

MINUTES

Eugene City Council
McNutt Room—Eugene City Hall
777 Pearl Street—Eugene, Oregon

May 10, 2010
5:30 p.m.

PRESENT: Alan Zelenka, Mike Clark, Betty Taylor, Andrea Ortiz, Jennifer Solomon, George Poling, Chris Pryor, George Brown, members.

A. COMMITTEE REPORTS AND ITEMS OF INTEREST FROM MAYOR, CITY COUNCIL, AND CITY MANAGER

Mayor Piercy reported on her attendance at the recent graduation ceremonies for Fire & EMS Recruit Class 12 on May 3 at the Emergency Services Center at 2nd Avenue and Chambers Street. She congratulated the City's first all-female firefighter recruit academy, noting the recruits were members of the department's cadre of single-role medics that were given the opportunity to qualify for and be hired as regular fire fighter/paramedics after the single-role service was discontinued because of budget considerations. She also congratulated Planning Division staff on the success of the Envision Eugene process and anticipated the council would discuss the process at a work session scheduled for May 24.

Continuing, Mayor Piercy reported that Voodoo Doughnuts had opened in downtown and she was hearing very good reports. She said she had attended the grand opening of BCG Tech Lighting on May 7 and the installation of memorial benches at the Bailey Hill Road Safety Plaza in memory of Vaclav Hajek on May 8.

Mayor Piercy reported that National Train Day had been observed locally, and she recognized the work of Intergovernmental Relations Director Brenda Wilson in organizing the event, which she found very enjoyable. She indicated that the event was designed to keep the community focused on high speed rail and trains in Oregon. Mayor Piercy said she had also attended the opening of the *Tie Dye and Tofu* exhibition at the Lane County Historic Museum and recommended the exhibition to all. She announced the council's work session on the taser policy scheduled for June 9.

Mayor Piercy concluded by announcing that the Wayne Morse Family Farm would hold its annual open house from 1 p.m. to 4 p.m. on May 15.

Mr. Clark reported he attended the recent Eugene Police Department commendations and awards ceremony on April 28 and wished everyone had the chance to hear some of the stories shared at that event, such as that about the officer who apprehended a kidnapping suspect and very likely saved the intended victim's life. He said he would like to see that presentation occur on a larger scale in a bigger forum so more people had the chance to see what officers did. He also thanked Interim Planning and Development Director Scott Luell for assisting him with a constituent issue.

Mr. Zelenka announced the Metropolitan Policy Committee meeting would occur on May 13 at the Bascom-Tykeson Room at the Eugene Library. He announced the upcoming Fairmont Neighbors meeting at Laurel Hill Golf Course on May 18, and the Laurel Hill Valley Citizens meeting on May 20.

Mr. Zelenka complimented staff for the clarity of the presentations at the first Envision Eugene events at the Eugene Hilton.

Ms. Ortiz said she attended a Healthy Living Conference in California put on by the National Association for Latino Elected and Appointed Officials. She had also attended some listening sessions regarding neighborhood issues and Bob Chadwick had assisted in that process, which had been helpful. She thanked City Manager Ruiz for introducing Mr. Chadwick's model. She also attended a police listening session with the communities of color at the Bascom-Tykeson Room and she thought those in attendance got a lot out of the session.

Ms. Ortiz reported that she also attended the taser forum and heard much good citizen input. She attended the recent Communities of Color First Fridays event sponsored by the City and School District 4J. She announced that the Lane Regional Air Protection Agency would meet the next day and the Air Toxic Monitor was in operation at Petersen Barn. A forum would be held for people to express concerns about air quality and other issues at the same location, and she would share the date and time when it was known.

Ms. Ortiz also congratulated the members of Fire & EMS Recruit Class 12.

Mr. Pryor thanked the mayor for attending the Bailey Hill Road Safety Plaza event and commended the quality of the plaza and associated improvements. He reported he had been unable to attend the event because he instead attended the Opportunity Conference, an event which was constructed around the work of Donna Beagle. Ms. Beagle created a system whereby low-income residents were matched with mentors who could help them build the skills they needed and make important contacts. He believed it could be a pioneering project for the community.

Mr. Poling said he also attended the graduation ceremony for Fire & EMS Recruit Class 12 and commended the recruits for the amazing feats they accomplished. He agreed with the remarks of Mr. Clark about the EPD commendation ceremony and suggested it would open eyes in the community if more residents were able to hear about the acts of both officers and the ordinary citizens who chose to become involved.

Mr. Poling said the Harlow Neighborhood Association meeting would occur on May 19, and the candidates remaining after the primary election would be invited to speak.

Mr. Brown reported he had attended a Human Rights Commission process session and a meeting of the Police Commission Use of Force Subcommittee. He also attended the EPD commendations event and heard inspiring stories about citizens and officers who stepped up to do the right thing. He said he had attended the community counseling fund raiser the past weekend, which benefited the counseling center on Coburg Road.

Ms. Solomon reported that the Active Bethel Citizens would meet on May 26 at 7 p.m. at Petersen Barn. City Manager Ruiz would speak at the meeting.

Ms. Taylor had attended the EPD commendations and suggested the Council Chamber was a good location for the event. She had also attended the first session of Envision Eugene at the Eugene Hilton. She said the Art Walk was enjoyable and the most recent City Club meeting had been interesting, with the topic of "Speed Dating the Candidates" for the Lane Board of County Commissioners. She announced

that the Southeast Neighbors were meeting on May 11 and the agenda included a panel discussion on the Eugene Comprehensive Lands Study.

City Manager Ruiz said he and Mayor Piercy met Roger Gray, the new Eugene Water & Electric Board general manager, who would attend the June 16 work session to meet the council. He was happy to welcome Mr. Gray.

Mayor Piercy anticipated the council would hear more about the community engagement process for Envision Eugene and encouraged councilors and residents to attend future sessions.

B. WORK SESSION:
Ordinance on Downtown Urban Renewal Plan Amendment

City Manager Ruiz called attention to a motion provided at the council's places and indicated it was intended to provide staff with clear direction.

The council was joined by Planner Amanda Flannery Nobel for the item. Ms. Flannery Nobel provided a PowerPoint presentation entitled Proposed Urban Renewal Amendment Review of Comments. The presentation included background on the recent past, background on the plan amendment, and a summary of the comments received.

City Manager Ruiz recommended that the proposed oversight committee be appointed by the council and staff would return with a proposal for how that process would work.

Mr. Clark, seconded by Ms. Taylor, moved to direct the City Manager to return on May 24 with a) the proposed ordinance, plan, and report for final approval; and b) a proposal for how members would be chosen for the oversight community called for by the Urban Renewal Plan.

Mayor Piercy solicited comments from the council.

Ms. Solomon commended the work done by staff in regard to outreach. She determined from Ms. Flannery Nobel that the lot across Olive Street was owned by PeaceHealth and would be part of the property leased to the Veterans Administration (VA) if the VA selected a downtown location for its new hospital.

Ms. Ortiz determined from Ms. Flannery Nobel that the money now allocated to the Farmers Market would not be spent on anything else if the Farmers Market chose not to move forward with the project.

Mr. Poling confirmed with Denny Braud of Planning and Development Department that the slide depicting the Lane Community College (LCC) property was for illustrative purposes only. Mr. Braud said the depiction was detailed and cost estimates were based on it.

Mr. Poling said citizens expressed concern that LCC would not increase its student capacity, but he understood from his discussions with Lane Community College president Mary Spilde that there would be new student capacity and there was a need for it. He suggested the boundary would not expand if the VA did not choose a site in the district. City Attorney Glenn Klein said that subject was being discussed with bond counsel. If the VA did not select the site, the City could choose not to receive tax increment dollars from the expanded area that encompassed the site. Mr. Klein said that staff was exploring the question of whether the plan could be structured in such a way that amending the plan would not require an extensive amendment process but could be accomplished through a resolution to change the plan to remove the area in question. Mr. Poling did not want to see the district expanded if the VA did not choose a downtown site.

Mr. Poling spoke to a letter the council had received from the Lane Board of County Commissioners criticizing the council's actions in regard to the use of urban renewal dollars and suggested the board was again "dangling the public safety carrot" by threatening the loss of deputies and jail beds. He asked how many commission aides could be hired by \$200,000. He suggested that if the commissioners could find money to hire themselves assistants, they could find the money to fund jail beds. Ms. Solomon concurred.

Speaking to the board's suggestion that the council seek its concurrence on its future decisions, Mr. Clark suggested that the council might ask to weigh in on some of the board's future decisions. He did not think the board's letter was useful, particularly in regard to the veiled threat it contained, but he believed the issues involved could be worked out.

Mr. Clark asked City Manager Ruiz if staff had quantified the impact of tax increment financing on School District 4J. He observed that it would cost the district \$100,000 if the City terminated down the district. City Manager Ruiz estimated that the district received an additional net \$117,000. Mr. Clark noted concern on the part of some school board members about that subject, and asked that City Manager Ruiz forward the relevant information to the board. City Manager Ruiz agreed to do so.

Mr. Brown questioned if the council should move forward with the proposal. He noted the testimony offered by former City Councilors Bonny Bettman McCornack and Paul Nicholson, who questioned the legality of the plan, as did he. He believed that the proposal violated Oregon Revised Statute (ORS) 457.450(2) and (3). He wanted to know when the City became aware that the debt was paid on all projects in the district, or when it knew it had sufficient funding to pay the debt. Financial Analysis Manager Sue Cutsogeorge did not recall when the specific calculation was done, but indicated that information was provided to legal counsel in March 2010.

Mr. Brown asked when the City knew it had enough money, saying that once the City knew that, by statute, it was supposed to inform the County Tax Assessor of the fact and return any money left over to be returned to the affected taxing districts. That had not been done. Mr. Klein said the statute cited by Mr. Brown had been revised as of January 2010. It did not stipulate what happened when a City was in the middle of an urban renewal plan process that would provide for additional spending authority. He explained that the statute was crafted before there was a concept of maximum indebtedness and was later amended to include the concept. The council had subsequently decided the City would pay no more than \$33 million. At some point in the last year the City received sufficient money to pay the maximum indebtedness, but the statute allowed the City still allowed the City to amend the maximum indebtedness amount to allow additional spending. The statute did not speak to whether the City must give notice to the Tax Assessor if it was in the middle of the process of amending the plan.

Continuing, Mr. Klein said he had consulted with bond counsel regarding the application of the statute in this circumstance, and it was not clear. The statute had been amended to indicate that if the council did not amend the plan in the current fiscal year, it would alert the County that it had sufficient funding to pay the debt as part of the notice the City gave the County annually each July. The City would not be able to identify the exact amount in question until the Urban Renewal Agency (URA) records were audited after the end of the fiscal year. Mr. Klein said that some people believed that at the same time a city gave notice that it had reached the funding limit, not only did tax increment cease, the plan and district terminated. The statute did not say that. The notification provision addressed tax increment, but the urban renewal agency had the authority to spend other funding, such as the Downtown Revitalization Loan Program. Even if tax increment ceased, the plan continued. Mr. Klein said that if the City gave notice today it would still have authority to adopt the plan amendment as the plan remained in effect until it was terminated. He said the statute did not speak to the argument offered by opponents, and there were no court cases interpreting the statute.

Mr. Brown disagreed with the conclusions reached by Mr. Klein. He found the statute "perfectly clear" and found no ambiguity in the statute.

Mr. Zelenka said he specifically asked the City Manager Ruiz if the City was on good legal ground

moving forward and he was assured that the City was on firm legal ground and the City Attorney looked into the question raised by Mr. Brown. He said "that was why we have legal staff." He asked staff to elaborate on the response from School District 4J. Ms. Flannery Nobel indicated that 4J financial staff had indicated its concurrence with the City's analysis.

Mr. Zelenka said a citizen commented that the City could use urban renewal to pay for capital projects, but the garage was an existing debt rather than a new debt and could not be a capital project and hence the use was inappropriate. Mr. Klein said that if the project was a completely new project that had not yet been funded by urban renewal or outside the district he would agree, but the parking garage property was initially assembled by the URA, and URA had already contributed more than \$2 million toward the project.

Mr. Zelenka said he found irony in the letter from the Board of County Commissioners, who asserted the City was taking away money from jail beds when the City was actually funding more jail beds and putting more money for police services "on the street." He suggested the issue would be worked out and it could be that the City purchased the jail beds from Lane County. He recalled past examples of partnership between the two entities.

Mr. Zelenka called the council's attention to the op-ed piece he co-authored with the mayor in support of the proposal, which appeared in the Sunday May 9 edition of *The Register-Guard*.

Mr. Pryor agreed the council needed to have its legal questions answered but he thought the proposal was in the community's best interest and the funding proposal was the best way now to revitalize downtown and increase public safety without increasing taxes. It was a way to provide livability and quality of life enhancements in regard to the Farmers Market. In addition, it had the added benefit of being something the council could sunset in a shorter time than it could a bond.

With regard to the communication from the Lane Board of County Commissioners, Mr. Pryor suggested the board would do what it would do and the council would do what it would do and they would maintain a good working relationship without letting such side issues get in the way. He did not think the council should allow itself to be distracted from reaching its goals.

Ms. Taylor thought the City was moving in the wrong direction. She believed the council should have been given all the comments made by the public directly rather than be referred to a book in the City Manager's Office. She referred to some of the negative comments made by the public, which included recommendations the City terminate the district immediately and then evaluate the use of the funds in a transparent manner. Another critic contended that the district had become a self-perpetuating bureaucracy, and she agreed. Ms. Taylor pointed out that urban renewal was intended to cure blight and eventually terminate, but she had counted 38 properties that were identified as blighted after 42 years of urban renewal. She further pointed out that the current proposal did nothing to address the blighted areas.

Ms. Taylor was happy to hear from the Board of County Commissioners and believed that it was the board's obligation to speak up. She said the money involved was not free. It was tax money and it cost someone something. She was opposed to any extension of time, any increase in the debt limit, and any boundary expansion. Ms. Taylor suggested the council ask the public to vote on the proposal and said she would go along with it if the public agreed.

Mayor Piercy believed the council had an honest difference of opinion that was part of the policy-making process. She expressed appreciation for all points of view. She noted that that many of the public

comments spoke to the blighted conditions people perceived downtown. Many people suggested that downtown was not worth working on until the City had solved other problems downtown. However, Mayor Piercy believed the City would be remiss not to do its utmost to move forward to address downtown conditions, including the downtown "pits" and downtown public safety issues addressed, and said those were the purview of the City to solve. She agreed with Ms. Taylor that the money was not free but had been carefully accumulated in the district for such purposes.

Mr. Brown spoke to ORS 457.170, which described a URA's powers, and suggested the City would violate the provision by paying off the debt for the parking garages and then using the money freed up to hire more police officers downtown. There was nothing in the statute that suggested that tax increment funds could be converted to general fund dollars. He described the purposes of a URA as contained in the statute and said the statute did not address the subject of paying debt on a pre-existing urban renewal project. Mr. Brown maintained that the statute was clear as to what was allowed and what was not allowed. He said the City had other ways to increase public safety without employing the district. He said that \$800,000 could be used to hire police officers and rent jail beds with money left over to address homelessness and hunger.

Mr. Zelenka recalled that the council received public comment that was overwhelmingly in support of the plan. He said the proposal included four great projects that could produce jobs downtown and that could be accomplished without the need to raise taxes or harm the schools. He said the tax increment financing mechanism was the cheapest of those the council looked at. The next least expensive option, the existing resources option, would require the council to cut \$500,000 from the General Fund. He considered that a bad choice that did not make sense. He questioned why the council should spend more money and increase taxes because some people did not like the funding mechanism.

Mr. Zelenka thought the council needed to be clear that it did not have unlimited "do-overs" for downtown. He thought failure would mean that it would take years to achieve anything downtown.

Ms. Taylor thought downtown had suffered from 40 years of urban renewal and asked why urban renewal had not worked to this point. She reiterated that the public should be asked to vote on the proposal being contemplated. She suggested the open pit associated with the project could be filled with existing resources. She determined from staff there was \$22 million in the Facilities Reserve and suggested that those funds could be employed if the council chose, and it would not cost the City anything to use that funding. Ms. Taylor acknowledged there was some urgency about LCC's plans that could be hampered by a public vote, but she suggested that the Facility Reserve could be used for that project and the voters could decide on the use of urban renewal for the other three projects.

Ms. Taylor asked how much it cost to survey the buildings downtown to determine if they were blighted. City Manager Ruiz said the work was done by staff, and the cost was paid for by urban renewal funds.

Mr. Clark said he was not a big fan of how Eugene used tax increment financing in the past. However, he believed the proposed plan, while not perfect for everyone, had elements that accomplished things that he thought made it worth accepting. He specifically cited the proposals related to downtown public safety as an example.

Mr. Pryor spoke to the fact not a lot had happened downtown, and suggested it was because there had not been an idea that people could all get behind. He did not think the City had been in a position to find consensus in the past, but he believed that at this time the City was in a unique position to move forward. He agreed that urban renewal was not a perfect tool but he thought it could be good if not great. He was

encouraged that the City could move forward with something good in downtown for the first time in 30 years.

Mayor Piercy said that when the City hired legal staff, it asked that staff to give the council legal advice that would keep it out of trouble. She did not think Mr. Klein was giving the council advice that would get it in trouble with the law. She suggested the council needed to rely on its legal counsel for the best legal advice it had to offer after its many years of experience. She agreed that the law might not be fully established, but she did not think the City was proposing to do anything against the law.

Mr. Brown said the council was presented with four options: 1) existing resources, 2) a levy, 3) a general obligation bond, or 4) urban renewal. The council did not examine a revenue bond option, which would not raise taxes or require a vote. He believed there were many other choices for the use of existing resources as well.

Mr. Brown said he was getting tired about hearing that urban renewal did not hurt schools. He related that he spoken on the telephone with John Phillips of the Oregon Department of Revenue and exchanged e-mails with Brian Reeder, Assistant Superintendent of Analysis and Reporting at the Department of Education, who both concluded that schools were not made whole in spite of the State's best efforts, and that it was a net loss to the entire system. Every single school in Oregon suffered as a result.

Mr. Brown recalled the last attempt to increase the district's borrowing capacity, which failed on the ballot, and said at that time opponents estimated that \$465 per student would be lost as a result of all urban renewal districts in Oregon. He did not think it was okay to cost students that much money just because Portland used urban renewal.

City Manager Ruiz recalled that a revenue bond was included in the existing resources option.

Mayor Piercy pointed out that the council had the ability to select any option.

Mr. Brown agreed that the letter from the Board of County Commissioners was full of misconceptions about urban renewal, but he believed the City could hold the County harmless given how distressed the County organization was. The City diverted \$200,000 in revenues from the County every year because of urban renewal and while that did not seem like much in the City budget, it was a lot of money for the County. He said the County could use the money for what ever it wanted. He believed it was the County's money. Mr. Brown was opposed to the plan in any form but suggested it would be more popular with the voting public if the City held the County harmless. He suggested that could be accomplished by eliminating the element of the plan related to the VA site, which he termed an aspirational fantasy.

City Manager Ruiz clarified that in the absence of urban renewal, the County would have received \$150,000 in fiscal year 2010. Mr. Brown said he saw different figures every meeting. The amount of the amendment had fluctuated since last summer. He had asked how much was left in the downtown district and he heard \$3.5 million once and \$4.5 million another time.

Mr. Zelenka reviewed the letter from the Board of County Commissioners, which estimated the County's loss at \$150,000, and said he would take the County's word. He suggested that the question was one of who the City held harmless. Holding the County harmless would harm the schools. He preferred to hold the schools harmless. He was surprised at the notion of turning the Eugene Facilities Reserve into the LCC Facilities Reserve, as suggested by Ms. Taylor. That seemed inappropriate to him.

Mr. Zelenka said the opponents of the proposal were suggesting the Lake Oswego schools get better funding rather than Eugene having the four projects. The proposal did not raise taxes, did not hurt the schools, and achieved the four projects. He believed that the proposal gave the City a vision for downtown with a funding mechanism that made sense.

Ms. Ortiz left the meeting.

Ms. Taylor wanted to know the objection to placing the item on the ballot. City Manager Ruiz suggested that was a council policy decision. He said that it was not up to him to decide. Ms. Taylor pointed out that City Manager Ruiz made the recommendation that the issue not go on the ballot.

Mr. Clark suggested that framing the discussion as pitting the interest of the County against the interest of the City was unfortunate. He believed that if one was to look at the issue from a broader point of view, having a revitalized downtown LCC campus served all County residents, as did a safer downtown. If the City was able to secure the VA Clinic downtown, it would serve veterans on a regional basis, and he believed the community owed veterans that service. He pointed out the Farmers Market drew people from around Lane County. He suggested the council keep a broader perspective in mind.

Mayor Piercy added that the council was acutely aware of the County's financial state because it affected everyone profoundly. She believed the City had tried to be a good partner to the County in dozens of ways, and the City had cooperated with creative solutions. She believed that all understood that they lived together in the County and each jurisdiction's problems affected the other.

Mr. Pryor concurred with Mayor Piercy and with Mr. Brown that the council was in poor financial shape. He said if there were ways the City could work with the County to make it whole to the degree possible, he would support that. The County served the same citizens the County did. However, he did not want that to occur at the expense of something else.

Mr. Pryor pointed out the council frequently dealt with financial issues but did not refer them all to the ballot. He further pointed out that the citizens had the right to refer the issue. He noted that the City did not put the condemnation of the Beverly and Green properties out for a vote, and that action had involved a financial decision.

Mr. Brown asserted that if the council did not adopt the plan, everyone's taxes would go down.

Mr. Brown referred to page 157 of the Agenda Item Summary, and pointed out that the voters voted on urban renewal throughout the 1990s and had been supportive. He suggested the best way to come to consensus was to let the voters decide.

Mr. Brown requested an update on the plan to buy the building across from Lane Community College at 1059 Willamette Street. City Manager Ruiz recalled the council's most recent direction not to pursue acquisition of the building. Mr. Brown asked why it was mentioned in the plan on page 23. Ms. Flannery Nobel indicated the reference could be taken out, recalling the plan was drafted in the middle of February and had not been updated since.

The motion passed, 5:2; Ms. Taylor and Mr. Brown voting no.

Mayor Piercy adjourned the work session at 6:57 p.m.

Respectfully submitted,



Jon Ruiz,
City Manager

(Recorded by Kimberly Young)

