

**CITY OF PILOT ROCK  
COUNCIL MEETING**

**January 3, 2012**

**7:00 PM**

**A. Call to Order**

The regular meeting was called to order by Mayor Virginia Carnes at 7:00 PM. Council members present were Kacie Moss, Annie Tester, Michael Baleztena, George Hall and Shawna Kirk. Also present were City Recorder Teri Porter, and Police Chief Darren Richman, Samantha Tipler, Mary Lue Slabik, Packy and Helen Doherty and Leonard Burgess.

**B. INVOCATION**

Pastor Harley Jeffers gave the invocation.

**C. PLEDGE OF ALLEGIANCE**

**D. APPEARANCE OF INTERESTED CITIZENS**

Mayor Carnes asked if there were anyone in the audience that would like to address council who are not on the agenda. No one responded.

**E. PRESENTATIONS**

None.

**F-I Public Hearing: Sale of a Portion of City owned Industrial Property.**

Mayor Carnes opened the public hearing by reading the rules for a public hearing (attachment #1). Steve Draper is not present due to medical issues. Mary Lue Slabik asked if she could move up close so that she can hear. She sat just to the right of Virginia but back from the table.

**Mayor Carnes:** Last Thursday we met with our attorney for 2+ hours. We are very aware of the concerns that Mary Lue has, we all have the same paper work. At this point I would be more than willing to take any testimony you may have. We are aware that we will be meeting with our attorney again at a to be determined time. We need to look very closely at the lease/sale contract. If anyone would like to dispute that with me this would be the time to do it. *No one responded. Mayor Carnes then opened it up for public testimony.*

**Mary Lue Slabik:** I am waiting for the Council to explain part of this contract. Is this not on your agenda?

**Mayor Carnes:** Not at this point it is not. We are here to hear public testimony, then

we will speak with our attorney. *Mayor Carnes then asked Mrs. Slabik to sit at the front table so that all could see her.*

**Mary Lue Slabik:** I have several questions that I am sure can be answered by the Council. Regarding the rent of the \$90,000 that A&V Investments are supposedly paying. And regarding the \$54,000 in escrow and supposedly \$36,000 that in my opinion is still owing. I would like Council to explain that to the public.

**Councilor Hall:** Are those questions coming off of this document (attachment #2) (referring to an e-mail from John Taylor) he presented her with a copy. I want to be sure that we are not duplicating.

**Mary Lue Slabik:** No. I have my own set of questions.

**Councilor Hall:** These questions... we have been instructed...this was e-mailed to the council to look at. This is something that we have to take into consideration and answer. So if in fact that is something you are wanting to present you may save yourself some times in case there is some duplication. Does that make sense?

**Mary Lue Slabik:** Yes that makes sense to me. I may have the same ones, but I have not seen this. So what do you want me to do wait until you answer these and then if there are anymore that I don't get answered then I can ask them later?

**Mayor Carnes:** You will more than likely have an opportunity to ask them later. There will not be a decision tonight.

**Mary Lue Slabik:** That is fine. But I still have some questions. I agree with George, probably some of the same things are on here. So I will refrain until you address these.

**Mayor Carnes:** That may be sometime in the future.

**Mary Lue Slabik:** That's all right. There is one question that I have that is not regarding the contract. I understand there is some negotiation between A&V and T-Mobile about putting a tower up somewhere. I want to know is that something that Council has approved and what the terms are and who receives the revenue.

**Teri Porter:** I just want to ask a question first before I answer. Do I understand that it is ok for the public to ask questions and we can answer if it helps them understand the situation better? *Council agreed.* As far as I understand, regarding T-mobile, there has been some inquiry about putting an antenna on the tower. Because we till own the property they have asked the City if they can have access to the property so that they can do whatever their test are to see if it would work. Beyond that I don't know. If the sale goes through then it is a negotiation between A&V and T-Mobile. All I know is that they have asked to get on the property to see if it would work.

**Mary Lue Slabik:** So right now nothing has been done about that and they are still negotiating?

**Teri Porter:** Not with us. They are not negotiating with the City as far as I know.

**Councilor Hall:** They are not negotiating with anyone.

**Mary Lue Slabik:** Thank you, you answered my question.

**Councilor Hall:** *addressing the Mayor: Are we in a position (in audible)*

**Mayor Carnes:** If you would like to address concerns that's fine.

**Councilor Hall:** To answer that question in total the Council first needs to establish a position as to where they are at in relation to all the documents that relate to the property down there. That is not a hedge, because we have to take a look at all the activity that has occurred in relationship to those documents. Who's done what when, was it timely, does it do anything to put the agreement in jeopardy and who is in control of it before we can get involved too much in asking a lot of specifics. Because based on my research, my knowledge and my discussions with other people, those things have to be answered before we can determine who can allow the antenna to be placed on top of the tower, and who is entitled to the revenue, regardless of what somebody may think at this particular point and time. That's the truth.

**Mary Lue Slabik:** I will not come up with anything more, because I have not read this myself. And if I have any more questions hopefully I will be allowed to ask them later.

**Councilor Hall:** The Council needs to approve my next statement. Because of the controversy of the issues concerning this, because of the amount of money and how it affects the community. I don't think we should be completely negative from entertaining, since you have testified if you think of something else out of your notes that you feel (*inaudible*) Johns, that you should be allowed to present those. So if you find something that you would like to ask that is not on this list, or you would like to cause it to stand then write a note, and Teri will be sure it is added to the minutes.

**Mary Lue Slabik:** This is very important to our entire community so hopefully you will do what is right for all of us.

**Mayor Carnes:** Are there any other comments pertaining to this public hearing, be it Council or audience. *No response.* Then I need a motion to close this hearing. *Councilor Hall so moved and Councilor Kirk seconded. All present voted yes.*

**Mayor Carnes:** *addressing Packy Dougherty asked if he had any comments.*

**Packy Doherty:** None at this time.

## **F-2 Mr. and Mrs. Slabik's property and the City Park.**

Teri Porter stated that at the public hearing on December 6<sup>th</sup>, Mary Lue and Ray could not attend. John Taylor presented a map that created some confusion for Council

because Council had understood that the entire tax lot was to be deeded to the City with an easement for the Little League. Mr. Taylors map made it look like that portion was to be donated to the Little League. So that question needed to be answered. Since that meeting Mary Lue and Steve Haddock had come by the office to clear up the matter and they both made it very clear that it just as we understood in the beginning. The entire tax lot is to be deeded with an easement for the Little League. Mary Lue Slabik stated that she now understands that the Little League is a nonprofit and cannot own property. Councilor Kirk made a motion to approve the purchase of the Slabik property for \$1,200 plus all legal, survey and recording fees. The motion was seconded by Councilor Tester. Mayor Carnes asked for further discussion. Chief Richman stated that there is an error in the staff report. The money would come partially from the Park department and a bulk of it from the Economic Development fund. Councilor Baleztena stated for the record that we are buying this because that is what the public wanted. Councilor Hall also commented that 50% of the people (*who attended the public hearing*) don't live in the community. All present voted yes.

## **G-I DEPARTMENT HEAD REPORTS**

Chief Richman's stated that Rachell (*our new officer*) called from the police academy. She passed the 4pat physical agility, dragging dummies, pushups running. She passed all that with time to spare. Which is good.

Chief also stated that he was trying to get a vehicle donated to us from Hines. An Expedition, but they are donating it to a sheriff's office that will use it for DARE. There are a couple of other vehicles they may want to be getting rid of shortly. I will stay in contact with her. If we can get an SUV I will bring it before council to look at to see if we can get it approved and donated to us.

Spoke with Gordon Monk he is going to get a hold of Dry Canyon so that we can finish the installation of the cameras in the park. Will get it hooked up and on internet.

Councilor Hall stated that he and Darren had talked about the SUV and he really agrees that if he can come up with a good deal, even though it may cost us some money to fix it up. Based on the area that they have to cover, and the lack of personnel that the Sheriff's department can provide us in this area. Darren has a lot of calls at the top of Pearson, I think it is worthwhile for them.

Teri Porter stated that she spent a good part of this last week interviewing for the Part time office position and narrowing that down.

Teri also stated that Angel has read over the Ordinance for Low Income water and sewer rates and has found that the recipients need to reapply each year. So she is in the process of reviewing that and will do it every January from now on.

Teri is also getting ready to do W-2's and 1099 for the first time.

Teri said the rest of the items on her list are items that came up in previous meetings so

this is listed to tie up loose ends.

Mayor Carnes asked about the item on Steve list. Teri explained that she did not get much opportunity to meet with Steve and did not get his Dept. Head report, but in the last meeting Paul Ellis pointed out that the flags downtown were not being handled properly. Steve told me that he did light the one flag, but he has no control over the post office and Birch Creek Manor.

Chief Richman added that the Round Up Room is supposedly for sale again.

#### **H. CONSENT CALENDAR**

On a motion by Councilor Baleztena and seconded by Councilor Kirk, Council agreed to accept the consent calendar. Teri Porter pointed out that the Expenses vs Encumbrances report shows year to date instead of monthly. All present voted yes.

#### **I. COUNCIL COMMENTS**

Mayor Carnes asked to come up with a date that we can meet with the City Attorney. After some discussion Council agreed that Monday January 9<sup>th</sup> or Thursday January 12<sup>th</sup> would be acceptable. Teri stated that she would call Councilor Corwin and David and try for the 12<sup>th</sup> if that does not work we would do the 9<sup>th</sup> and let everyone know.

#### **J. EXECUTIVE SESSION**

Council went into executive session at 7:25 pm under ORS 192.660 (2)(i) Performance evaluation and ORS 192.660(2)(a) Employment of a public officer. Present in executive session were Kacie Moss, Annie Tester, Michael Baleztena, Virginia Carnes, George Hall, Shawna Kirk, Teri Porter and Darren Richman

Council came out of executive session at 7:32 present were Kaci Moss, Annie Tester, Mike Baleztena, Virginia Carnes, George Hall, Shawna Kirk, Teri Porter, Darren Richman and Samantha Tipler.

**Councilor Baleztena** inquired about the \$300 a month Koch payments. It was his understanding that someone was going to check on options regarding the contract. He would like clarification if the contract with US Cellular ended would that be the end of the \$300 a month payments. If a new lease was negotiated that clearly stated the tower was not on Koch property and payments should only be made to the City.

**Councilors Hall and Kirk** thought that the entire file was brought to the City attorney to find out how we could proceed they felt that David advised that we should just leave it alone.

**Councilor Baleztena** would like to ensure that we have done all we can.

**Teri Porter** stated that she would get with Steve Draper and find out more about this.

Council discussed issues with the original A&V contact. Some councilors and staff had concerns with the advice they are receiving or not receiving from the attorney as well as

how the contract was written. There was discussion regarding performance issues on A&V's part and whether or not this is the organization we should sell to. Concerns over not having a credit or financial report were also discussed. Council went on to deliberate where we stand now and what are their options. Council agreed that another session with the city attorney was needed and all needed to be present and prepared to asked those tough questions. Teri said she would let council know tomorrow with the confirmed date and time.

**K. ADJOURNMENT**

On a motion by Councilor Baleztena and seconded by Councilor Moss Council agree to adjourn at 8:05. All present voted yes.

**APPROVED**\_\_\_\_\_

**ATTEST**\_\_\_\_\_



# Public Hearing

## Rules for Conducting a Public Hearing

The City Council, in conducting a hearing which will result in a determination as to the permissible use of specific property, is acting in an administrative, quasi-judicial capacity, and all hearings shall be conducted accordingly. Interested parties are therefore entitled to an opportunity to be heard, to be present, to rebut evidence to an impartial court. To have the proceeding recorded and to have a decision based on evidence which is supported by finding of fact as a part of that record.

- a. No person shall be disorderly, abusive or disruptive of the orderly conduct of the hearing.
- b. No proponent or opponent shall speak more than once without obtaining permission from the presiding officer.
- c. No person shall testify without first receiving recognition from the presiding officer and stating his full name and residence address.
- d. No person shall present irrelevant or repetitious testimony or evidence.
- e. There shall be no audience demonstrations, such as applause, cheering, display or signs, or other conduct disruptive of the hearing. Such conduct may be cause for immediate termination of the hearing.
- f. The Council members may question and cross-examine any person who testifies.

## Public Hearing Procedure:

1. **Commence the Hearing:** Announce the nature and purpose of the hearing and the rules for the conduct of the hearing.
2. **Call for Abstentions:** Inquire of the Council whether any member wishes to abstain from participation in the hearing.
3. **Objections to Jurisdiction.** Inquire of the audience whether there are any objections to jurisdiction of the Council to hear the matter.
4. **Staff Report.** City Recorder shall summarize the nature of the proposal.
5. The applicant shall state his/her case.
  - a. Persons in favor of the applicant shall next be heard.
6. **Cross Examination:** Recognize opponents and allow them to submit questions to the applicant.
7. **Opponent's Case:**
  - a. Special organizations formed for the purpose of opposition.
  - b. Persons who received notice of the hearing.
  - c. Person who did not receive notice of the hearing.
8. **Cross examination of Opponents.** Recognize proponents and allow them to ask questions of the opponents.
9. **Public Agencies:**
10. **Rebuttal evidence:** Allow the applicant to offer rebuttal evidence and testimony.
11. **Close the Hearing and Deliberation.** The Council shall deliberate the proposal. Deliberations shall be open to public attendance. The Council shall either make its decision and state its finding or may continue its deliberations to a subsequent meeting the time and place of which must then be announced.

## A&V AGREEMENT DILEMMA

THE FIRST AND MOST IMPORTANT major question-----IS THE ADDENDUM dated November 2, 2011

### VALID or VOID????

If the addendum is valid:

1. According to the addendum, the only items changed on the COMMERCIAL LEASE/OPTION dated July 23, 2010 are:
  - a. item 2, extending the term.
  - b. item 3, taxes
  - c. item 4, insurance
  - d. item 5, rent. Please notice the latter part, quote "in addition to all other obligations of Rent as set forth in said Paragraph 3." Note: the rent is clearly \$90,000 per year.
  - e. Item 6, "All remaining terms and conditions of the original Lease shall remain in full force and effect. To the extent the terms of this Addendum are in conflict with the original Lease, the provisions of this Addendum shall prevail."
2. Therefore, the addendum clearly directs the following information to be used in any proposed agreements.
  - a. the legal description used in the original Lease describes all the property International Paper deeded to the City (as recorded (2005-4780622-- 5 of 13 Umatilla County Records). Includes both wells; the burn pile property (now tax lot 1302); the 4.61 acre parcel (now tax lot 1303) retained by City; and property on both sides of the railroad right- away.
  - b. the rent is \$90,000 per year.
  - c. Section 15 (b) quote, "Lessor will not assign to Lessee and Lessee will not assume Lessor's position under a lease between Lessor and Great Northern Bark Co. Inc. (GNBC). In connection with the GNBC Lease, Lessor retains all right to rents and profits as set forth in Section 3 above"
  - d. Section 17; sales price \$725,000
  - e. Section 17: down payment \$250,000
  - f. Section 21; Default (c) quote, "Failure to exercise the option to purchase and complete Closing on or before June 30, 2011, shall be deemed default without necessity of further notice"

**IF THE ADDENDUM IS VALID, THE ABOVE A THRU F WERE NOT CHANGED.**  
Any proposed agreement must adhere to the items not changed in the addendum.

If addendum is VOID:

1. Fact; The addendum (dated November 2, 2011) was not approved by the City Council by name, therefore it has no force or effect.
2. For your Convenience, the following is from Council Minutes dated November 1, 2011 following the Executive Session.

On a motion by Councilor Corwin and seconded by Councilor Hall. Council agreed to go forward with the A&V Commercial lease agreement. All present voted yes.

On a motion by Councilor Tester and seconded by Councilor Kirk. Council agreed to hold a

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If the Addendum is considered VALID, it would be extremely damaging to the City to go forward with the terms and conditions as stated in COMMERCIAL LEASE/OPTION.

If the Addendum is considered VOID, the COMMERCIAL LEASE/OPTION dated July 23, 2010 was dead on July 1, 2011 because it was not exercised.

Either way, VALID or VOID the conclusion is the same.

Don't hurry, more thought and more public opinion is needed to make the best decision.

At this point in time, please allow me to encourage each City Council member to seriously consider what is best for the Citizens and City, work closely with the City Attorney, resist any and all pressures, and or to validate misconceived ideas or verbal commitments.

**DO WHAT IS BEST FOR THE CITIZENS AND THE CITY.**

Respectfully,  
john taylor