanted to go administratively to get an extra 50’ there is criteria that is developed in conjunction with the Port rather than leave this as an open question. He said it is a big property and an extra 50’ on that one strip may not be all that important to the rest of the property, so it might be a lot of work for nothing, but he said as much as we can front end those types of matters for the 40 acres the better we’ll be.

Councilor Xavier said this was something that she brought up in the meeting with staff that morning. Mayor Brubaker said good, we’ll set up a plan for marketing and say, “If you do the following things, you’ll get the extra square feet.” There were comments made from the audience that were inaudible.

Mayor Brubaker said he thought that everyone agreed for the record to develop the objective criteria now so it would make it easy for marketing the property.

5. Waste Materials: Mayor Brubaker said we need to decide how to handle the outdoor composter as we go into biosolids. AP Anderson said staff came up with some suggestions on the waste related industrial that is listed as a

conditional use in both the zoning districts and staff would like to present some criteria in the Conditional Use chapter that is added criteria that this type of use would have to meet which might address odors, additional screening from the street side; so that was one way that could be dealt with. She said in the Conditional Use chapter there are several uses that have specific criteria that the use has to meet; as it is inherent in that type of activity. She said that would be one way of mitigating a potential impact.

Mayor Brubaker asked the council if they wanted any other waste material other than our waste material in this park. AP Anderson said we could call it municipal related waste materials; Mayor Brubaker replied, make it happen we don't want anyone else's waste material and at this time it is the best location for our biosolids.

CDD Belson asked if council would still favor adding some criteria; Mayor Brubaker replied yes, the city needs to do it correctly. Councilor Roberts said this would be an educational thing, some place where school children could on field trips; we want it to look sharp.

6. Outdoor Display vs. Outdoor Storage: Mayor Brubaker said we've talked about this and we all agreed there is a distinction and we need to make it so.

7. Hangars outside the Fence: Mayor Brubaker said he agreed with Gary Rose and the FAA on this; but the reason the FAA is concerned about this is the TSA security. He said the real reason is that it opens the door for a caretaker unit and the next thing you know you have residents next to airports and they come to city hall and want to shut down the airport due to noise and that had been the experience at many airports throughout the country. He would argue for eliminating that and said there is plenty of hangar space on the field now.

8. Antenna's and 60' Question: CDD Belson said in terms of the antenna or the machinery penthouse, staff proposes adding a specific reference to require FAA approval for those as well. She said as AP Anderson had said at the beginning of her presentation we would propose adding a general reference that all uses and structures need to be compatible with the Airport Overlay zone. AP Anderson said to insure that they are referencing the Airport Overlay Chapter and it would still be administrative.

Councilor Roberts said we have Oregonfastnet over in that area that has dishes and antennas on their building and asked if FAA would pick up on those too. AP Anderson said that was one of the criteria in the Airport Overlay; emission, light, glare and radio frequency as well as electric interference, height, etc. She said all of that is the type of criteria that they need to meet.

CDD Belson said when staff receives development applications in that Overlay zone we will send FAA a referral and they can comment on it. In addition to that we're going to send them the proposed language that we're initiating for these amendments; they will also have the opportunity to comment on individual projects.

Councilor Roberts said we didn't address the 60' and staff replied we did with the Airport Overlay zone. AP Anderson said FAA approval and the Overlay district reference will address that issue.

Mayor Brubaker said this is guidance and direction and staff would come back with the implementing materials. He thanked everyone for their participation.

CLEAN WATER STATE REVOLVING FUND LOAN AGREEMENT

Consider approval of Resolution No. 2, Series 2010 a resolution authorizing the City of Florence to accept a loan agreement in the amount of \$4,923,260 from the Clean Water State Revolving Fund, Loan Agreement R33422 between the State of Oregon acting through DEQ and the City of Florence for the Hwy 101 sewer trunk line replacement project.

Mayor Brubaker said this item involves the timely solution to a long term problem; and that is working on the bottle neck and improving our sewer facilities along Hwy 101.

CM Willoughby said he wanted to recognize PWD Miller for his good work on this project.

PWD Miller said he would like to thank Scott Olsen and Chris Irving from Branch Engineering for helping with this loan application. He said this project is an accumulation of many events clear back to 1997 when it was first identified that we had an issue in the Hwy 101 corridor for sewer capacity. He said when he first started with the city we talked about different ways to finance this project to eliminate the bottle neck on Hwy 101. He said back in March we submitted an application to the American Recovery and Reinvestment Act (ARRA) when it became available to the state. This was 50% grant and 50% loan; and a very competitive process, there were 162 applications and we were ranked about in the middle. He said there were requests for \$800,000,000 of project needs and only \$45,000,000 of ARRA funds available from the state.

He said were disappointed that our project didn't meet the ranking, but this fall the state found some more money and we were granted a zero interest loan for slightly more than \$2 million. In December the city was contacted by DEQ to see if the city would be interested in increasing the loan to \$4,923,260 at zero interest.

He referred to the PowerPoint and said the green portion is what we call Phase I. He said the project extension goes from the Ivy Street pump station by the Siuslaw River up Ivy Street over Kingwood, 10th Street, Oak Street corridor to about 22nd Street.

Mayor Brubaker said this goes on the west side of the Elks; PWD Miller said that's what we're looking at. He said we would be doing a bore through the dune and through the unimproved alley way or the Oak Street corridor next to the Elks. He said we'll try to stay in the Oak Street corridor the unimproved

area through Miller Park and then coming back out to the paved section of Oak Street.

He said Phase II is red on the map, and takes off from 22nd Street and goes northerly. He said we would be doing a bursting project to 35th Street taking advantage of new technology by bursting pipe to make room for the new pipe. He said that way we preserve the pavement which is in pretty good shape. He said if you go back to the 1997 project, it calls for the pipe to go out through Oak Street by Fred Meyer and the northerly dunes. He said we're taking this approach because that it is a pretty sensitive area and we won't be able to do that, so at about 40th Street we're going to come out to Hwy 101, going up to Bi Mart and right in the middle of Bi Mart frontage on Hwy 101 on the west side the sewer needs to be deepened and by deepening the sewer in this area up to the middle of Fred Meyer we can accommodate future expansion to the north. He said there is a potential we may do this as part of Phase IA to take care of a sewer issue up in this area. He said essentially we would be going just south of Munsel Lake Road with the project.

Mayor Brubaker asked if it would all be gravity flow; PWD Miller replied yes. He said the plan calls for a bore under Hwy 101 in that vicinity, we have a pump station on 52nd Street that was built for the Spruce Street LID, so we have a sewer force main coming to the south which terminates and transitions to gravity and that is on the east side of the road. He said the area on the east side of Hwy 101 is very shallow. He said by switching over to the west side we have depth, we can make some modifications to the line making it a little bit deeper and that will allow for gravity all the way up to Heceta Beach road in the future.

CM Willoughby said it was possible that what Mike is describing is Project 1A, the part at the northern end of this, whether or not that is included, the part we expect to start construction on this spring. He said whether or not we're going to do a bore under Hwy 101 to the east side to a manhole will depend on the discussions that are going on with Arlie; that would be done as part of a settlement of the Writ of Review that Arlie has filed in Circuit Court with regard to the Spruce Street LID. He said with approval of this financing package we would have the financial ability to include that 1A part with Phase I of the project that would start construction this summer and be completed sometime before the end of the year.

PWD Miller said with Phase I, we're projecting going to bid in March with construction in May of this year and construction lasting to December 2010.

CM Willoughby said Phase I may stop where the green line (on the PowerPoint) stops or it may include something at the north end if the city is successful in negotiating this settlement of the lawsuit.

PWD Miller said the total project is estimated to be totally wrapped up by December 2011.

Mayor Brubaker asked how the money will get paid back. PWD Miller said it was an interest free loan and last year in the budget process we talked about funding this project; it was built into the rates, it is also assumed that because of the capacity increases that SDC's will be eligible for this project. CM Willoughby added that what was budgeted assumed we would borrow the money and pay the interest; we're actually going to be able to finance it for substantially less cost than what has already been built into the rates and projected into the budget.

Mayor Brubaker said we're asking our sewer customers to pay part of this and we'll need to justify the benefits to them. PWD Miller said we have existing deficiencies in the line so this will take care of those and will also increase the capacity. CM Willoughby added that this was very similar to what we did on Rhody Drive, where that was paid through a combination of borrowed money as well as SDC's, because that was not only a capacity increasing project but it replaced old and undersized lines and lines that serve existing customers. He said the same thing was happening along Hwy 101; it's a combination of both. What we're doing with this project is not only increasing capacity but we're also curing some defects and deficiencies in the sewer lines that serve existing customers between the treatment plant and the northern city limits.

Mayor Brubaker asked if the customers along the way get a new street surface out of the deal. PWD Miller replied that staff would look at the condition of the road and the placement of the pipe. He said his goal in doing these projects, whether it is water or wastewater is to look at the opportunity for resurfacing, because the street fund has limited dollars. He said we're trying to go through undeveloped rights of way to limit the asphalt removal and in some areas we may be doing full street restoration and some other areas half street, it depends upon the alignment.

Mayor Brubaker said there was a public information component to this big important project. He said he thought we should do some type of public information to everyone who lives along those streets about what is going to happen and when. Councilor Roberts commented that we could use our stuffer machine to put out information to the public.

Councilor Burns moved to approve Resolution No. 2, Series 2010, authorizing the city to accept a loan in the amount of \$4,923,260 from the Clean Water State Revolving Fund between the State of Oregon through the DEQ and the City of Florence. Second by Councilor Roberts, by voice all ayes, motion carried unanimously. It is noted for the record that Councilor Franzen was absent and excused.

**CITY OF FLORENCE
RESOLUTION NO. 2, SERIES 2010**

A RESOLUTION AUTHORIZING THE CITY OF FLORENCE, OREGON TO ACCEPT A LOAN AGREEMENT IN THE AMOUNT OF \$4,923,260 FROM THE CLEAN WATER STATE REVOLVING FUND, LOAN AGREEMENT R33422, BETWEEN THE STATE OF OREGON, ACTING THROUGH ITS DEPARTMENT OF ENVIRONMENTAL QUALITY AND THE CITY OF FLORENCE.

WHEREAS, the City Council of the City of Florence, Oregon is the City's local contract and grant review board, and makes the following findings:

1. That the Public Works Department has researched and determined the need for the rehabilitation of a major truck sewer, Project titled "**Wastewater Trunk Sewer**" (also known as the Highway 101 Trunk Sewer Improvement Project), as described in the City's application dated March 16, 2009 to Oregon DEQ.
2. That the Public Works Department has determined that the trunk sewer line that runs in or parallel to Highway 101 from the Ivy Street pump station to Fred Meyer is of limited capacity and is in varying states of structural decay. The trunk sewer capacity limitations were first identified in the city's 1997 Wastewater Facilities Plan. This plan indicated that sections of the Highway 101 trunk sewer were undersized for UGB buildout. Recent monitoring and hydraulic analysis of the wastewater collection system has confirmed that sections of the system are nearing capacity and inspections of the trunk sewer system indicate that many of the pipes have deficiencies such as reverse slopes, belly's, offset joints, protruding laterals and root damage. As a result of the current state of this infrastructure the city is currently unable to provide sewer service to much of the north Florence area due to lack of capacity in the collection system. As a result future development may be hindered by a lack of sewer capacity.
3. That the adopted 2009-2010 fiscal year budget for the City of Florence included the procurement of \$5,000,000 loan proceeds to fund the rehabilitation of the "Wastewater Trunk Sewer Project" and that said loan was built into the wastewater rate analysis.
4. That the City of Florence Public Works Department has determined that the Loan Agreement will meet the requirements for the rehabilitation of the "Wastewater Trunk Sewer Project."
5. That the City Council has reviewed the Loan Agreement and accepts the terms and conditions of said Agreement.

NOW, THEREFORE, BE IT RESOLVED:

The City Manager is authorized to proceed and enter into the Loan Agreement between the State of Oregon/Department of Environmental Quality and the City of Florence, Oregon in the amount of \$4,923,260 for the rehabilitation of the major trunk sewer system from the Ivy Street pump station to just north of Fred Meyer.

ESTABLISHING AN EXECUTIVE SESSION NEWS MEDIA ATTENDANCE POLICY

Consider approval of Resolution No. 3, Series 2010, a resolution establishing an executive session news media attendance policy.

Mayor Brubaker said this resolution sets the policies for media attendance at city executive sessions. He said it identifies three eligible entities at the present time: Siuslaw News, KCST, and Register Guard. He said it also sets forth a process of those who want to be "media," the "bloggers."

CM Willoughby said this is an attempt to reconcile an old statute that goes back quite a few years relating to news media and that with the modern computer age, there is "new" media. He said we want to try to accommodate public access and information and the public's right to know with the city's right to protect the things that it's entitled to talk about outside of the public and try and balance those two things. He said this was discussed at the last League of Oregon Cities conference at the attorney's session in terms of being

an issue and encouraging cities to deal with the issue in advance of having someone sitting in your executive session saying, "I want to sit in."

Councilor Roberts said we have it stated that recording devices are prohibited, she didn't think in this day and age we could control anything like that, she went on to say that she could have the council on camera that was in the point of her pen; you can't control recording devices anymore. CM Willoughby agreed but the resolution does establish policy and somebody's ability to use that.

Mayor Brubaker said there are rules that govern executive sessions and by law there are only certain subjects that we can discuss and they are squarely focused on the right to privacy of personnel; or protecting the city's negotiating advantage in real estate or law suits and labor negotiations. He said it is very specific on what the city can talk about in an executive session. He said for these four items there are certain rules that have to apply that basically says, "what goes on here stays here until the council makes it public in an open session."

Mayor Brubaker moved to approve Resolution No. 3, Series 2010; second by Councilor Burns by voice all ayes, motion carried unanimously. It is noted for the record that Councilor Franzen was absent and excused.

**CITY OF FLORENCE
RESOLUTION NO. 3, SERIES 2010**

**A RESOLUTION ESTABLISHING AN EXECUTIVE SESSION NEWS MEDIA ATTENDANCE
POLICY**

WHEREAS, Oregon public meetings law provides that representatives of the news media shall be allowed to attend certain executive sessions of public bodies, but may be required to not disclose specified information (ORS 192.660(4)); and

WHEREAS, because at the time state law relating to media attendance at executive session was adopted "news media" consisted of entities that were institutionalized and structured to support compliance with the requirements of ORS 192.660(4), the law includes no express mechanism for enforcing those requirements; and

WHEREAS, technological advances since the time the public meetings law was initially adopted have resulted in development of communication mechanisms allowing virtually any individual or entity to disseminate information widely; and

WHEREAS, the City of Florence finds that in that absence of a statutory definition of "news media" as that term is used in ORS 192.660(4) it is necessary to adopt a policy that implements the intent of the public meetings law relating to executive session attendance without precluding attendance by Internet-based or other "non-traditional" information disseminators that are institutionalized and committed to compliance with ORS 192.660(4); and

WHEREAS, the City recognizes that this policy is solely for the purpose of determining eligibility to attend executive sessions, which requires non-disclosure of specified information from executive sessions, and is not intended to otherwise define "news media" or to determine eligibility to report on City activities or to limit access to other City meetings by any person;

NOW, THEREFORE, BE IT RESOLVED:

1. Currently Recognized News Media Organizations. The following entities are hereby recognized as news media organizations eligible to attend executive sessions because they have an established history of meeting the requirements of this policy:

- The Eugene Register Guard
- KCST Coast Radio
- The Siuslaw News

No other entity shall be permitted to attend an executive session unless it is recognized through the process described in Section 2 below.

2. Recognition of Other News Media Organizations.

The following entities are recognized as news media organizations eligible to attend executive sessions:

- (1). A general or associate member newspaper of the Oregon Newspaper Publishers Association, a broadcast member of the Oregon Association of Broadcasters or a member of the Associated Press; or
- (2). A newspaper that the City uses for publication of public notices and that meets the requirements of ORS 193.020; or
- (3). An entity recognized by the City as being a news source that:
 - A. Is organized and operated to regularly and continuously publish, broadcast, transmit via the Internet or otherwise disseminate news to the public, and that regularly reports on activities of the City or matters of the nature under consideration by the City; and
 - B. Is determined by the City to be a business entity that is institutionalized¹ and that is committed to, and is structured to support, the terms of ORS 192.660(4)². In making this determination, the City may consider and weigh any factors that it deems to be relevant, including, without limitation, the existence of any of the following factors:
 - i. The entity has multiple personnel with defined roles within its organizational structure;
 - ii. The names of news-reporting personnel, and responsible entity management personnel, together with addresses and contact telephone numbers, are readily available;
 - iii. The entity has an available process for correcting errors, including violations of executive session statutes, by a person with authority to take corrective measures.
 - iv. It shall be the entity's burden to persuade the City by substantial evidence that it should be recognized as a news media organization meeting the criteria in Section 2 of this policy. Such evidence must be submitted 30 days in advance of the first executive session that the entity desires to attend. The City may elect to forgo this procedure in cases where the City, in its sole discretion, determines that it can immediately recognize that an entity qualifies under this policy, or in cases where the public body, in its sole discretion, determines that other good cause exists for making an expedited determination. A determination that the entity is not recognized shall be based upon written findings addressing the criteria in Section 2.

3. Attendance at Executive Sessions. Representatives of news media organizations recognized pursuant to Sections 1 and 2 of this policy shall be allowed to attend executive sessions, except as described in ORS 192.660(4) and 192.660(5), pursuant to the following process:

a. The representative must provide substantial evidence persuading the City, that he or she is a news reporter for the recognized news media organization. In making its determination whether to recognize the person as a representative of the news media organization, the City shall require:

(1). A press badge or identification issued by the recognized news media organization, plus proof of identity (such as a driver's license); or

(2). A recently published news article in the recognized news media organization publication or broadcast, with the person's byline, or a masthead showing the person's name as a member of the news gathering staff of the news media organization, plus proof of identity; or

(3). A letter on letterhead from an editor of the recognized news media organization in which the editor states that the reporter is covering the meeting for the news media organization, plus proof of identity.

b. Representatives of the news media are not permitted to attend executive sessions involving deliberations with persons designated to carry on labor negotiations ORS 192.660(4). If the executive session is being held for the purpose of conferring with counsel about current litigation or litigation likely to be filed, the City shall exclude any member of the news media from attending if the member is a party to the litigation to be discussed or is an employee, agent or contractor of a news media organization that is a party to the litigation. ORS 192.660(5).

d. The City may require that a request to attend an executive session be made in writing on a form provided by the City. The form shall require disclosure of the person's name, and the entity for which he or she is a news reporter, and shall require submission of evidence described in Subsections 3(a) (1), (2) or (3) of this policy. The form shall also include a signature line whereby the person certifies that they are gathering news for a recognized news media organization, that the information given is true and that they agree to comply with ORS 192.660(4).

e. The City may consider any relevant evidence provided or gathered in making its decision as to whether a person shall be recognized as a representative of a recognized news media organization.

4. Recording Devices Prohibited. Cameras, tape recorders and other recording devices shall not be used in executive sessions, except for the official executive session tapes made by City staff.

5. Exclusion Based on a Direct Personal Interest. A representative of a news media organization that has a direct personal interest in the subject of the executive session that would frustrate the purpose of the executive session may be barred from attending.

6. Application to Boards and Commissions. These policies and procedures shall apply to the City and all of its boards and commissions.

This resolution will become effective immediately upon adoption.

CITY MANAGER EVALUATION

Mayor Brubaker said per ORS 192.660(2)(i), the council conducted an executive session at 6:00 that evening to discuss the performance evaluation of public officers and employees under the supervision of the council of the City of Florence; namely the City Manager, Bob Willoughby. He said that CM Willoughby had requested that the evaluation be made public. He said the evaluation that was made by the council is that the city manager's performance exceeds expectations on a scale of 1-5, and the evaluations gave him a 4 or 4+ and the council is very happy on his performance on all counts. He said the

area that the council wanted staff to focus on next year was the city's financial health; long range financial plan, timely budget process, and the close tracking of the expenses. He said we also determined as a body that in recognition of Mr. Willoughby's performance for the last year, the council awards a merit pay increase of 3.6%

CM Willoughby said he very much appreciated the opportunity to serve as city manager in Florence; he was privileged to work with a very good council, excellent co-workers and he appreciated the council's evaluation and their confidence.

REPORTS

MONTHLY REPORTS

Mayor Brubaker gave the council an opportunity to make comments or ask questions on of the department's monthly reports.

Assistant City Manager

Councilor Roberts said when staff talks about businesses down in Old Town swapping locations, do they have to pay for a new business license when they move next door. CR Heinze replied that they have to pay for a change in location.

Building Businesses in Florence

Mayor Brubaker made note of the February 18th meeting "Building Businesses in Florence" put on by the Chamber.

Code Enforcement

Councilor Roberts noted that the "fish signs" were gone and she thanked the code enforcement officer for taking care of that problem. She said Hwy 101 was looking a lot better and thanked Chief Sanders for giving his personal time assisting in the beautification of our main drag.

Finance Department

Water Shutoffs

Mayor Brubaker noted that the water department had to do 8 shutoffs in December. FD Armstrong said staff did not do the shut offs until after Christmas; since we've gone to monthly billing staff made the policy for both November and December to wait until after the holidays to do shutoffs.

Public Works

Weed Wrench

Councilor Roberts asked about the weed wrench and said she hoped it was not the two, two by four's that was once demonstrated at a council meeting and PWD Miller replied, no it is a metal clad device.

Senior Center

Councilor Burns asked about the Senior Center and asked if there was work being done at the Senior Center that had not gone through staff, like the wiring. He said conduit was one thing; but was there anything else done that

cost additional money. PWD Miller replied that the only thing that had been done is the installation of the CAT 5 wire for telephones and computers, which won't cost the city anything. Councilor Burns asked about the wiring for the security system, obviously whoever did that work would have to be paid. PWD Miller that was done and paid for by the Seniors, it was outside the original contract. Councilor Burns said since it is the city's building how did something like that get done with a change order or staff being aware of that happening.

CM Willoughby replied that he was aware of that before the construction started, he had people who were professionals in designing all of these systems, offer to do some pro bono work for the city and he put them together with the Seniors and suggested that they talk about their plans and they could decide what could go where. He said it was possible that nobody paid anything for what was done but he would find out and report back to the council.

Councilor Burns said it was his opinion that if it is a city building all work must go through staff. PWD Miller said it goes back to the grant that we have, any work that is done on the facility is Davis/Bacon, or prevailing wage whichever is the highest. He said any work in there has to be managed through that process, so pro bono work and those type of things aren't really suppose to happen until after the building is complete.

Councilor Burns said he didn't have a problem with equipment, like furniture; but there should be no permanent work in the building including pro bono without approval from staff. He said if staff knew about the system going in ahead of time we' should pay the \$35.00/month. CM Willoughby said there is a meeting on Thursday and we'll get an answer to that question. He knew that those volunteering their time and offering to help the Seniors had the understanding of what they were going to do was to be reviewed by the architect in terms of the technical correctness. He said in terms of the timing of the pulling of the wires, he didn't know anything about that.

Councilor Burns said he had heard at the beginning that there were those going in and directing the contractors. CM Willoughby said he didn't think they were directing the contractors to do anything; the architect is the only one that is processing change orders to our contract. He said Councilor Burns was correct that there are people out there interested in the project and making suggestions on how to improve the project. He thought the process was under control but said they were going to have a meeting on Thursday just to verify that and if there is something to report with regard to the wires he would get back to the council on that.

Councilor Roberts asked if these people have proper contractor licenses to do the work and was it inspected? CM Willoughby replied yes, it will be inspected by the building official. He said the people who are offering to help are professionals and this is what they do for a living.

Councilor Burns asked if this wiring was inspected by the electric inspector and staff indicated that legally it was supposed to be done after the fact. CM

Willoughby said it would not affect the building official. PWD Miller said it was just management of the CDBG grant. Councilor Burns asked about the security system and did it include cameras in all the building; staff replied no.

CM Willoughby said everything would be inspected and the process is under control; there will be no change orders that have not been approved by his office and he didn't know anything about the wiring so it wasn't approved to add to the costs.

Pedestrian Crossings

Councilor Xavier asked about the pedestrian crossing and said it was noted in the report that ODOT had indicated that they do not use the additive alternate approach to the bidding process; therefore we may only be bidding the top three crossings at this time. Councilor Xavier asked what projects will be able to do. PWD Miller replied, right now the top three intersections are: 7th/8th; 2nd and midblock 18th/19th. Councilor Xavier asked if this eliminated the 12th and 15th/16th. CM Willoughby said at least until we get the bids for those three and see what those are going to cost. He said if there are any additional funds then we could add a project; but the estimate is that the cost will only cover those three.

CITY MANAGER REPORT

P25 Compliant digital radios for the Police Department

CM Willoughby asked the Police Chief to give the council a report on the P25 compliant digital radio requirement that was coming up soon

Police Chief Sanders said we have three years to change our radios to become narrow banded. He said at this time none of the city's radios are capable for that except for the three transmitters we have at the com center plus the one car radio that we purchased last year.

He said we need 12 more car radios and 18 portable radios to get to where we are now. These radios need to be replaced by January 1, 2013 because we will no longer be able to transmit on the radios we have now. He said the agenda report shows some spending options; he contacted three vendors and one of them offered a very significant discount of \$800 under their price and their initial pricing was very competitive. He said he was looking for direction on how to move forward because they are looking at about \$50,000/\$60,000 expenditure over the next 3 years. He asked if council would prefer to have a phase in approach where we do car radios one year and part of the portable radios the next year and the rest of the portables the following year.

Mayor Brubaker said the package is more than \$30,000; and we have to go to a formal bid process no matter what we do. PWD Miller said the state bidding law states that we don't have to do a formal written process, as long as we have certification from the vendors; we don't have to advertise because it's less than \$100,000. He said if we get written quotes from certified vendors we don't have to do a full bidding process.

Mayor Brubaker asked if Chief had the three quotes to fulfill that requirement and Chief Sanders replied, yes. Mayor Brubaker asked if that included phasing it over three years. Chief Sanders said if the direction was for the city manager to be authorized to negotiate that we could go to the low bidder and they might be able to get three year financing. Mayor Brubaker said we agree that we need the radios and the question is what is the best way to get there. Chief Sanders said the vendors are aware that we would approach them to perhaps negotiate a deal to be effective conditioned upon budget approval; the money would have to be allocated before the deal would be consummated.

Mayor Brubaker asked if we could enter into a three year purchasing agreement using budgeted funds from this year. Staff replied, yes, we do that with cars and other things. Mayor Brubaker said if the manufacturer or vendor has that three year funding option available, we could cover the first year with what's in this year's budget. When asked if there was money in the budget this year; Chief Sanders replied he was not sure.

Councilor Roberts said it has to happen in three years and asked what would happen if everyone gets these in two years and we don't have ours yet. Chief Sanders replied, that we will be fine. Councilor Roberts asked if the radios could be moved from an older car to a new one; Chief Sanders replied, yes. He said last year the new car we purchased had the newer radio in it. He said in the grant we received for the tower he included in the three transmitters for the com center. So what the PD dispatches now is the narrow banded capable transmitters; the biggest expenses are taken care of. It is just the cars and we could cut down on the portables, but it would be something he'd rather not do, he'd like the officers to have their own portable radios.

Councilor Roberts said the way technology advances; in 6 months would we be able to get a better system, should we wait for the very newest of this equipment. Chief Sanders said we could do that, but it concerned him that it would put the city in jeopardy if we didn't have the equipment in place by January 1st.

Councilor Burns asked how many police cars does the city own; Chief Sanders replied 13. Councilor Burns said you're asking for a new radio for each of your officers, the three reserves and the code enforcement officer. He asked why we needed one in the code enforcement officer's truck. Chief Sanders said that they are radio dispatched as well. Councilor Burns said the officer has a hand held; Chief Sanders replied that with a portable sometimes the reception is not as good as it could be. Councilor Burns said personally he didn't know why the code enforcement truck needed a radio; the hand held would be fine for him. Councilor Burns said he thought the city manager should look into the idea of the radios and check with the vendors for purchasing the radios over a three year period because right now there is no money.

Councilor Roberts said the law enforcement officers are one of the most important assets in the city in case of an emergency and they need to be able to communicate; especially with our town being isolated they need to be able to communicate with other agencies to assist us. She thought we could find at

least part of the money in the budget this year. She agreed with Councilor Burns that the code enforcement officer didn't need a radio; although maybe the truck was used for other things.

Mayor Brubaker said there were five alternatives proposed in the agenda summary report and said we're not going to buy all of these in one year. Councilor Burns suggested that the city manager get quotes and look at funding options; if it is necessary find \$51,000 in the next budget; if you can negotiate something with the vendor for 2-3 payments.

Mayor Brubaker said he disagreed he thought we should try for it over a three year period for the best deal; in the coming year our general fund will be really tight. CM Willoughby said the critical item is whether we can enter into negotiations for all of the radios, whether it is one or three years, obviously spreading it out over three years would be better for the police budget. He said staff would like permission from the council to talk about this \$60,000 issue and then come back with a plan as an action item.

Chief Sanders asked for clarification whether the council wanted him to use the three quotes that he had already gotten or get new ones. CM Willoughby said that depends on how the vendors will work with the city over three years; if they won't then maybe we go out for new quotes. Councilor Burns said years ago when other departments were looking for stuff, the larger the bid the better the deal. He thought back then, the city worked out a deal with the City of Reedsport to purchase larger quantities together.

Chief Sanders said that was why we were looking at the one vendor with a \$15,000 discount. CM Willoughby said he thought they should start with the three we have quotes and see to what extent they will deal with us on a discount and spreading the payments over as many fiscal years as possible.

MAYOR AND COUNCIL REPORTS

Appointments to the FEC Advisory Committee

Mayor Brubaker made two additional appointments to the FEC Advisory Committee: Angela Palmer was a reappointment and Alysén Vilhena appointed as a student member.

Councilor Roberts said she noticed that neither of them live in the city and asked if we had reached our criteria in the Events Center for city vs. non-city. CR Heinze replied yes; and noted that the student didn't have a residency requirement.

Generator

Mayor Brubaker said he heard that FEC Director Rhodes may have gotten a good deal for a generator for the Events Center and hoped that was true as he was tired of waiting to get one. CM Willoughby said FEC Director Rhodes was following up, but unfortunately as he gets into more of the details the price has gone from \$30,000 installed to \$65,000; the generator went from \$15,000 to \$25,000.

North Fork Bridge

Mayor Brubaker asked if we could ask ODOT if we could put up the other two pylons on their nickel. ACM Morgan said when we have our monthly meeting with ODOT we'll put that on the agenda.

With no further business, Mayor Brubaker adjourned the meeting at 10:42 p.m.

Phil Brubaker
Mayor

ATTEST:

Pat Heinze
City Recorder