
City of Florence
City Council Minutes
June 7, 2010

CALL TO ORDER - ROLL CALL - PLEDGE OF ALLEGIANCE

Mayor 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, Councilors Suzanne Roberts and Dave Franzen. Staff in attendance included City Manager Robert Willoughby, Assistant City Manager Jacque Morgan, Finance Director David Armstrong, Senior Planner Wendy Farley, Police Chief Maurice Sanders and City Recorder Pat Heinze.

APPROVAL OF AGENDA

Mayor Brubaker asked for any additions or corrections to the agenda. He then said he would like to switch Items 5 and 6. Councilor Burns moved to approve the agenda as amended. Second by Councilor Xavier, by voice all ayes, motion carried unanimously.

PUBLIC COMMENTS

Mayor Brubaker explained that this was a time in the meeting that offered an opportunity for anyone in the audience who would like to address the council for a maximum of three (3) minutes for any item not otherwise listed on the agenda.

With no one coming forward Mayor Brubaker moved on to the consent agenda.

CONSENT AGENDA

MINUTES

Consider approval of minutes of the regular meeting from the May 17th and the special council meeting of May 28th.

Councilor Burns moved to approve the minutes of May 17th and May 28th. Second by Councilor Roberts. By voice 4 ayes and 1 abstainion, for the minutes of May 17th. Councilor Xavier explained that she abstained from voting on the minutes of May 17th as she did not attend that meeting. Minutes of May 28th all ayes, motion carried unanimously.

ACTION ITEMS

FIREWORKS PROHIBITION IN THE OLD TOWN AREA

Consider approving the second reading of Ordinance No. 5, Series 2010, an ordinance amending Title 6 Chapter 1 of General Offenses for a localized ban of fireworks in the Old Town Area "A" and "B" and the Port of Siuslaw Property.

Mayor Brubaker said this was the second reading of Ordinance No. 5, Series 2010 an ordinance which would amend Title 6 Chapter 1 of General Offenses for a localized ban of fireworks in the Old Town Area "A" and "B" and the Port

of Siuslaw Property. He said they would have ample time for public comment, and then asked for an update by staff.

CM Willoughby said he would like to clear up some confusion as to what is being proposed by this ordinance. He said there would be a professional citywide fireworks display launched from the barge in the river; this proposed ordinance would not affect the big public fireworks display. He said we need to get the message out that the proposed ordinance would ban the private use of fireworks in certain portions of Old Town which included Areas A and B and all the Siuslaw Port Property including the RV park, the Boardwalk and the Port's parking lot. This proposed ordinance had been to the council at least twice, the last time at the council meeting of April 5, 2010 for the second reading of an ordinance that would ban personal use of fireworks on both private and public property within the three areas mentioned. He said this discussion had, from the standpoint of the council, generated at least two different perspectives on what should be the policy on the private use of legal fireworks in a certain portion of Old Town. The council had been unanimous that some limitation on the private use of fireworks was being considered, in fact the council unanimously adopted a goal last January to look at a ban of the use of fireworks in Old Town, clearly all of the councilors have something in mind in terms of banning the use of fireworks in these sections in Old Town. He thought where the councilors were in disagreement is how wide spread the ban should be. Some councilors had proposed that the ban apply to the private property owned by the Port only and some councilors have discussed a wider area that included Areas A and B and all the property owned by the Port.

In the course of researching the Code, staff discovered that FCC Section 8.2.4.2 states "...which has to do with the obstruction of right of way; that prohibits anyone from depositing or leaving upon any street, alley, curb, sidewalk or other public right-of-way (whether developed or not) any article, thing or material which in anyway prevents, interrupts or obstructs the free passage of pedestrians or vehicular traffic or obstructs a driver's view of traffic-control signs or signal."

He said this section of Code would allow the police to cite anyone who is obstructing the passage of pedestrian or vehicular traffic; if they are using legal fireworks that would tend to obstruct or interfere with people's ability to walk on the sidewalk or on a city street. CM Willoughby said since that is already prohibited, not only in Old Town but throughout the entire the city, this leaves us in terms of the disparity between what the various council members have thought would be appropriate areas to ban fireworks. He thought all the councilors have agreed that there should be a ban on the Port property. He said the existing ordinance covers city streets, sidewalks and unopened right-of-ways so the only issue that is left is whether there is any disagreement with regard to banning it on private property.

CM Willoughby said staff had proposed a possible compromise if it was needed this evening. He said it is possible to make minor changes to the ordinance and still have the second reading that evening. He said the change could say: "this ban would apply to public or publicly owned property and cross out the wording "private property" which would mean people could have legal fireworks

on their private property inside of this area. It would reach the area that everyone on the council had agreed upon; all the Port property, plus the publicly owned gazebo park, restroom area, Veterans Park or any publicly owned property within those areas.

He said you already have the ordinance that is in place that would ban fireworks on public streets or public right-of-ways. He said he was offering that as a possible compromise that they might want to consider that evening.

He said that ACM Jacque Morgan had accumulated a number of comments that citizens have submitted in regard to the ban and she had also done some research in terms of what other cities had done in regard to a ban on fireworks.

Mayor Brubaker summarized the alternatives:

- Ban legal fireworks on Port property only – this is what the Port had initially proposed
- Ban legal fireworks on all private and public property in all of Old Town
- Ban legal fireworks on public property only, including the Port property, streets, bathroom by Mo's and the Gazebo and Veteran's Park.

He then asked for public comments.

Joshua Greene speaking on behalf of the Port of Siuslaw: Mr. Greene said three years ago there was a situation that got out of control and they tried to remedy that by having Port staff and some volunteers work the Port area and try to find out who had the fireworks. He said that was impossible so they gave up on that, and that is when they went for a full ban. He said over the last three years they have had nothing but good support from the community; everyone agrees that it is a much safer area and they enjoy it much better because it is safer. He presented pictures of the area after the celebration and said it used to cost the Port over \$3,000 to clean up the mess. He said it boils down to a safety issue that came from an unfortunate accident and we were lucky that it wasn't worse. He said he loves fireworks; but he felt a line had to be drawn especially in a large public space.

He said he was there that evening to suggest supporting a controlled ban; he would not recommend the ban on private property, only on public property and the Port wants to maintain the ban on the Port property.

He said in light of this event he had gotten together with the Chamber, and the Port and the Chamber are going to coordinate an outdoor concert with local bands that will take place for free on the Port property on the evening leading up to the fireworks. He said the FEC was going to loan them the staging and lighting that they would need.

Bruce Jarvis: Mr. Jarvis said he had a lot more information now than before he walked in the door that evening. He said the sad part about this is the perception that had been created all around Eugene and the outlying areas. He said they put out a petition (which has no legal force at all) in eight different places in the community. They received 252 signatures that say, "don't ban

fireworks.” He said he thought it was sad that the word “ban” had been used as that is all everyone hears now. He said last year he watched the Chief and his crew out there and they had their hands full with just non-fireworks related items. He would like to see us say that “Florence has solved the fireworks problem, come see our local bands.”

Leo Duwell: Mr. Duwell said one of his concerns would be the current city ordinance, and how the Mayor stated that the city was focusing on public property in Old Town. He said that particular city ordinance is for all of Florence public property and should not be used just in Old Town.

Mr. Duwell expressed his dismay about the ban on the fireworks. He said he had cleaned up Old Town for many years not only after fireworks but other celebrations. He said there is money for cleanup and we can get it cleaned up. He expressed his concern about the police force and their work. The media has made a big deal out of it as people read or hear that Florence “bans” fireworks and it is damaging to our business community.

Kady Sneddon – Chamber of Commerce: Ms. Sneddon said they understood the safety and the cleanup in the Old Town area. Independence Day is a major holiday for the City of Florence and it brings visitors to town who spend their money in our business community. Most of the visitors come to Old Town to set off their fireworks, as most campground and/or hotels do not allow them to have fireworks at their businesses. She said the Chamber is afraid that this “ban” will discourage visitors from coming to Florence to see the big fireworks display. She said they support the Port of Siuslaw and other agencies in the entertainment aspect. She said if you choose not to ban the fireworks they would get their volunteer group to clean up the Old Town area on July 5th.

Mike Rose-President of Chamber of Commerce: Mr. Rose said with the new law option that would ban the fireworks on public property but would allow them on private property; it would limit the ability of people to set off their fireworks. We know that people come to Old Town around 7:00 p.m. and they are looking for things to do until the big display at 10:00 p.m. and the Chamber would work with the Port with the free concert along with getting vendors down there which makes it a festive feeling. He said the first few years will be tough but he thought it could be turned around and still make 4th of July a great time in Florence. He respects the safety issue, but if the council elects to do the third option leaving out private property they will do their hardest to get away from using the word “ban.” He said we would put out a statement that we have a great fireworks display and a great entertainment venue for that evening and Florence is a great place to come for the 4th of July.

Councilor Burns asked about cleaning up and asked if the Chamber had contacted the Port officially and asked them about pulling their request to prohibit legal fireworks on the Port property. Mr. Rose replied not officially.

John Cable: Mr. Cable said he would like to preface his notes by saying he had written his statement down before he had heard some of the discussion this evening. He said the government had been “nibbling” away at our freedoms ever since the Declaration of Independence. Some are to protect us

from others, and ourselves and some are for who knows what. He said it was interesting tonight that government was trying to nibble away at our freedom to legally celebrate our freedom. He asked to have it explained to him how legal fireworks can be illegal on one side of the street and legal on the other, and how it helps to control the discharge of illegal fireworks by people who disregard the law.

He said he had heard the plan was to pass this ordinance tonight and declare it an emergency so it goes into effect by the 4th of July. If it was the council's decision to move this issue to tonight's meeting obviously this was no emergency, it is a litter issue. If you call this an emergency; this is this type of shenanigan that causes the people to distrust government, if you can't follow your own rules, why should we the people?

Sean Sisson: Mr. Sisson said he was looking for some clarification on the third option banning on some public areas and right-of-ways. When you say, Old Town, does that mean private businesses that are privately owned? Mayor Brubaker said that was a good question, the main stretch of Old Town on the main street is the public right-of-way, (sidewalks and streets) there are a couple of shops that are set back off the sidewalk or public-right-of-way so there are some gray areas there. Mr. Sisson asked if it would just be a public ban and not on private properties; Mayor Brubaker replied, right. Mr. Sisson said Old Town will be impacted because the number of right-of-ways on Bay Street, it won't be legal to do fireworks in Old Town.

With no further comments Mayor Brubaker moved onto council discussion.

Councilor Burns said he agreed to remove the word, "ban" as it had caused a lot of fear. He said two months ago, he proposed prohibiting fireworks on Port property based on the request from the Port on the boardwalk and that died for a lack of majority. He was glad that staff came up with a proposal to allow fireworks on private property. He said he agreed with Mr. Cable as far as the emergency clause; he wouldn't support that.

Councilor Roberts said she would like to hear from the Fire Chief.

Fire Chief Buchanan said needless to say he had two hats; one is the Port and he wanted to shed that hat that evening because he was there as the Fire Chief. He said he was wearing his Port hat and last year he went down during the fireworks he did not get one negative comment but he got lots of positive comments. The smoke was clear, you could breathe down there and the citizens liked it.

He said now as the fire chief, one of the fire department's missions is the education of children in fire safety. Fifty-one weeks out of the year we tell them not to play with fire, and one week we give them fireworks and tell them it is okay. He said statistically on July 5th we have more children playing with fire than any other day of the year. He said the State Fire Marshall from the State of Oregon, in his monthly letter, said the best thing a family can do to protect themselves is not to use fireworks at all and attend one of the big public fireworks displays.

He said with all that said he believed that education could be carried on to using personal fireworks. He strongly recommends soaking the fireworks in a bucket of water after using them. He thought if a family gathers in an area and the adults take care of making sure the hair is pulled back, and making sure clothes are not loose is part of the education experience. He said they supported very strongly the prohibition of fireworks on public property. He said from information out of California, the statistics show that one in 65 injuries were from illegal fireworks, but 131 injuries were from legal fireworks; they are just as dangerous or more dangerous to our children.

Councilor Xavier said she was very surprised when we discovered that we already had Code to prohibit fireworks on public rights-of-way; and that it was not being enforced. She said the fact that this issue has brought attention to that section of the Code was a good thing. She said what most concerns her is when people allow the legal use of fireworks on their own personal property; because they take responsibility for making sure that they have adequate means to stop something before it becomes an issue. There are adults supervising children, there is a water hose there and that the children are not flinging things around.

She said this had never been an issue for her about cleanup, she knew it was a problem, but that wasn't her concern; her concern was someone getting hurt, and people who cannot attend the fireworks display because of the smoke and the stuff in the air that makes it impossible for them to breathe comfortably.

She said these people are using our public streets to do things that they would not do on their own property. She said although she would rather that the fireworks not be used at all, she thought the compromise that the City Manager had suggested would be one that she would be willing to support and see if that doesn't make the situation work and if it doesn't they could come back and address it again; but she hoped that it would be a good solution. She said prohibiting fireworks on all public property and allowing people to have legal fireworks on their own property; we'll try that and we'll see how it works out. Frankly, she felt the police could do the job and do what is expected of them and she believes the police do a good job in this town.

Councilor Roberts said her hat was off to Joshua Greene and Mr. Rose in relation to the band concert; she thought it would be a wonderful thing on Port property. She referred to a comment that Mr. Duwell made that the city has plenty of money for cleanup; if he had attended the budget committee meetings he would know that we don't have the money for cleanup or anything else.

She said additionally Mr. Cable talked about freedom and she referred to a comment that Mr. Duwell also made about freedom and she referred to the council minutes of May 3rd when Mr. Duwell said he knew of at least one councilor who had served in the armed forces and she thought that comment was directed at her. She said part of that service included protecting freedom and liberty. She said she was in the service for 20 years and when she raised her hand it was to protect her country against all enemies both foreign and domestic; she guessed that firecrackers didn't enter into it.

Councilor Roberts said safety was her main issue and she was aware of the drinking that went on along with the fireworks and she did not believe that the two went together. She noted the letters that were submitted from people who live in the city and one of the letters came from Ron Hogeland and Nancy Archer who own seven pieces of property on Bay Street and one being the restaurant that Mr. Duwell occupies and the owners are in favor of the ban. She said Mr. Hogeland realizes that if one of the rockets hit the Kyle Building it could go up in tinder's. She wanted to remind everyone that animals are put through a lot of stress with all the noise.

She said she would promote and vote for the prohibition of fireworks on all public property and what people do on private property is their own business. She thought the commercial display on the river was fantastic, but a lot of the letters say they won't attend because of the all the fireworks. She thought the concert was a fantastic idea.

Mayor Brubaker said he would like to see the mechanics of this. CM Willoughby said what is shown in red in the document could be changed to the ordinance that you had the first reading on. The property is the same as what was in the ordinance that is in the council's packet. The city attorney has said that you can modify the ordinance as long as the property affected is not extended from the areas that were included in the first reading. You can make the changes shown in red and have the second reading on this ordinance as amended and pass it this evening with the second reading.

The only way to make it effective by July 4th is to have an emergency clause otherwise it would be effective 30 days from now. There is nothing disingenuous or underhanded if the council truly believes that the issue you are dealing with here affects the public health, welfare or safety; any one of those things can declare an emergency and have the ordinance go into effect this evening.

Mayor Brubaker said in consideration of all that had been discussed that evening he agreed with Councilor Xavier that it is a safety and health issue. He said there was a compelling reason to change the concept enough so that this event becomes more attractive for families. He thought it was a real safety issue in that area. He asked if it would include the new docks and was told yes.

He said personally he was going to be more inclined to go back down to Bay Street and watch the fireworks now because in the past it was a little bit creepy. The people who come to shoot off fireworks are taking advantage of Old Town, they are not residents, they are not tourists; they are here to party and he thought it was time that they got that better under control, so he was going to propose the second reading of Ordinance No. 5, Series 2010 as amended and invoke the emergency clause and if that passed it would be in effect immediately for the 4th of July.

Mayor Brubaker called for the second reading of Ordinance No. 5, Series 2010.

CR Heinze gave the second reading of Ordinance No. 5, Series 2010, as amended to delete ~~or private~~ and insert the words **and publicly owned** and in Title 10 Chapter 17 insert **on public and publicly owned property** and then amend Section 2 **to add the emergency clause.** Councilor Roberts moved for adoption of the ordinance by roll call. Second by Councilor Xavier. By roll call all ayes, motion carried unanimously

**CITY OF FLORENCE
ORDINANCE NO. 5, SERIES 2010**

AN ORDINANCE MODIFYING FLORENCE CITY CODE 6-1-3-2 PROHIBITING FIREWORKS IN OLD TOWN AREA "A" AND "B" AND ON PORT OF SIUSLAW RIVERFRONT PROPERTY

WHEREAS, on May 13, 2009 the Port of Siuslaw (the "Port") enacted their Ordinance 11 (the "Port Ordinance") which regulated the use of fireworks on Port of Siuslaw property; and

WHEREAS, on January 4, 2010 the Florence City Council adopted a goal of banning all fireworks in the Old Town Area as a reflection of the Council's interest in public safety and the prevention of unnecessary fire risks in the Old Town area of Florence, especially during the Fourth of July celebrations; and

WHEREAS, currently the city has adopted state law in the City Code as its policy regarding the possession, sale, and ignition of fireworks in the City; and

WHEREAS, the Port Ordinance banning fireworks on Port property is not enforceable by the City of Florence Police Department; and

WHEREAS, The Florence Police Chief, Port Manager, local Fire Marshal and Assistant City Manager met to discuss a potential fireworks ban and recommend that all fireworks be banned in Old Town Area A, Old Town Area B, and on all of the Port property in the City which is adjacent to the Siuslaw River; and

WHEREAS, the Council believes that it is necessary for the safety of the residents and businesses in this area for police officers to have the authority to seize and confiscate all fireworks found in the immediate or constructive possession of any person who is igniting fireworks in violation of FCC6-1-3-2 as amended by this Ordinance.

NOW, THEREFORE, THE CITY OF FLORENCE ORDAINS AS FOLLOWS:

Section 1. Title 6, Chapter 1 is hereby amended as follows:

**TITLE 6
CHAPTER 1
GENERAL OFFENSES**

6-1-3-2: FIREWORKS: The following sections of the Oregon Fireworks Law, together with all acts and amendments applicable to cities which are now or hereafter enacted, are adopted by reference and made a part of this Chapter: ORS 480.110, 480.120, 480.130, 480.140(1), 480.150 and 480.170, provided, however, that it shall be unlawful for any person to ignite fireworks, or similar incendiary devices, of any kind anywhere on public **and publicly owned** ~~or private~~ property in the following three areas: (1) The area defined in Title 10, Chapter 17 of this Code as Old Town District, Area "A;" (2) The area defined in Title 10, Chapter 17 of this Code as Old Town District, Area "B;" (3) All of the Port property in the City which is adjacent to the Siuslaw River including, but not limited to, the Port dredge spoils area, the Port's docks and boat slips, the Port boat ramp, the Port RV park and facilities, the Port Boardwalk area, and all of the Port parking lots adjacent to the RV park and the Boardwalk area. The three areas in Old Town where all fireworks are banned, **on public and publicly owned property** are shown on an aerial photograph attached as Exhibit "A," which by this reference is made a part hereof as if set forth herein.

A: Any peace officer who finds a person in violation of this ordinance may seize any fireworks in the offender's immediate possession to prevent a recurrence and the potential for future violations. Such confiscated fireworks shall be turned over to the local fire department for disposition.

B: A violation of this section shall be a Class B Violation and the penalty shall be a fine as set forth in ORS 153.018 Schedule of Penalties.

C: A second violation of this section that occurs within 72 hours of the first violation shall be a Class A Violation and the penalty shall be a fine as set forth in ORS 153.018 Schedule of Penalties.

D: Any properly licensed and permitted commercial or community-wide display of fireworks is exempt from this ordinance.

Section 2. Emergency Clause. This ordinance **being necessary for the preservation of the public health, welfare and safety,** shall be effective ~~on the 30th day following~~ **immediately upon** its adoption and approval by the Mayor.

Passed by the Florence City Council this 7th day of June, 2010.

REQUEST FOR TEMPORARY STREET CLOSURE

Consider approval of the Temporary Street Closure Permit and Parade Permit applied for by the MOOT for the "Rods and Rhodies Car Show" on September 11-12, 2010.

Mayor Brubaker said this was a request from the Merchants of Old Town (MOOT) for a temporary street closure for a special event, the Rods and Rhodies Car Show scheduled for September 11-12, 2010.

Chief Sanders said the city had received a request from Marv VandeStreek representing MOOT for a temporary street closure. He said this is the first major street closure event under the new ordinance that was passed last year. He said there are three different levels to the street closures:

1. Sept. 11, a request that the streets to be closed from 7:00 p.m. – 10:00 p.m. for a car show.
 - a. Sept. 11, a request to close the streets for a street dance from 7:00 p.m. – 10:00 p.m. (at Laurel and Bay streets)
2. Sept. 12, a request to close the streets from 7:00 a.m. – 3:00 p.m. for the car cruise.

Marv VandeStreek-Edwin Kay Bed and Breakfast – Chairman of the Event: Mr. VandeStreek said he was available to answer any questions.

Mayor Brubaker said the staff report states that they are recommending approval of the permit and the City Manager recommends waiver of the application fee for this year. Councilor Roberts said they did a terrific job last year and she was sure they would do that again this year; she was impressed with the information provided in the council's packet.

Councilor Burns moved to approve the event. Second by Councilor Roberts, by voice all ayes, motion carried unanimously.

Mayor Brubaker said the ordinance that was passed last year required the council to request public comment and asked if there was anyone in the audience that would like to address this matter, hearing none they closed the item for public comment and then re-voted on the item.

Councilor Burns moved to approve the event. Second by Councilor Roberts, by voice all ayes, motion carried unanimously.

APPEAL OF DENIAL OF BUSINESS LICENSE APPLICATION

City Council shall hear and make a determination in regard to the appeal of a denial of a business license application for Vidiot Games and More, per Florence City Code Title 3 Chapter 1 Section 9: Appeal

Mayor Brubaker said this was an appeal of a business license application for Vidiot Games and More.

CM Willoughby said as the City Recorder, Pat Heinze denied an application for a business license because our Code that makes her responsible for dealing with these business licenses tells her that she cannot approve the business license to operate as they would be in violation of some other part of the Code. He said when she processes the application for a business license she sends it to the Police Department, Community Development Department and sometimes Public Works for comments about whether a business could operate lawfully or safely in the City of Florence.

He said the reply from the Community Development department indicated that there was a parking issue for this particular business so they could not lawfully operate until they get that resolved which would require a land use process. He said staff is recommending that this be tabled because if you have to make a decision this evening, unless you're prepared to initiate a change to the business license Code to decouple business licenses from the rest of the Code, you would have to deny it that evening. He said it is possible for the council to table this for 90 days which would give the appellant's time to make an application to fix the land use issue and staff is recommending that if they do that promptly they would be able to continue to operate while that land use process is pending.

Councilor Roberts said she was not sure how this got to council; and she didn't know if this is the right time, but when she made a site visit she noted that on the entire footprint of that entire parking lot, there are not any yellow lines to show anyone where to park their cars. She said the restaurant that supposedly requires five parking spaces (the Florence Hot Dogs plus stand); she wouldn't call it a restaurant; he has hot dogs and packages of potato chips laying around. She said it didn't appear that there was very much research done on this in the beginning and she would like to have this set over for more research.

Councilor Burns asked CM Willoughby if it was his recommendation that that the appellant had to go through the normal land use option if they pursue this the fees may vary, and it was within the council's power to allow the business

to operate while their land use application is pending which would make it easier for them to pay this fee; CM Willoughby replied yes. Councilor Burns asked if there was a time limit on this and CM Willoughby stated 90 days which would give them time to get through any of the land use options that may have a deadline. He said if something happens that it has to be extended they could come back to the council and extend it.

Mayor Brubaker said it should be clear and we'll hear from the appellants that if they chose to insist on a decision that evening, because it involves a land use process, the City Manager is recommending denial of the business license. He said if they proceed through the land use process, it means sorting out the parking issue, the City Manager is recommending that you could stay in business while this land use application is going to take place over a period of 90 days.

Chad Ficcadenit (owner of Vidoit Games and More) and Paula Jesse (building owner): Mr. Ficcadenit said this is a parking issue and the impact of his business as far as parking and he didn't think that parking was an issue.

Ms. Jesse said she had been working with the Planning Department on parking and she didn't know that this was an issue. She said she misunderstood, and thought if she asked the business owner at Benny's to let them share parking everything would be okay.

She said it was true that people pull in there and park almost anywhere, and when she was working with Wendy and Melissa they indicated that they might be allowed to use garage spaces as parking spaces. She gave a list of all the businesses that are there to the council. She said a business that pertains to food is automatically considered a full restaurant and that Hot Dogs has two tables in there and she showed a picture of the restaurant. She said people come in there to grab a hot dog and they are out of there. She said if it is 125 sq. ft. for every parking spot, he has 400 sq. ft that he actually uses for a restaurant, but he gets five parking spots and people peddle up, and walk up and rarely stay. She said we have 12 spots and we would be willing to paint those spots.

She said staff told them if they went through the land use process they would have to enforce them to do certain things that would eliminate the parking spaces that they had. She said Melissa and staff encouraged them to appeal rather than try to rearrange the parking. If we review the use from each of the businesses and the offsetting times, you would find that the parking is adequate. She said she does not want to jeopardize her tenant being able to lease the building; we have just gotten the building leased to the point that it will financially support itself. She came to ask the council to take that into consideration.

Mayor Brubaker said that staff has recommended that the council table this for 90 days so they could pursue the land use alternative and stay in business in the meanwhile. When asked if that was acceptable; Mr. Ficcadeniti, replied yes.

Councilor Burns encouraged Ms. Jesse to chalk the parking area within the 90 days and thought she might be able to find those needed parking spaces.

Nickolas Wood from Florence Hot Dog Plus asked if you chalked out the lines in the parking area and if you find 14 does that solve the problem. Mayor Brubaker responded that the council cannot answer that question right now because we rely on the Planning Commission to make those findings first. We would defer to the PC on that. He thought Councilor Burns was suggesting a practical step that could be taken as part of the planning process.

Mr. Wood asked if it requires a permit to chalk out the lines, Mayor Brubaker indicated that the planner was shaking their head no. Mr. Nicolette said if we chalk out the lines and it turns out to be 14 would that take care of the problem? Mayor Brubaker responded that it may very well in the land use process but the council cannot say so tonight until we hear from staff.

Councilor Burns moved to approve to table the decision for 90 days and encourage the appellant to pursue one of the four options available under the land use process and keep the business open if they so choose. Second by Councilor Roberts, by voice all ayes, motion carried unanimously.

JAIL WORK RELEASE PROGRAM

Consider approval of Ordinance No. 10, Series 2010, an ordinance amending FCC Title 6.

Mayor Brubaker said this is an ordinance to establish a jail work release program and a resolution to establish fees for the program.

Chief Sanders said when we classified the jail a couple of years ago one of things that we started seeing was when the judge gave sentences greater than 6-10 days, he would allow the inmates to serve their sentences on weekends so they could continue to work at their regular jobs, which allowed them to pay their fines and their drug and alcohol recovery costs. He said people have to pay up front or they don't get out on work release. He said the beauty of this proposed program is that it could be implemented for the first court date in July.

Councilor Roberts said she was always looking for ways to make money for the city and she thought \$10.00 was not very much for them to pay to keep their jobs. Chief Sanders said the amount could be started wherever the council wanted; staff was concerned about making the fee too high where they could not afford to pay it and the fees can be updated by resolution.

Councilor Xavier asked if the police officers would be doing spot checks on the inmates during work release and Chief Sanders replied yes, and added that it could also be done by anyone from the police department who would check to see if they are at their worksite. She didn't want to see anyone skip from their work release. Chief Sanders said there are rules that they sign off on to be allowed into the program, this just reduces the paperwork for officers.

Councilor Xavier said when observing the judge she could see that he tries very hard to have those that come before him to accept responsibility for their crimes. She then referred to the ordinance and the third, Whereas, "it is in the interest of the community for the court to keep these offenders employed so they can *pay the time* that they owe and she wondered if that didn't need to be changed to *serve the time* and wanted to make that clear for the ordinance. Chief Sanders said they would make that change.

Mayor Brubaker called for the first reading of Ordinance No. 10, Series 2010, an ordinance amending FCC 6-2 Jail Regulations authorizing the establishment of work release program application and program fees, as amended. CR Heinze gave the first reading. Councilor Burns moved for approval and called for the second reading. Second by Councilor Xavier, by voice all ayes, motion carried unanimously. CR Heinze gave the second reading. Councilor Burns called for adoption of Ordinance No. 10, Series 2010 by roll call; second by Councilor Xavier. By roll call, all ayes, motion carried unanimously.

**CITY OF FLORENCE
ORDINANCE NO. 10, SERIES 2010**

**AN ORDINANCE AMENDING FLORENCE CITY CODE 6-2 JAIL REGULATIONS
AUTHORIZING THE ESTABLISHMENT OF WORK RELEASE PROGRAM APPLICATION AND
PROGRAM FEES**

WHEREAS, the municipal court dispenses justice in an attempt to work with people to not reoffend to make our community safe; and

WHEREAS, the police department provides the services of a local correctional facility for the judge to sentence offenders to serve time for offenses they are found guilty to make our community safe; and

WHEREAS, it is in the interest of the community for the court to keep these offenders employed so they can serve the time they owe, the money they owe, can pay for the costs of any drug or alcohol programs to dissuade them from reoffending; and

WHEREAS, it also is in the interest of the city to insure the efficient use of its resources by reducing officer time in the jail and administering a jail release program that would result in more efficiency.

NOW, THEREFORE, THE CITY OF FLORENCE ORDAINS AS FOLLOWS:

Section 1. Title 6, Chapter 2 is hereby amended as follows:

**Title 6
Chapter 2
City Jail, Prisoner Regulations**

6-2-2-2: Jail Work Release Application and Participation Program Fees:

A. The Chief of Police may provide the opportunity for sentenced inmates who qualify to spend time at their regular places of employment while in the custody of the Florence City Jail as part of a Work Release Program.

B. Any sentenced person may apply for the Work Release Program upon payment of an application fee at the time of submission of the completed application. The fee is non-refundable.

C. The application fee is required for every sentence of time to be served in jail by the court.

D. Any sentenced person who is approved for the Work Release Program must pay the fee assessed for participation in advance of any work week. The fee is non-refundable.

E. The Work Release Program application fee and the Work Release Program participation fee shall be determined by resolution of the City Council.

Section 2. This ordinance amendment shall be effective 30 days after its passage by the Council and signature by the Mayor.

Consider approval of Resolution No. 14, Series 2010, a resolution establishing jail work release program fees.

Chief Sanders offered that the same amendment would be made to the resolution as was made to the ordinance in replacing the word *pay* with the word *serve*.

Councilor Burns moved to approve Resolution No. 14, Series 2010, a resolution establishing jail work release program fees. Second by Councilor Roberts, by voice all ayes, motion carried unanimously.

**CITY OF FLORENCE
RESOLUTION NO. 14 , SERIES 2010
A Resolution Establishing Jail Work Release Program Fees**

WHEREAS, the municipal court dispenses justice in an attempt to work with people to not reoffend to make our community safe; and

WHEREAS, the police department provides the services of a local correctional facility for the judge to sentence offenders to serve time for offenses they are found guilty to make our community safe; and

WHEREAS, it is in the interest of the community for the court to keep these offenders employed so they can serve the time they owe, the money they owe, can pay for the costs of any drug or alcohol programs to dissuade them from reoffending; and

WHEREAS, it also is in the interest of the city to insure the efficient use of its resources by reducing officer time in the jail and administering a jail release program would result in more efficiency; and

WHEREAS, the Florence City Code requires that the City Council establish fees by resolution for a Work Release program.

NOW, THEREFORE, BE IT RESOLVED by the Florence City Council that the Work Release Program Application fees shall be determined to be ten dollars (\$10) and the Work Release Program Participation Fee shall be ten dollars per day (\$10) and a maximum of fifty (\$50) per week.

This resolution will be effective immediately upon adoption.

SIUSLAW INTERPRETIVE CENTER PROJECT

Consider approval of Resolution No. 15, Series 2010, a resolution exercising the power of eminent domain, if needed for the Siuslaw Interpretive Center Project.

Mayor Brubaker said this resolution would exercise the power of eminent domain, **if needed.**

ACM Morgan said she thought it was important to include the wording, “if needed,” because we are putting something in place just in case we need to utilize it. She said for the Siuslaw Interpretive Center we have hired Right-of-Way Associates to assist the city in acquisition of the Barnett property. They have conducted and finalized the property appraisal and now they are ready to make an offer to the Barnett’s who live in California. She said because we’re using federal and state funds for this acquisition we have to have a resolution of eminent domain on the books just in case we cannot come to an agreement on the purchase price of the property. She said if you pass this resolution that evening the next step would be for Right-of Way Associates to make a just compensation offer which is what the appraised value came to. She said staff had discussed this with each individual councilor and because we are in negotiations staff would not be releasing the appraised value at this time. If we offer the just compensation, the property owners will have between 40-60 days to accept that offer. If they want to counter with a higher amount, staff will come back to the council and discuss that and decide if the city wanted to go into the commendation phase of this. She said passing this resolution does not say we are going to take over ownership of the property, but it does put something in place if it comes to that.

She said at this time we have willing property owners that want to entertain an offer so staff is hoping that it will not go to condemnation.

Mayor Brubaker said we don’t have to use this, but it is something to have on the books that is required by the process. ACM Morgan said it is specific to this property only; we do not have a blanket resolution on the books. Mayor Brubaker asked if this would be an acquisition that would be done by the city and ACM Morgan replied that was correct.

Mayor Brubaker said this is part of a due process requirement that we have for the use of grant money and for a very justifiable public purpose.

Mayor Brubaker asked for comments from the council or anyone in the audience, hearing none he moved forward with a motion.

Councilor Roberts moved to adopt Resolution No. 15, Series 2010, a resolution exercising the power of eminent domain, if needed for the Siuslaw Interpretive Center Project. Second by Councilor Xavier, by voice all ayes, motion carried unanimously.

**CITY OF FLORENCE
RESOLUTION NO. 15, SERIES 2010**

A RESOLUTION EXERCISING THE POWER OF EMINENT DOMAIN

WHEREAS; The City of Florence in Lane County, Oregon may exercise the power of eminent domain pursuant to Chapter II Section 4 (2) (a) of the Florence City Charter and the Law of the State of Oregon generally, when the exercise of such power is deemed necessary by the City of
City Council Minutes – June 7, 2010

Florence's governing body to accomplish public purposes for which the City of Florence has responsibility; and

WHEREAS; The City of Florence has the responsibility of providing streets and roads for commerce, convenience and to adequately serve the traveling public; and

WHEREAS; The project or projects known as the Siuslaw Interpretive Center has been planned in accordance with appropriate engineering standards for the construction, maintenance or improvement of streets or roads such that property damage is minimized, transportation promoted, travel safeguarded; and

WHEREAS; to accomplish the project or projects set forth above it is necessary to acquire the interests in the property described in "Exhibit A", attached to this resolution and, by this reference incorporated herein; now, therefore

NOW THEREFORE BE IT RESOLVED THE CITY OF FLORENCE

Section 1. The foregoing statements of authority and need are, in fact, the case. The projects or projects for which the property is required and is being acquired are necessary in the public interest, and the same have been planned, designed, located, and will be constructed in a manner which will be most compatible with the greatest public good and the least private injury;

Section 2. The power of eminent domain is hereby exercised with respect to each of the interests in property described in Exhibit A. Each is acquired subject to payment of just compensation and subject to procedural requirements of Oregon Law;

Section 3. The City of Florence's staff and the City Attorney are authorized and directed to attempt to agree with the owner and other persons in interest as to the compensation to be paid for each acquisition, and, in the event that no satisfactory agreement can be reached, to commence and prosecute such condemnation proceedings as may be necessary to finally determine just compensation or any other issue appropriate to be determined by a court in connection with the acquisition. This authorization is not intended to expand the jurisdiction of any court to decide matters determined above or determinable by the Florence City Council. The City of Florence expressly reserves its jurisdiction to determine the necessity or propriety of any acquisition, its quantity, quality, or locality, and to change or abandon any acquisition.

Section 4. It is further resolved that pursuant to the Intergovernmental Agreement for Right of Way Services, No. 24854 approved on October 24, 2008 that the Oregon Department of Transportation and the Attorney General shall perform the duties of staff and counsel set forth in paragraph 3 above.

Section 5. This Resolution shall become effective immediately upon its adoption.

PROCLAMATION OF ELECTION RESULTS ON LOCAL MEASURE 20-167

Certifying the results of local measure 20-167 a measure proposing Florence annexation to the Siuslaw Fire and Rescue District.

Mayor Brubaker proclaimed that the City Recorder had canvassed the votes of the election results on Local Measure 20-167 as certified to the City by the County Clerk and the total number of votes cast for this measure on May 18, 2010 were:

Yes - 2,068

No - 1,003

INITIATIVE AND REFERENDUM

Consider approval of Ordinance No. 11, Series 2010, an ordinance modifying FCC Title 1 Chapter 5 to become compliant with State election laws.

Mayor Brubaker said this is a housekeeping matter on this ordinance. CM Willoughby said the last time this ordinance was used was when the citizens came forward with a referendum on the gas tax. He said some issues came up with regard to our ordinance not being in compliance with State Election law and staff felt that this needed to be fixed before another initiative or referendum came before the council. He said the discrepancies had to do with an appeal of the ballot title, our ordinance directed that the appeal come before the City Council; but the statutes say that it should go to the Circuit Court and they would finalize the ballot title.

Mayor Brubaker asked for any comments from the council or anyone in the audience, hearing none he moved forward with the adoption of the ordinance.

Mayor Brubaker called for the first reading of Ordinance No. 11, Series 2010, an ordinance modifying FCC Title 1 Chapter 5 to be in compliance with state election laws. CR Heinze gave the first reading. Councilor Burns moved for approval of the first reading and called for the second reading. Second by Councilor Franzen; by voice all ayes, motion carried unanimously. CR Heinze gave the second reading. Councilor Burns moved for adoption of Ordinance No. 11, Series 2010 by roll call; second by Councilor Xavier. By roll call all ayes, motion carried unanimously.

CITY OF FLORENCE ORDINANCE NO. 11, SERIES 2010

AN ORDINANCE MODIFYING FLORENCE CITY CODE TITLE 1 CHAPTER 5 TO BE IN COMPLIANCE WITH STATE ELECTION LAWS.

WHEREAS, the City wishes to bring its Initiative and Referendum Elections code into compliance with state law.

NOW, THEREFORE, the City of Florence ordains as follows:

Section 1. Title 1, Chapter 5 is hereby amended as follows:

TITLE 1 CHAPTER 5

INITIATIVE AND REFERENDUM

- 1-5-1: Proposal by Petition or Resolution
- 1-5-2: Filing of Prospective Petition
- 1-5-3: Ballot Tile Preparation
- 1-5-4: Petitions, Signature Verification
- 1-5-5: Election:

1-5-1: A. Proposal by Petition or Resolution Filing of Prospective Petition Ballot Title Preparation
Petitions, Signature Verification Election:

PROPOSAL BY PETITION OR RESOLUTION:

Definitions: For purpose of this chapter, the following words have their assigned meaning:
"Elector" shall mean a legal voter of the City.

"Measure" shall mean a legislative enactment by the Council which is not necessary for the immediate preservation of the public peace, health or safety; any part of such an enactment; or a proposed legislative enactment for the City. The term includes a municipal ordinance, a charter amendment, or any other legislative enactment within the power of the City to adopt.

"Petition" shall mean in an initiative or referendum petition by one or more electors requesting that a proposed measure be submitted to the electors of the City for approval.

"Regular election" shall mean those City elections held at the same times and places as biennial primary and general state elections on the dates provided in ORS 221.230(1).

"Special election" shall mean an election called by the Council other than a regular election.

B. Complete Procedure: The initiative and referendum powers of the City and its electors with respect to proposed measures shall be exercised in accordance with the provisions of this chapter, and not otherwise. Insofar as not governed by the city charter, special ordinances, or this code, elections shall be conducted in accordance with the state laws governing elections. State statutes governing the exercise of the initiative and referendum power do not apply to exercise of these powers by the City or its electors.

C. Initiative and Referendum Power:

1. An elector may initiate a measure by filing a complete and proper initiative petition proposing the measure and requesting that it be submitted to the electors of the City for approval.

2. An elector may refer a measure passed by the Council by filing a complete and proper referendum petition within thirty (30) days after the measure has been ordained requesting that it be submitted to the electors of the City for approval.

3. At the session in which any proposed measure is approved by Council, the Council may order its submission to the electors of the City for approval. Such a submission does not require compliance with the provisions set forth in this chapter relating to petitions or special election dates except as otherwise expressly provided.

D. Requisite Number of Signatures: The number of verified signatures required for an initiative petition is fifteen percent (15%), and for a referendum petition ten percent (10%), of the total number of votes cast for all candidates for Mayor at the last regular preceding municipal election when circulation of the petition begins.

1-5-2: FILING OF PROSPECTIVE PETITION:

A. The Initial Filing: Prior to circulation for signatures of any petition, a prospective petition shall be filed with the City Recorder, together with a copy of the measure that it seeks to have submitted to the electors. In addition, the petition's proponent shall submit the names and addresses of not more than three electors under whose sponsorship the petition has been prepared and is to be circulated; or, if the sponsor is an organization, its name and address and the name and address of each of the principal officers of the organization.

B. Form Verification: When a copy of a prospective petition is filed in accordance with subsection A, within five (5) business days the City Recorder shall immediately review it for the legal sufficiency of the form in which it appears. If the petition is in improper form, the City Recorder shall immediately advise the petition's proponent of the defects in the form and how to make it proper. If the prospective petition is in proper form, the City

Recorder shall immediately transmit a copy to the City Attorney for preparation of a ballot title; the original shall remain on file with the City Recorder.

1-5-3: BALLOT TITLE PREPARATION:

- A. Time for Preparation: The City Attorney shall prepare the ballot title according to state law for the proposed measure within five (5) business days after the Council orders the submission of a measure to the electors for approval or after a prospective petition is first filed with the City Recorder and verified as to form.
- B. Ballot Title: The ballot title shall be completed to meet statutory requirements. In addition, meet the following requirements:
- C. The ballot title for a measure shall state truly and impartially the purpose of the measure in language that is not argumentative and does not tend to create prejudice concerning the measure. The ballot title shall not resemble, so far as to create confusion, the ballot title for any other measure to be submitted to the electors at the same election.
- D. In addition to the ballot title, measures proposed by initiative petitions shall bear the designation "Proposed by Initiative Petition"; measures referred to the electors by petition shall be designated "Referendum Ordered by Petition of the People"; and, measures submitted to the electors by the Council without petition shall be designated "Submitted to the Voters by the Council".
- E. Upon completion of the ballot title, the City Attorney shall transmit the same to the City Recorder for filing. A copy of the ballot title shall immediately thereafter be furnished to the proponent of the petition.
- F. Appeals: Any elector dissatisfied with the ballot title prepared by the City Attorney may appeal the prepared ballot title by filing an action in circuit court as provided by state law to the Council by a written appeal deposited with the City Recorder within five (5) business days after the ballot title is returned to the City Recorder for filing. The appeal shall ask for a different ballot title for the measure and state why the ballot title prepared and filed is unsatisfactory. Within three (3) business days after filing of the appeal, the Council shall, either in regular or special session, afford the appellant a hearing and either approve the title as prepared or prescribe another ballot title for the measure. The title thus adopted shall be the ballot title for the measure.

1-5-4: PETITIONS, SIGNATURE VERIFICATION:

- A. Petition Circulation: After the petition and ballot title for a measure have been determined, the petition may be circulated by the proponent among the electors of the City for their signatures. No signature upon a petition may be counted unless a completed petition was filed with the City Recorder within one hundred (100) days of the date of the signature.
- B. Signature Sheets:
 - 1. Each sheet of signatures for a petition shall contain the complete ballot title for the measure, and there shall be attached thereto a full, correct and legible copy of the proposed measure.
 - 2. Each sheet of signatures for a referendum petition shall in addition contain the number of the ordinance or resolution to be referred, if any, and the date upon which it was adopted by the Council.
 - 3. Each sheet of signatures for a petition shall list the name and residence address of not more than three (3) persons designated as chief petitioners.
 - 4. Not more than twenty (20) signatures on each signature sheet may be counted. Each elector signing a petition shall date the signature and also provide, legibly,

his or her full name and residence address.

5. Each signature sheet shall be verified on its face by the signed statement of the person circulating the petition that the individuals who signed the petition did so in the presence of the circulator and that the circulator believes that each individual is an elector registered in the City.
 6. Each signature sheet shall contain instructions adopted by the Secretary of State for persons obtaining signatures and, as required by state law, shall contain a statement as to whether one or more circulators will be paid.
- C. Petition Filing: When the requisite number of signatures have been obtained, the completed petition may be filed with the City Recorder. Substantial compliance with the requirements of this section shall be sufficient and aA petition shall not be rejected as improper or incomplete for reasons of technical or clerical errors as to form which do not call into question the genuineness of the signatures or the consent of the electors signing.

1-5-5: ELECTION:

A. Election Date:

1. Within ten (10) business days after a completed petition is filed with the City Recorder, the Recorder shall verify the number and genuineness of the signatures and voting qualifications of the persons signing the petition by reference to the registration books in the office of the county clerk of Lane County. If a sufficient number of qualified electors have signed the petition, the Recorder shall so certify and accept the petition. If, however, the Recorder determines that an insufficient number of qualified electors signed the petition, the petition shall be returned to the proponent as incomplete.
2. The election date for a measure required to be submitted to the electors by a proper and complete petition shall be the first regular or special election held more than ninety (90) days after the date on which the City Recorder certified the petition as complete.
3. The election date for a measure submitted by the Council to the electors for approval shall be on the first regular election held more than sixty ninety (690) days after the date the ballot title is filed with the City Recorder; provided, however, the Council may call a special election and place the measure on the ballot. Such special election shall be not less than sixtyfifteen (1560) days from the filing of the ballot title.

B. Notice of Election:

1. The City Recorder, pursuant to directions from the Council, shall give notice of each regular or special election with respect to a proposed measure by publishing a notice thereof once each week, for two successive weeks immediately preceding the election, in a newspaper of general circulation in the City, and also by posting the notice, at least ten (10) days prior to such election, in a conspicuous place in the City Hall and in one public place in each voting precinct of the City. The notices of election shall state the time, place and purposes of the election, and the ballot title and number of each measure to be voted upon at the election.
2. The City Recorder shall furnish the elections officer of Lane County a certified copy of the ballot title and number of the measure to be voted upon at the election in conformity with the time limits and other requirements established by the laws of this state.

C. Voting Procedure:

1. On a ballot, a measure shall appear by ballot title only, with the prescribed language indicating whether the measure is by initiative petition, referendum

petition, or submission from the Council. The sequence of measures to be voted upon shall be the sequence in which the respective measures were filed with the City Recorder.

2. The manner of voting upon measures submitted shall be the same as now is or may
 3. Hereafter be provided by law. No measure shall be adopted unless it receives the affirmative majority of the total number of legal votes cast on such measure and entitled to be counted thereon.
 4. If measures relating to the same subject matter or containing provisions that are conflicting are submitted to the electors at the same election and two or more of them are approved by the electors, the measure receiving the greatest number of affirmative votes shall be proclaimed to be the law adopted.
- D. Canvass of Votes: The votes on measures shall be counted, canvassed and returned in the manner prescribed by charter for state and county special elections, whichever is applicable.
- E. Effect of Measures:
1. A measure submitted to the electors pursuant to this chapter shall take effect upon approval by the electors and canvass of their returns by the CouncilCity Recorder, unless the measure by its terms specifies a later date of effect.
 2. A measure adopted by the Council but subject to a pending referendum for which a proper and complete petition has been timely filed with the City Recorder shall have no effect unless and until it is approved by a majority of the electors voting upon it.
 3. Where conflicting measures are approved by the electors at an election, only the paramount measure shall take effect.
- E. Unlawful Acts: No person shall: circulate or file with the City Recorder a petition which he or she knows contains a false or invalid signatures; procure or attempt to procure a signature to a petition by fraud or false statement; or, make or file a document provided for by this chapter which he or she knows contains a false statement; or, pay or receive valuable consideration for procuring a signature to a petition. Each violation of this section shall be punishable by a fine of not more than \$300.00 or imprisonment in the City jail for not more than 150 days, or both. (Ord. 10 Series 1985)

Section 2. This ordinance shall become effective 30 days after passage by the Council and signature by the Mayor.

COURT OF RECORD

Consider directing staff to prepare the ordinance declaring the municipal court a court of record and prepare the declaration to the Supreme Court of Oregon that the City satisfies all standards for qualifying as a court of record.

Mayor Brubaker said this was a follow up and discussion from our Budget Committee meetings where the committee recommended that the Council look at the possibility of our court becoming a court of record.

CM Willoughby said the city has an option of making the Municipal Court a court of record. He said to do that we have to set up a system that captures and records the official proceedings to be able to make transcripts because the appeal would go to the court of appeals. The problem with taking the appeal to the circuit court is that there is no record. If someone appeals to the circuit

court it is what is called a trial de novo; or you redo the entire trial, which means our prosecutor and usually one or two of our police officers go to Eugene for a two or three day trial for which we pay overtime.

He went on to say that there are a lot of benefits from becoming a court of record and referred to the information in the council packet that was provided by the City Attorney from Beaverton. He said there are thirteen reasons listed in the information along with the cost of having to prosecute a De Nova appeal. It is much better to have one trial, make a record and then send that to the court of appeals on issues of law. The facts are decided by the jury and judge in one trial and it goes on to legal issues the same as it would from a circuit court. He thought everyone agreed that it is better to keep the police officers in Florence than having them spend time in Eugene for another trial on an appeal.

He said the only question is the cost of putting the system together to capture the record that allows us to make the transcript to send to the court of appeals. He said the research that has been done by staff shows that it could cost between \$600 and \$12,000. He said St. Helen's put a system together for \$600 and Lake Oswego spent a lot more than that. He said he thought the city could do it for a lot less than Lake Oswego and what he was asking for that evening was the opportunity to get specific proposals to put this equipment together and come back to the council with what that cost would be.

He said the budget committee put \$2,000 in the budget for next year for this; if we can put the system we need together for around \$2,000 or less then staff would come back with the ordinance and resolution that would be needed to implement this. He said at this point he didn't want to spend any more time on this in terms of what it would actually cost until the council has given staff some direction.

Councilor Burns said he thought staff should go forward with the investigation of the prices.

Mayor Brubaker said with the information that they had received, he felt it was worth pursuing as a matter of policy. He said our court handles more than traffic citations; they handle criminal cases that can be appealed to the circuit court of appeals with all the requirements of de novo. He said he had spent a little time on the geography during the budget deliberations and preparation for this evening and there are not a lot of cities our size in the State of Oregon that are as far away as we are from our county seat. We are 63 miles away, it makes sense from a process standpoint as well as an efficiency standpoint as well to implement this.

It was the consensus of the city council by "thumbs up" for staff to move forward with the staff recommendations.

REPORTS

CITY MANAGER REPORT

Finding an Interim Finance Director or Consultant

CM Willoughby updated the council on the status on finding an interim finance director or consultant who would help the city set up a long term financial plan for the city. He said this is made necessary because FD Armstrong had given his resignation and would be leaving June 30th. The long term financial plan is something that came out of the council's goals in terms of wanting to have better information about the sustainability of the programs that the city has and the city's ability to avoid what a lot of other government entities are facing which is a financial crisis. He said the city is not in the situation with our budget this year but we identified a number of issues that down the road, are going to impact our finances and when we are aware of those things the prudent thing to do is put together a financial plan and make sure that we can continue to pay for our personal services costs for the employees that we have now and we can deal with issues like the increase in PERS that will be coming next year.

CM Willoughby said his proposal was to find an interim finance director who would work full time or a consultant that would work at least three days a week to begin the process of putting that financial plan together. He said the time frame requested by the council and was discussed by the budget committee in the last couple of weeks is to finish the budget in June and then immediately after that start the process of developing that long term financial planning. He said the budget committee talked about having a budget planning committee that would include members of the budget committee and the city manager to work with the interim finance director/consultant to put together a draft plan and then bring it first to the budget committee and then ultimately to the council for approval before December of this year.

CM Willoughby said once that plan is approved by the city council it would then lead directly to the start of the budget season for next year.

He said the purpose is to spend more time talking about these issues that there isn't time to do during a normal budget process where you have a few weeks to put a balanced budget together but take the time we need to, to take a really hard look at some of the issues that came up this year.

Status Report on Finding an Interim Finance Director/ Consultant

He said both he and FD Armstrong are working through a variety of sources, such as the municipal finance directors association, the League of Oregon Cities interim finance director list, and Waldron, a temp agency for municipalities. FD Armstrong said he had contacted several other companies in Eugene and North Bend to see if they were aware of anyone that might be interested. CM Willoughby said through that process they have come up with one consultant who is available July 1st and the city expects a proposal from her tomorrow.

He said he would be setting up a meeting when he returns from vacation so he can discuss it with her in more detail. He said he hopes to have someone selected before David's last day which is June 30th.

Mayor Brubaker said the council should not interfere with administration, but he suggested that a finance director with Oregon experience would be preferable.

Replacement for Lis Farm – Marketing Director at FEC

CM Willoughby said he would like to update the council on the plan to replace Lis Farm, who had been the Marketing Director at the FEC for eight years. He said the council has a goal of not replacing employees without having a plan in place, and analyzing whether it is necessary to replace that person and then reporting back to the council on that analysis. He said one of the areas that the budget committee had discussed was the impact to the FEC's budget in six years when the bonds are paid off and the county is no longer contributing funds some of which have gone to the operations of the FEC.

He said we are talking about an interim position for replacing Lis temporarily. He said that is significant as we will be looking at the sustainability of the operations at the FEC in the next six months and the personal services costs.

He said staff is proposing to advertise in the range of \$18.00-\$22.00/hour for a part-time position not to exceed 32 hours a week. He said when/if we find a person that would meet the needs for doing the work, they would have that person employed through Cardinal temporary services. Even paying the markup through Cardinal it is still less expensive, with a savings of up to \$9.73/hour. He said even if we find someone with more experience and we wanted to pay the \$22.00/hour with the administrative markup it still saves us over \$4.00/hour. He said this would allow the city to have this person work at the FEC on out of area marketing; attend meetings with out of the area meeting planners, oversee the advertising of the FEC events; work on the Centerstage publication along with event planning. He said this position is critical in assisting the Friends of the FEC and putting on the Winter Folk Festival; as the planning for that event is taking place now. He said it is important to select a temporary replacement as soon as possible and he didn't think we could wait for the long term financial plan.

Mayor Brubaker said that Lis had been serving on CVALCO tour Lane County Board; he asked if this contract employee would represent the city on that board or would it fall to another city employee. CM Willoughby said that ACM Morgan was serving on a number of economic development committees and he thought in the interim she could serve on this Board as well.

Mayor Brubaker asked how much time was spent soliciting meetings versus the other part of the job description. He said we've had a hard time getting conferences here without a conference hotel on the property if there are some golden opportunities they could be pursued, but if ACM Morgan was going to be participating some of the leads might be coming through Jacque as well.

Mayor Brubaker asked if it was the plan to have that temporary position filled by the end of June. CM Willoughby said the goal was to have someone on board by July 1st.

Councilor Xavier said she wanted to clarify that it was the plan to have this person be a temporary employee until after the long range plan was completed so we can see how this fits with the overall financial plan. CM Willoughby

replied, yes and he didn't want to hire someone now for 32 hours and have the long term plan indicate something different and have to cut back or lay someone off. He said this position could be through this calendar year.

MAYOR AND COUNCIL REPORTS

LCOG Board of Directors Meeting in Florence at FEC

Mayor Brubaker announced that on June 24th the city was hosting the Lane Council of Governments Board of Directors (LCOG) for their bi-monthly meeting at the FEC. He was hopeful that all councilors could attend and he would like to have it published as a special meeting so all the councilors could be in attendance if they were available.

Oregon Mayor's Association Conference – July

Mayor Brubaker requested approval from the council to spend up to \$600 so he could attend the Oregon Mayor's Association annual meeting in Cottage Grove at the end of July. He said this is one of the two meetings the council has budgeted for. The council approved Mayor Brubaker's request.

Scotch Broom

Councilor Roberts thanked the staff again, for pursuing the scotch broom and she hoped the city would get compliance with that.

Chamber of Commerce Report

Councilor Roberts said we have a marketing agreement with the Chamber of Commerce which requires them to give the city various reports and we are suppose to receive information on or about June 1st related to financial areas and the marketing of the city. She asked if staff had received anything.

ACM Morgan replied no, but that she had attended the Chamber Board meeting last Thursday and reminded them about the report and they said they would have a marketing services report by June 10th which is this Thursday, and it would be turned into the finance director's office.

She said on August 2nd the Chamber would be attending the council meeting to do a yearend report on how they spent their current \$45,000 that was allocated to them. She said at that time the council will decide how much the city will allocate to them for the next year.

Councilor Roberts reminded staff that the agreement indicates that the report that is supposed to be submitted shall be independent of any request for any money; therefore, the request for money should not be included in this report in August.

Fire Annexation Election

Councilor Burns said he would like to thank CM Willoughby, ACM Morgan, staff and to the Mayor for the great job on the fire annexation election which passed by a 67% approval rating.

Urban Renewal Meeting

Councilor Xavier said we will have an Urban Renewal meeting on Wednesday night they have 14 applications for projects in the district and invited everyone to attend.

Parks and Recreation Master Plan Public Information Meeting.

Mayor Brubaker reminded the audience that tomorrow evening, June 8th, the Parks and Recreation Master Planning Committee was holding a public information session at the FEC from 5 – 7 p.m.

With no further business, Mayor Brubaker adjourned the meeting at 9:13 p.m.

Phil Brubaker, Mayor

ATTEST:

Pat Heinze, City Recorder