

CALL TO ORDER The Regular meeting of the Seaside City Council was called to order at 7:00 PM by Mayor Don Larson.

Present: Mayor Don Larson, Councilors Don Johnson, Jay Barber, Stubby Lyons, and Tita Montero.

Absent: Council President Tim Tolan and Councilor Larry Haller.

Also Present: Mark Winstanley, City Manager; Dan Van Thiel, City Attorney; Dale Kamrath, Seaside Fire Chief; Kevin Cupples, Planning Director; Bob Gross, Seaside Police Chief; Jeff Nelson, KAST; Nancy McCarthy, Daily Astorian; and Shari Phiel, Seaside Signal.

AGENDA Motion to approve the September 13, 2010, agenda; carried unanimously. (Lyons/Barber)

APPOINTMENT – CITY COUNCIL Mayor Larson stated he was going to make a motion for the appointment of Tita Montero to fill the position of David Moore’s Council position Ward 2 for the remainder of the 2010 year.

Motion to appoint Tita Montero to serve as City Councilor Ward 2 until December 31, 2010; carried unanimously. (Lyons/Johnson)

Mark Winstanley, City Manager, swore in City Councilor Tita Montero and congratulated her.

PROCLAMATION Councilor Lyons read a proclamation on Constitution Week.

COMMENTS – PUBLIC Erin Barker, 2300 Lewis and Clark Rd., Seaside, stated she supported keeping the speed bumps on North Holladay by the Seaside High School.

Mary Blake, Sunset Empire Parks and Recreation District General Manager, along with JudyAnn Dugan who was a Board Member for Sunset Empire Parks and Recreation District, presented a check for \$5,000.00, which was a contribution towards the development of Goodman Park in Seaside.

Mayor Larson stated every time he had driven by Goodman Park there were many children playing on the new climbing rocks that had been installed.

CONFLICT Mayor Larson asked whether any Councilor wished to declare a conflict of interest.

No one declared a conflict of interest.

CONSENT AGENDA Motion to approve payment of the bills in the amount of \$543,209.31; and August 23, 2010 minutes; carried unanimously. (Lyons/Barber)

PUBLIC HEARING – APPEAL PLANNING COMMISSION This was the duly advertised time and place to hold a public hearing regarding an Appeal of a Planning Commission Denial of Major Partition at 2964 Keepsake Drive.

Mayor Larson asked if any of the Councilors wished to declare an exparte contact or conflict of interest." (If an exparte contact is indicated, the nature of the contact and a summary of the information must be disclosed by the individual, for the record.)

Councilor Barber stated he had spoken to one neighbor in the area which was just coincidental to his living in the community.

Mayor Larson stated he spoke with a Planning Commission member after the first meeting when there was a tie vote on the appeal and found out the motion was a denial because of the tie vote.

Mayor Larson stated "The following public hearing requirements applied to the land use decision on the agenda:" The applicable criterion for the hearing was listed in the information provided by staff for the agenda item in the original staff report. Testimony and evidence shall be directed toward the applicable criteria listed by staff or other criteria in the plan or land use regulation, which you believe applies to the decision. Failure to raise issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals on that issue. Individuals wishing to offer testimony would be called to the microphone and asked to state their name and address for the record. The applicant would testify first, then any other individuals in favor of the request, followed by any one in opposition to the request. The applicant would be given time at the end for rebuttal. Please keep your comments directed toward the issue at hand and try to avoid redundancy. In an effort to allow anyone interested in testifying sufficient time to speak, Council plans to limit each person’s time to no more than 10 minutes. Mayor Larson further stated he would now ask the Planning Director to provide information about the request.”

Kevin Cupples, Planning Director, explained the applicant had appealed the Planning Commission’s denial of a Major Partition request which would have allowed the division of a duplex (two attached dwelling units) within the Medium Density Residential (R-2) zone.

The Planning Commission denied the above referenced request after a motion to approve the applicant's proposal failed due to a tie vote (3 to 3) by the Commissioners present. The chairman announced that the tie vote was the denial of the agenda item; therefore, there was no further deliberation or action concerning the item. A copy of the Commission's decision, the original staff report, written information submitted during the hearing, and a subsequent letter from Mr. Casterline were also attached for review in Councils packets. Mr. Cupples further stated the Council would make a final decision. In case of a tie vote, staff would ordinarily suggest the Council simply remand the action to the Planning Commission for further deliberation; but in this case, the City Council needed to render a final decision on or before their meeting October 11, 2010, to meet the 120 day time limit to render a final decision. A remand would be further complicated by the fact one of the current Planning Commission members had resigned, leaving only six members. Therefore, staff suggested the Council review the information and take any additional public testimony prior to making their final decision.

John Dunzer, 2964 Keepsake Drive, Seaside, stated his home was a single family home and there were seven lots on his street with three duplexes. According to the R-2 Zone the lot would be large enough to split and build on if there were plans drawn up and submitted to the Planning Department. The Planning Director made changes with the line according to standard conditions and issued a staff report for approval. There was a letter sent out to the property owners who lived within one hundred feet of Mr. Dunzer's property which stated if there were any questions or concerns he would be happy to try and answer them and there were not any questions or concerns received. Prior to the hearing he received a letter from James Casterline who was an attorney and was retained by four of the seven property owners on Keepsake Drive. The letter stated the private covenants, conditions, and restrictions (CC&Rs) requirements would not be met which was the minimum requirement of sixteen hundred feet and minimum requirement for a garage. Mr. Dunzer further stated the Planning Director had stated at the hearing that it was not necessary to have complete plans at the particular stage of the partition but would be worked out in the process when going forward with the building permits. The partition would allow an owner to be put into the unit that was to be built rather than a renter. Mr. Dunzer further stated the development would benefit the community to have an ownership of a property instead of a rental and there was room for eleven cars to park on the property. Mr. Dunzer further stated the only real issue that seemed to be a concern by one of the Planning Commission members was that it was not morally right to build on the property and there was some trouble with the words morally right because he had done everything according to the City's rules and the community CC&Rs. The plans for the property would not be taller or bigger than what already existed and the property owners seemed to be upset with the idea of the project being built. Mr. Dunzer further stated he met all the regulations and rules with the CC&Rs and did not know why the project had become so controversial. Mr. Dunzer further stated there would not be any variances or zone changes and he was obeying the law. The Building and Planning Department seemed to understand the project but the neighbors were against the plans because they did not want to see a change even though there were already three duplexes in the neighborhood.

Mayor Larson asked about the CC&Rs being an item of discussion for the Council.

Dan VanThiel, City Attorney, stated the CC&Rs were private matters between homeowners.

Mayor Larson opened the public hearing.

James Casterline, 842 Broadway, Seaside, stated the neighbors had desperately been trying to speak to Mr. Dunzer about the project. There had been a real effort to deal with the problem of changing the character of the neighborhood dramatically. Mr. Casterline further stated he still did not understand what was going on with the property and had received plans in the mail on a couple of occasions from Mr. Dunzer and the drawings were interesting and contradictory. There was not a real understanding on how the project would work and what was realistic. The footprint would be much larger than what was on the existing property at this time. The CC&Rs were not relevant to Council consideration and were the homeowners problems if this came to litigation. Mr. Casterline further stated the project would not improve the neighborhood and would not be a public benefit. There was a beautiful property owned by Mr. and Mrs. Dunzer which would be changed into something not nearly as desirable or valuable and would change the character of the neighborhood.

Colleen Chandler, 2955 Keepsake Drive, Seaside, stated she lived down the street from the Dunzer's and Mr. Dunzer's home was beautiful and he was a great builder. Mr. Dunzer did not like the house because of the garage across the street which was there when he bought the house. There was no room to build on the property and had already cut off and infringed on the privacy of the other side by making the house a three story. Ms. Chandler further stated property owners asked Mr. Dunzer to explain but he had decided the owners were too stupid to understand and threw a fit and decided he would do what ever he wanted and did not care what the property owners thought. Ms. Chandler further stated the area was lovely and peaceful and the two other duplexes were designated and built that way and were not invasive. Mr. Dunzer does not have enough property to build the project and the City did not need more housing which was not selling and would ruin the neighborhood. Ms. Chandler further stated she enjoyed her home and Mr. Dunzer did not and did not want to live in Seaside and wanted to change everything.

Ken Gurian, 2952 Keepsake Drive, Seaside, stated he owned the first property on the street and was part of what used to be a duplex and was now a zero lot line. There were regulations and firewalls that needed to be added to the property Mr. Gurian owned so that he could sell the side of the duplex to another owner.

Mr. Gurian further stated Mr. Dunzer's plans would not benefit the area and would not look right. There would be parking problems and most of all the property would not sell and the information provided for the project was not a valid reason to build.

Mr. Dunzer stated he had plans that showed the project he wanted to build. Mr. Casterline had received copies of many alternatives there were to building on the property and each time was told that it just could not be done. The existing footprint was not built safely and the new plans would not be one inch higher or one inch closer than what the existing property was now. Mr. Dunzer further stated right now he looked across the street at his neighbor's garage doors which were always up and had added a screen to block the view of the neighbor's garage. Mr. Dunzer further stated he had tried to explain to neighbors and was told each time that the project could not be done. The project could be done and there were many ways it could be done.

There were no other public comments and Mayor Larson closed the public hearing.

Mayor Larson asked for Council comments.

Councilor Johnson asked if the request were anywhere else in the City would there be a problem.

Mr. Cupples stated within the R-2 zone which was when Mr. Gurian had done his proposal there was a provision created for a zero lot line. There was a provision in the R-2 zone that did allow for building onto a property. With the CC&Rs which were treated differently because of the subdivision that had its own regulations. Strictly from a zoning ordinance stand point there were provisions in the R-2 zone that allowed a duplex to be created with a two hour firewall and then coming in and separating along the line provided the requirements for lot frontage was met. This was a major partition with the property because a private access would be created to get to the other property.

Councilor Barber stated the big challenge that he had struggled with was sorting out what Mr. Dunzer's rights as a property owner were and what the rights of the neighbors around him were. What were the issues that indicated livability in the neighborhood? Councilor Barber further stated he had reviewed the information with his own personal perspective in mind and how he would feel if he lived on either side of Mr. Dunzer. Councilor Barber further stated he would be very upset only because he would have moved to the neighborhood because of the quality and livability of Keepsake Drive. What Mr. Dunzer was proposing was to change the density and the amount of human bodies that would live in the neighborhood and had every right to do that without further permission because of the R-2 zones.

Mayor Larson stated Council did not need to think about the words "bad market" which really had nothing to do with the project. This was an R-2 zone which allowed for the building of the project. The Planning and Building Department would not issue a plan without being one hundred percent accurate as far as building codes and land use laws. There were already duplexes built in the neighborhood and years ago this was most likely not an issue. Mayor Larson further stated Council was obligated to follow the land use laws with R-2 zones. The CC&Rs were not Council's decision.

Councilor Montero stated she agreed with Councilor Barber that the area was beautiful and if she were living in the neighborhood there would be some difficulty with the project being done. Councilor Montero further stated she also understood what Mayor Larson had stated that Council had an obligation.

Dan VanThiel, City Attorney, stated a decision needed to be made.

Motion to accept the appeal and approve the plans to precede with a major partition 10-023MP to divide existing property at 2964 keepsake Drive into two lots within the Medium Density Residential (R-2) zone and to enforce any conditions brought before the Planning Commission; carried with the following roll call vote: (Johnson/Larson)

YEAS: LARSON, JOHNSON, MONTERO
NAYS: BARBER, LYONS
ABSENT: TOLAN, HALLER
ABSTAIN: NONE

RECESSED

Council recessed at 8:00 PM

RECONVENED

Council reconvened at 8:05 PM

**PUBLIC HEARING –
PARKING DESIGNATION
LOCATIONS**

This was the duly advertised time and place to hold a public hearing regarding No Parking Designation Locations.

Bob Gross, Seaside Police Chief, stated at the previous Council meeting there had been a discussion about no parking designations and recommendations made by the Police Department.

Those recommendations included “No Parking” signs should be extended on South Beach Drive from Avenue ‘G’ to Avenue ‘U’ on the east side of the roadway, extend the “No Parking” signs on South Columbia from Avenue ‘I’ to Avenue ‘N’ on the east side of the roadway where sidewalks end and parking does not create problems with two-way traffic, the “No Parking” signs should remain on South Downing from Avenue ‘A’ to Avenue ‘K’ on the east side of the roadway, where sidewalks end and parking does not create problems with two-way traffic. In addition “No Parking” signs should be placed on the south side of Avenue ‘G’ between South Beach and South Franklin and “No Parking” signs should be placed on both sides of the street between South Franklin and South Roosevelt, the parking needed to be restricted on the east side of North Franklin on both sides of 12th Avenue, 100 feet using signage and yellow curbing and add one additional “No Parking” sign just west of Necanicum Drive before the curb cut in. Chief Gross further stated eliminating and limiting parking in the recommended areas should make traveling much safer and ensure emergency response by both police and fire vehicles. Chief Gross further stated at the City Council meeting on August 23, 2010, Council recommended a public hearing be held and there were public comments made at that meeting concerning mail boxes and mail delivery. There were fifty-five mail boxes on the west side of Beach Drive and Chief Gross spoke with the post master who confirmed if there were cars parked in front of the mail boxes the mail would not be delivered.

Mayor Larson opened the public hearing.

Robert Pinson, 1271 S. Columbia, Seaside, stated he was against at least part of the proposal with a petition that was signed from people that lived on South Columbia between Avenues ‘K’ to Avenue ‘N’. The petition was gathered this afternoon and Mr. Pinson was surprised to learn this could come to a vote when the item had not been on the table very long and there was very little public notice given. Only one neighbor on South Columbia had heard about the item on the agenda. There was value in changing some parking restrictions but there were only a few days of the year during the summer when there was overflow parking which took up both sides of the street and caused parking problem. Mr. Pinson further stated there was no logic in creating an inconvenience to home owners who would not be able to park adjacent to their homes for the small advantage the restrictions would create. People who paid for the installation of sidewalks should not be punished by not allowing parking in front of their homes. Mr. Pinson further stated any traffic flow benefitted by the change would easily be offset by similar traffic problems on other streets which were where cars would start parking. Mr. Pinson further stated as long as Seaside was a tourist vacation destination it would be detrimental to force tourist away from Broadway and the beach.

Ms. Barker stated her mother lived on Beach Drive and there should have been more of a study conducted before parking was restricted. Many of the streets had irregular right of ways and some had sidewalks and some did not. Most of the apartments were on the east side of Beach Drive and the on the west side were mostly houses with sufficient parking. There would be more foot traffic crossing the road. Ms. Barker further stated she could appreciate the Police and Fire Departments needing to get to their destinations safely in an emergency.

Tracy MacDonald, 451 Hillside Loop, Seaside, stated he drove most of the streets five days a week and was in support of the 12th Avenue and Franklin portions. There was a comment about three or four days of congestion a year on the streets but there was a lot more congestion throughout the year and especially on the weekends.

Mayor Larson stated there were written comments given to Council to look over and the public notice was advertised in the newspaper for two weeks.

There were no other public comments and Mayor Larson closed the public hearing.

Mayor Larson asked for Council comments.

Motion to postpone the decision and to further review the information to give the public more time to respond and to further advertise the public hearing; carried unanimously. (Johnson/Barber)

Mayor Larson asked if staff would republish the information in the newspaper.

Mr. Winstanley stated the information would be republished and if Council was interested in the possibility of switching the parking from the west side to the east side there would be a notice to let the public know that could be a possibility.

Councilor Barber asked Mr. Pinson how many people on South Columbia used the off street parking.

Mr. Pinson stated everyone had off street parking. Most of the houses had two parking spaces but occasionally families visited from Portland and needed to park on the street since there was not room to park in the driveway.

Mayor Larson stated the no parking recommendations came very heavily from the Police and Fire Department who are out there to save lives. There had been a lot of thought behind the recommendations.

Councilor Montero stated she lived on Sixth Street and the entire east and west streets between downtown and Twelfth Street were pretty much parking on one side of the street only. If the parking had not been that way there would have been a building or two burn down because the fire trucks would not have been able to drive on the street.

PUBLIC HEARING – This was the duly advertised time and place to hold a Public Hearing regarding Amending the Code of Seaside Chapter 152 Updating the City of Seaside Flood Ordinance

ORD. NO. 2010-06 AN ORDINANCE OF THE CITY OF SEASIDE, OREGON, AMENDING THE CODE OF SEASIDE CHAPTER 152 UPDATING THE CITY OF SEASIDE FLOOD ORDINANCE

Mr. Cupples explained the Community Development Department has completed the review and the required updates to the City of Seaside Flood Damage Prevention Ordinance (Code of Seaside Chapter 152). Updating the ordinance was required by the Federal Emergency Management Agency (FEMA) as part of their map modernization project in conjunction with the City's participation in the National Flood Insurance Program (NFIP). Amendments to the ordinance were required to maintain compliance with Federal Regulations, State Building Code, and Planning Goals. Although some of the text in the ordinance could be modified by the City, the amendments must maintain compliance with the minimum State and Federal regulations in order remain in the NFIP. The amended text in the ordinance was identified in bold face and underlined and the deleted text was bold face strikethrough. Mr. Cupples further stated following consideration of any modification that may be necessary based on testimony during the public hearing, the Council should move to have ordinance 2010-06 read "by title only" for its first reading. If the ordinance was read, a motion for the second reading "by title only" would allow for the Council to consider a third and final reading at the next regularly scheduled Council meeting September 27, 2010.

Mayor Larson called for public comments and there were no public comments.

Mayor Larson asked for Council comments and there were no Council comments.

Motion to place Ordinance 2010-06 on its first reading by title only; carried unanimously. (Barber/Montero)

Motion to place Ordinance 2010-06 on its second reading by title only; carried unanimously. (Montero/Barber)

**PRESENTATION –
SUNSET EMPIRE
TRANSPORTATION
DISTRICT**

Cindy Howe, Sunset Empire Transportation District Director, stated after some really hard work from many people and careful thoughtful planning the Sunset Empire Transportation District was successful in receiving a three million dollar connect three grant to build a transit center, child care facility, and food pantry in Seaside. Ms. Howe requested the Mayor appoint a committee that would be very short lived that could identify and focus in on the matrix of properties that would be the best place in Seaside to establish a transit center, child care facility, and food pantry. Ms. Blake was very instrumental in helping to put everything together and give directions.

Mayor Larson stated the Ad Hoc Committee would consist of five people who would help select a property located in the City of Seaside.

Ms. Howe stated that was correct and there would be criteria that needed to be followed and there had been discussions about several different properties in Seaside already.

Ms. Blake stated the reason why the Sunset Parks and Recreation District was involved was because of the vision and mission which helped define communities. This was when partners were brought together to help each other and there would be opportunities to apply for block grants to help with the food bank and other recreational services.

COMMENTS – COUNCIL Councilor Johnson welcomed Councilor Montero on board.

Councilor Barber reminded the public there was a second annual Abundance Fest on Saturday, September 25, 2010, which would be a fundraiser that benefitted the Community Gardens.

Councilor Montero thanked the Mayor and Council for appointing her.

COMMENTS – STAFF Dale Kamrath, Seaside Fire Chief, thanked the Council and public for all the money that was raised for Muscular Dystrophy and at the Game Night for the Seaside Fire Department.

ADJOURNMENT The regular meeting adjourned at 8:38 PM.

Kim Jordan, Secretary

DON LARSON, MAYOR