

CITY OF PILOT ROCK

COUNCIL MEETING

November 1, 2011

7:00 PM

A. ROLL

The regular meeting was called to order by Mayor Virginia Carnes at 7:00 PM. Council members present were Kacie Moss, Annie Tester, Ray Corwin, George Hall and Shawna Kirk. Also present were City Recorder Teri Porter, and Public Works Supervisor Steve Draper, Police Chief Darren Richman, Mary Lue Slabik, Eric and Josie Forster, Vera and Lynn Clark.

B. INVOCATION

Mayor Carnes read the invocation.

C. PLEDGE OF ALLEGIANCE

D. APPEARANCE OF INTERESTED CITIZENS

None.

E. PRESENTATIONS

None.

F-1 Public Hearing: Baptist Church Variance

Bob Summerfield of the Pilot Rock Baptist Church approached council with the several variance requests the church needs to enable them to place a mobile building on the property. Mayor Carnes asked if there were any neighbors present that would like to be heard on the matter. Lynn Clark stated that they had concerns regarding the parking lot behind the existing church, since the new structure would not affect that situation they did not have any objections. Council was asked to vote on the intended use. On a motion by Councilor Kirk and seconded by Councilor Tester, Council agreed that the intended use of the proposed structure does meet the City's municipal code. All present voted yes. Next Council was asked to Vacate 15 feet of the Public Right of Way directly in front of both tax lots. Teri Porter explained that the North boundary of the McDevitt subdivision runs right along the Southern property line of the Church's property. This would mean that if the right of way is vacated it would actually revert back to the piece of ground it originally came from, so it would belong to the people across the street. Bob Summerfield explained that those neighbors have been approached and have signed a petition stating that they are willing to deed the property over to the church once the vacation is complete. The Church will pay for any and all expenses related to the vacation and deeding of

the property. Councilor Hall assisted by drawing a picture on the big note pad. Councilor Hall stated that all the right of ways in town are a minimum of 60 feet. The reason for that is so that we have room for curb, gutter, sidewalk and underground utilities. By vacating 15 feet on one side of the right of way it shifts the center of the street to one side. Steve Draper stated that the sewer lines run on Cedar and Birch and the water line runs on the south side of SW 6th st. Steve felt there was enough room for underground utilities and future improvements even if the center of the street shifts 15 feet to the south. Councilor Hall asked for verification that the 15 feet in front of the existing church will go to that tax lot and the 15 feet in front of the lot with the proposed structure will go to that lot. Bob Summerfield affirmed that that is the case. Councilor Hall pointed out that giving the Church that vacated property would also remedy the fact that the concrete ramp to the church currently sits on the right of way. On a motion by Councilor Hall and seconded by Councilor Corwin Council agreed to vacate 15 feet of the public right of way just south of the churches property line on SW 6th. All present voted yes. Steve Draper asked who is paying for the vacate. Bob Summerfield stated that the Church would cover the cost of the vacation. Next Council is being asked for a variance allowing the Church to place a structure on the lot that exceeds the 30% as outlined in the City's ordinance. Bob stated the County informed him that because one lot is tax exempt and the other is not they could not make the lots all one tax lot. After the new building is done and part of the Church they will be able to make it one tax lot. On a motion by Councilor Kirk and seconded by Councilor Tester Council agreed to grant the variance that would allow a 4000 sq. ft. structure to be built on 585 SW Birch. Councilor Hall asked about parking. Bob Summerfield said that there would be no additional parking, the parking lot at tax lot 3901 is big enough, they currently park in front of the current lot and they have permission to park across the street if needed. Councilor Hall asked about the telephone pole and Bob said it is in the public right of way. He also stated that the large maple tree will also stay. Finally Council was asked for a variance at both the Southern and Northern property line. These variances would allow the Church to set the build 5feet on the North side and 6 feet on the South side from the property line rather than 10 feet as the City ordinance indicates. Councilor Tester asked if the property owner on the North side has been contacted. Teri stated that they had been contacted and have signed that they are in agreement with what the Church is doing. On a motion by Councilor Kirk and seconded by Councilor Tester Council agreed to grant a 6 foot variance on the South side once it is deeded to the Church and a 5 foot variance on the North side. Councilor Hall asked if they were going to put up rain gutters and where would the water go? Bob said that was the plan that there is a swale on the west side that would be landscaped and the water would go there. All present voted yes.

F-2 Resolution No. 535

Teri Porter stated that now that Council has consented to vacate the 15feet of the public right of way it is necessary to adopt Resolution No. 535 that she will then record and can move forward with the process. On a motion by Councilor Tester and seconded by Councilor Kirk Council agreed to adopt Resolution No. 535 vacating a public right of way. All present voted yes.

F-3 Application for Variance to operate business out of home.

Josie Forster introduced herself stating that she and her husband Eric moved to Pilot Rock 2 ½ years ago, when they bought the old Stanton place. Prior to living here they she lived in Prineville, Oregon for over 20 years. She has run a Therapeutic Massage business that she has run from an office in her home for over 20 years. When she started that business she went before

the Prineville council to let them know because she feels that is the right way to do it. That is why she is here tonight. But when she spoke to Prineville Council there was no variance code that was changed, she is unsure of the process in Pilot Rock. She presumed her business fell under the same regulatory process as someone who does cake baking, baby sitting, or hair dressing in their home, things of this nature that did not require any physical changes to the home, and did not cause parking or traffic issues. She asked to have a variance explained. Teri Porter stated that she presented it as a variance after she and Chief Richman (Steve was on a leave) had met to discuss how this should be handled in the absence of a City business license. Teri also stated that a variance requires a public hearing and is asking Council if they see any issue with this application before she moves ahead with the public hearing process? Councilor Corwin and Kirk discussed the different citizens that are already running businesses from their home, Josie also stated that she works part time and has one client at a time with their car parking in front of her home and then they leave after the designated time. Josie stated that she has spoken to her neighbors and they are all supportive of what she does, but it is important for her to come before Council and do it right. There is a governing board and she is a licensed Therapeutic Massage Therapist. Councilor Hall brought up that he felt this would fall under Conditional Use. He stated that we need a staff report and the opportunity to review the ordinances that apply to be sure it is presented under the correct heading (Variance or Conditional Use). Council reviewed the municipal code which was included in their packet. Councilor Tester felt that Josie has given us pretty accurate information has shown us what she has done before and looking at our own conditional uses and the R2 uses and the fact that this would be a semi public use, I think we have the information here and Councilor Tester would feel comfortable with it. Councilor Moss suggested that we accept the application and start the process for the public hearing. On a motion from Councilor Tester and seconded by Councilor Kirk, Council agreed to go ahead with the public hearing and have all the information available at the hearing. All present voted yes.

F-4 Request to use the Council Chambers

On a motion by Councilor Tester and seconded by Councilor Corwin, Council agreed to add a request to use the Council chambers to the agenda. All present voted yes.

Councilor Kirk excused herself from Council and as a citizen asked Council to allow the council chambers to be used for an exercise group. This would be open to everyone who would like to participate at no charge. The group would meet Monday, Wednesday and Friday. There are several people in the community that are interested to join in. Councilor Hall raised a concern that arose about a year ago regarding using the facility for something similar. Councilor Kirk reminded that that request was for a coffee crowd, she then stated that this would be open to the entire community and would benefit our citizens. Steve Draper stated that he thought there was something written regarding how the building can be used. Councilor Hall stated he would like for staff to look into that. Councilor Corwin stated that he knows that in Pendleton some of the churches have these types of classes in there multi purpose rooms and perhaps that can be an option. Councilor Tester stated that she knows that her church only allows activities that are church related. Councilor Tester then offered the suggestion that there might be a room at the High School that would be suitable and all it would require is a facility use permit. Shawna Kirk thanked Council for their consideration and suggestions.

G-1 Department Head Reports

Teri Porter handed out a copy of a letter from Pioneer Title, stating that they had made an error in an escrow transaction between A&V investments and the City of Pilot Rock. Pioneer Title failed to assess a late fee in May of this year. The letter states that they will be invoicing A&V for the \$360 late fee.

Teri also added that during the process of researching the issues at the City Park, she learned about "Recreational Immunity" (see attached). Teri stated that she has spoken with CIS and Wheatland insurance and they all agree that the small amount of revenue the City receives to reserve the park and the pavilion is not worth putting this immunity at risk. Steve Draper stated that we can still put the reserve signs up, but we will not charge a fee. On a motion by Councilor Hall and seconded by Councilor Kirk Council agreed that effective today, there would be no charge to use the Pavilion and the Park. All present voted yes.

Councilor Tester asked Chief Richman if the patrol officer position was still open. Chief Richman said that it was.

H-Consent Calendar

On a motion by Councilor Kirk and seconded by Councilor Tester Council accepted the Consent Calendar. All present voted yes.

I- City Council Comments

Councilor Hall asked if it was appropriate to ask Teri to give Council a read out of what we are spending on consulting fees? Councilor Hall felt that it might be beneficial to see what we are spending on each issue. Councilor Kirk suggested that Teri submit a quarterly report to Council. On a motion by Councilor Kirk and seconded by Councilor Tester Council directed the City Recorder to provide Council with quarterly updates on money being spent on outside professional services such as CIS, Insurance, Attorneys, Accountants, Engineers etc. All present voted yes.

Councilor Hall expressed concern that both Teri and Angel since they are both relatively new to their positions, seek out training opportunities. Councilor Hall feels that they need to do this before their honeymoon period is over. Councilor Hall also suggested that if there is a particular training that they would both benefit from that they both be allowed to go and that someone else could handle the office while they are both in training. Teri stated that she needed the first six months to get a good handle on the office and the variety of things that come at her, but she is now anxious to get all the outside training she can. Councilor Hall stated that he thinks it is important for the City to take a look at how we have been doing things, go to these outside sources and find out how we *should* be doing things, then set up our business the way it should be done. Councilor Kirk suggested that staff compile a list of training that they would like with the costs, for the upcoming year and submit it to council. Councilor Tester reminded Council that when Teri was hired she was to have a three month evaluation which was done and a six month which is due this month. Council agreed to use the evaluation form that is in the handbook. Councilor Tester said it should be used as a guide to encourage open conversation. Councilor Kirk stated that there should be some goal setting involved as well. Councilor Tester suggested that Teri could submit an evaluation of herself. Councilor Kirk suggested that while we are doing an evaluation for Teri we should also evaluate the rest of the staff. Steve Draper

stated that the handbook states that evaluations would be done annually so he and Chief Richman are definitely due. On a motion by Councilor Kirk and seconded by Councilor Tester, Council agreed to Evaluate Teri Porter.

Councilor Hall raised another concern he had regarding Council Rules that he interprets as council members are not to have any direct conversation or perform any direction with employees. Councilor Hall stated that he often comes to City Hall and staff will pick his brain and he picks staffs brain but they do not make decisions that the Council will not be privy to. Councilor Hall stated that it is difficult to have a conversation with our employees without making some kind of directional comments such as how you should approach this or that. Staff may feel that there are members of the Council that may have an idea because of their background and they may call us for input. We are getting close to pushing it and Council needs to be aware of it. Councilor Hall feels there are a couple of ways out of it. One: Council can rewrite the Council Rules or Two: Council can direct someone from council who would have that flexibility to be able to do those kinds of things. That would put it in Councils hands to give it and take it away. Councilor Tester read from the Council Rules (see attached). Steve Draper stated that does not prevent anyone of us from talking to another. Councilor Kirk stated that she thinks that is an important role and rule to continue. She went on to say that staff has different issues at different times that they may need to talk with a Councilor who is knowledgeable on the subject, but that does not mean that Council is giving directions on how they should do their job. Councilor Hall asked staff if he had ever said or answered a question that changed their staff report or their opinion. When Steve Draper said “yes” Councilor Hall confessed that he had broken the rule. Councilor Kirk disagreed stating that Steve came to Councilor Hall as a resource, “we are all a resource”. Councilor Kirk asked if she had ever done or said anything that had changed Staffs mind. Teri said yes but never felt that she had directed her to do something. Councilor Hall stated that the rules do not state that you can use Council as a resource. Councilor Kirk stated that “you know as well as I do, that rule is there so that you or I cannot go and tell staff what to do. As individuals we cannot micro manage our staff”. Steve Draper stated that if he had a question that he felt Councilor Hall had more knowledge of he would ask him what his opinion was and after that discussion Steve may change his mind, but did not feel that Councilor Hall was directing him to change his mind. Councilor Hall asked Councilor Tester to read it again. While reading it she emphasized “limiting” (see attached) Councilor Hall still asserted that it is problematic and making assumptions is not going to work. Councilor Moss stated that even if something a Councilor says influences staff’s recommendation, it is still coming to Council as a whole. Staff can be influences by anyone even someone in the coffee shop, but it still is up to Council to make the final decision. Councilor Hall stated that Council will not have the benefit of what he said that caused staff to change their direction or do something different. Councilor Kirk asked Councilor Hall if he willfully went to staff and persuaded them to change their mind or gave them a directive to do something different that was not for the benefit of the City and if he did is he wanting to be censured? Councilor Hall said yes. Councilor Hall stated that he had been strong in his approach in his recommendation to tell staff whether or not they should do something in a certain way. Mayor Carnes asked if Staff had followed his direction. Councilor Hall said yes they did. Teri Porter said, sometimes but that she takes it into consideration. Councilor Kirk stated that she truly believes that if Councilor Hall told staff to do something that is not right, they would come to Council and tell us. George agreed but that does not mean that he has not directed them

to do something. Councilor Hall felt that he needs to be censured. Councilor Kirks asked if anyone on staff felt that he was giving them direction. Teri Porter gave an example stating that Councilor Hall had told her to call the Attorney regarding a specific matter, and she did not. Teri said that she decided to bring the issue to Council and if Council directed her to call then she would make that call. Steve Draper stated that no one council member can give direction to staff it must to come as a whole as far as direction. Council can come to staff to and give suggestions and ideas, it is up to staff if they so choose to use those ideas. Chief Richman used the example that if he has to write a staff report about repair of a vehicle he may pick Council Corwin's brain. Teri added that staff will also have a meeting about conversations with a Council member. Acknowledging Councilor Halls experience, Councilor Corwin stated that it is understandable that staff would go to someone with the experience they need in the area they are looking for information, but it does not mean that person is giving them direction. It is up to them whether or not they will follow it. Councilor Hall stated that paragraph of the Council Rules has been a problem over the years. Councilor Kirk disagreed. A Councilor may have had a problem following it at times and have had to be censured but felt that councilors need to follow it, and know that they can't go in there and interfere with staff in their day to day business, councilors can have questions and they can have questions of council but any business that is actually being done, needs to be done at a Council meeting. Councilor Moss asked Councilor Hall what is your solution? Councilor Tester suggested that we should schedule a work session to resolve this question. Councilor Moss stated that she is comfortable with the rule, that she understands that she as an individual does not have any power. She is comfortable with herself and her abilities that she would never direct staff how to do their job, if there was an issue she would bring it back to Council because that's where the power lies. Councilor Hall stated that he tries to make himself available once a week, he will call and ask "what's going on?" A lot of times he will call each member of staff individually. He definitely calls before a Council meeting and if staff has any questions they can call him. He asked if other Councilors do the same. Councilor Tester said that she comes to City Hall to go over the books because that is what she was appointed to do. She also stated that in the last three months at least at some point she has heard some Councilors say that they don't know what is going on, why are they talking about this before it is brought to council. Councilor Tester does not think anything should be taken care of in the office by anybody it should always be brought to council. Teri stated that is why she put an e-mail out to all of Council after she and Councilor Hall visited regarding the Baptist Church variance, offering all Councilors the opportunity to do the same. Councilor Kirk stated that if she had a question on an agenda item she will call prior the meeting. Councilor Tester agreed that she should. Councilor Tester stated that she does not like business being taken care of with one person," that is what these rules are saying we are not suppose to be taking care of business outside of Council". Councilor Hall stated that he comes down and asks for a running start. If there are issues going on Councilor Hall stated that he will have contact with staff to find out where they are on these issues. Councilor Tester asked why he does that? And added why can't we talk about all that in Council? Councilor Corwin stated that the packet is available five days prior to the Council meeting with the information you need to address the issues. Councilor Hall disagreed stating that you never get all the information you need in a staff report. Councilor Tester said then we should talk about it in Council. Councilor Hall interrupted stating that "you need to do something about that council rule, if you want to follow it to the letter then you need to figure out how you are going to hire a single person to run the city, because that is what it is based on, a City manager type of government. We don't have one and we can't sustain one.

Council members have always had contact with staff, and have always asked for information before a council meeting and you are going to form opinions and that is going to make the council meeting run more smoothly. But there are things that are going to be discussed in those meetings that are not going to be discussed in the council meeting and that is in violation of that rule". Councilor Kirk disagreed and stated that we all have different management styles and we all have to know what our boundaries are. She did not feel at this time, that Councilor Hall is in violation unless staff tells us that Councilor Hall is telling them what to do. Councilor Hall stated, "that is not all that rule talks about". Councilor Kirk stated that is her interpretation of the rule. Councilor Hall requested a letter from Council stating that interpretation. Councilor Tester suggested that we have a work session to work this out. On a motion by Councilor Kirk and seconded by Councilor Tester, Council agreed to have a work session on December 6, 2011 at 6pm to discuss Ordinance 519. Chief Richman stated that the rule has been updated in the new municipal code book. Mayor Carnes asked that the updated version be sent to all Councilors (see attached).

Mary Lue Slabik addressed Council with a comment about the motion that was made after the last executive session regarding the Slabik property at the park. She stated that the way the motion was phrased she had no way of knowing what the motion was pertaining to. There was some discussion regarding amending the motion but without the Councilor Baleztena (who made the motion) present it was not easily resolved. Councilor Hall asked Mrs. Slabik if Council can address her concern in executive session.

Council adjourned at 8:40 and went into executive session under ORS. 192.660(2)(e) Real Property. All Councilors and staff present went into regular session.

Executive Session ORS 192.660 (2)(e)

Council Came out of Executive session at 9:20 pm and let Citizens know that council has returned. Mary Lue Slabik was in attendance at this time.

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 public hearing in regard to the issue with the City Park. All present voted yes.

Mayor Carnes told Steve Draper that Raymond Dogherty expressed interest in purchasing property by the Gun Club.

Mayor Carnes also asked for direction how to help staff dealing with large requests for public records. Councilor Kirk stated that a public records request is what City's are suppose to do. There was discussion about a reasonable time frame and or charging more for the request. Steve Draper stated that billing for research has been done in the past. Mayor Carnes asked if coming up with a financial guide line and have it posted publicly would be acceptable. Chief Richman stated that staff could come up with a fee schedule and bring it back to Council for approval. After reviewing the request Councilor Hall felt that we should turn it over to the City Attorney.

“The Attorney is still in negotiation with these people and he needs to be aware of this”. Councilor Hall felt that turning it over to the City Attorney will cost the City Recorder less time but would cost more money in attorney fees that would be deferred to the citizens. Steve Draper stated that it states in the Public Records manual what you can and can’t do. Councilor Kirk we need to follow the ORS and what we do for one we do for all others. Mayor Carnes stated it must be posted for all to see. On a motion by Councilor Kirk and seconded by Councilor Tester, Council agreed to direct staff to come up with a fee schedule for public record requests. Councilor Hall stated that he felt all records being requested on this request must be the attorney’s responsibility to put it together. On a motion by Councilor Hall and seconded by Councilor Tester Council agreed to direct staff to let the requester of the public documents know that there will be attorney fees and staff fees associated for doing the research and putting together the information.

Council stated that Teri Porter will be responding to Mr. and Mrs. Slabik’s request in writing as stated in their letter.

Mayor Carnes addressed Mrs. Slabik informing her of Councils motion to hold a public hearing regarding the property at the park. Councilor Corwin asked if Mrs. Slabik had any questions for Council. Mrs. Slabik stated that she felt this issue could have been resolved without further cost to them. She wonders why it hasn’t been resolved because this is the cheapest way to go. Mrs. Slabik understands that City staff is trying to do what is best for the City. But what is best for the City is to resolve things the cheapest way possible. Councilor Hall stated that Teri can discuss everything that has happened with Mary Lue and give her a run down. Mary Lue asked for clarification that it will be put to a public meeting and asked if there was a cost. Councilor Hall stated that the Council is free. Mary Lue asked is the reason Council is doing this because Council does not feel the offer is fair. Council agreed that Teri can discuss this with Mrs. Slabik after the meeting was adjourned.

On a motion by Councilor Tester and seconded by Councilor Moss Council agreed to adjourn at 9:40 pm all present voted yes.

APPROVED _____

ATTEST _____