

# CITY OF PILOT ROCK

## COUNCIL MEETING

January 17, 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, Ray Corwin, George Hall and Shawna Kirk. Also present were City Recorder Teri Porter, and Police Chief Darren Richman, Samantha Tipler, Mary Lue Slabik, John Taylor, Nancy Lankford, Packy Dougherty, Helen Doherty and Cecile Tresham.

### B. INVOCATION

Pastor Mike Nelson gave the invocation.

### C. PLEDGE OF ALLEGIANCE

### D. APPEARANCE OF INTERESTED CITIZENS

Mayor Carnes asked Packy Doherty to come up and make his presentation. Packy stated that he was interested in some of the Masonite property and asked Council not to vote to approve the sale to A&V at this time. Packy stated that at the time that A&V came in *he* was in no position to do anything about it, but times have changed and now he is not sure if the *City* can do anything about it. He would like the Council to know that he is interested in pursuing some opportunities on the Masonite property. Mayor Carnes asked specifically what part of the property? Packy replied that he was interested in all the property east of the tracks, roughly 36 acres and if there are additional partitions needed, that could be worked out. He also stated that if the City wants to get out of the industrial property business and it is necessary to take the entire property then that would be considered as well. Steve Draper asked if he has an offer to put on the table? Packy said he did not at this time. Council Kirk asked him to explain what types of businesses he wanted to move out there. Packy stated that most everyone knows that his family has 3 different businesses. The recycling business is the main business he would like to move to the Masonite property, because the railroad track, scales, the amount of space and flat ground would benefit the business. Also they pour a lot of concrete, and they could do that year round in the buildings. Councilor Hall asked if there was an offer could he put it together to share with Steve in the next few week or so. Packy stated that that was his plan, they did not have time to prepare for this, his objective for this evening was to ask Council not to vote to approve the sale. If they could have some time they would like to propose something to the City. Steve Draper asked how much time he would need? Packy said he could have something in a couple of weeks. Steve asked how many people he employs right now? Packy stated that he employs 5 people not counting himself. Steve asked if he saw that number expanding? Packy said in order to fund this purchase the recycling business would have to grow and they may put on another person or two. Councilor Hall asked for a time frame and told him to be conservative for his benefit not the Councils, what do you need? Packy said he could have a proposal by the next Council meeting

on February 7, 2012. Steve stated that everything comes to a head on the 31<sup>st</sup>, is there anyway Packy could get us something by then? Packy said he could not guarantee he would have something ready by then. Council Hall said he would like Packy to be conservative for himself, look at what he has to do, and how fast he could work and then get back to Steve as soon as he can and leave it at that. Councilor Hall went on to explain that what Steve is saying is true, we have a deadline at the end of the month, but we have an obligation to listen to you. Councilor Hall suggested that Packy let Steve know when he has a packet put together or if he needs more time and that it would be preferable if he did that in the next week or two. Mayor Carnes asked for a show of hands and there was a consensus that Council agreed. Councilor Tester asked how long he has been in the welding business here in town. He stated it has been there for 13 years and 8 years at home prior to that. Councilor Corwin asked if Packy's brother who has a separate business, would move with him to the industrial property. Packy said he would talk to him about the possibility. Council Corwin, understands how much he and his brother have grown over the years, and that most everyone would like to see it stay local, but A&V had made an offer of a large sum of money, then Council Corwin asked if Packy plans to buy it out right or lease it.? Packy stated that he would like to buy it outright. Councilor Hall asserted that we agreed to give Packy the time to put a deal together and we should give him the time to do that. Mayor Carnes stated then we are looking at a January 31<sup>st</sup> deadline. Steve said as soon as Packy lets us know we can call a meeting. Councilor Tester asked a question regarding the Cities commitments to the January 31<sup>st</sup> deadline. Councilor Hall said we have a time table we have to live up to and Packy needs to do whatever he can to get it to us within that time period. If we are close to the time table within a few days, Councilor Hall feels there is no reason why we would have to push hard to make a decision. There is still a lot to consider.

## **E. PRESENTATIONS**

None.

### **F-1 Appointment of Budget Officer**

On a motion Councilor Kirk and seconded by Councilor Baleztena, Council agreed to appoint Teri Porter, the City Recorder as the Budget Officer. All present voted yes.

### **F-2 Appointment of Council President.**

On a motion by Councilor Kirk and Seconded by Councilor Baleztena Council agreed to appoint Councilor Tester as the Council President. All present voted yes. Councilor Kirk clarified that Councilor Tester would take over as president immediately.

### **F-3 Clarification of Motion to Extend the A&V Lease.**

Teri Porter stated that on November 1, 2011 Council made a motion to go forward with the A&V Commercial Lease agreement, which was referring to the extension of the lease with A&V Investments. John Taylor pointed out that the motion was not clear and should have been read in title. Teri was asking if Council would restate the motion so that it is clear. Councilor Hall stated he would not make a move or support that motion

that he made until he listens to the executive session tape when the discussion was held. Teri Porter pointed out that based on that motion and discussion the lease extension was signed. Councilor Hall stated that he would not participate in voting for or making another decision on that extension until he has listened to the tape. Councilor Corwin asked how long was the extension? Teri stated that it extended the lease from July 26, 2011 until January 31, 2012 or until closing. Councilor Kirk addressing Councilor Hall stated that in November when the motion was made you were confident enough to make the motion, but you are not confident now to back that up. Councilor Hall stated that he is not confident now to back it up. Councilor Kirk agreed that by reading that motion you can't tell what Council was making a motion on. Council agreed that they all needed to listen to the executive session and agreed to hold a special meeting on Monday, January 23<sup>rd</sup> at 6pm to listen to the executive session regarding the extension of the lease.

#### **F-4 Pilot Rock Industrial Park Tax Liability.**

Steve Draper stated that during one or two Council meetings it has been discussed that the City has delayed the Contract of sale by 3 months and that we felt obligated and responsible for those 3 months of property taxes. It has never been made into a motion and Steve asked Council to make it into a motion. Councilor Kirk suggested delaying this item as well until Council has an opportunity to listen to tapes and have further discussion. Councilor Hall stated that these are not the only things that need consideration before making a final decision in regards to the sale, we have not gotten everything that we have asked for. Steve agreed that we have asked for a financial statement and have not received it. Councilor Hall stated that if we are being asked to act like a bank, he feels we should play like a bank and ensure that we get these items. Councilor Kirk suggested that we should direct staff on the things that Council would like to have for Monday's special meeting. Councilor Hall felt that staff already knows what Council wants. Teri Porter stated that she would appreciate a recap of the items to ensure we are all on the same page. On a motion by Councilor Kirk and seconded by Councilor Tester Council agreed to direct staff to obtain a credit and/or financial reference checks on both parties of A&V Investments. All present voted yes.

Councilor Hall, stated that he wanted to take a look at how the addendum affects the overall contract. He stated he wanted to address the issue regarding the wells and how they are broke out and whether they are included or excluded in the description. He wants the rent and the money issue looked at, everyone should take a look at Mr. Taylor's list (**attached**) and figure out what needs to be done. Councilor Hall also stated there is \$100,000 that he would like to revisit. Councilors Kirk and Baleztena asked whether the City attorney needs to be here. Councilor Hall stated that David gave the Council options, for us to move forward with a decision tonight is not taking advantage of the options and it is not fair to the process. We have a deadline to make that means we have a lot of work to do in a short period of time. Mayor Carnes stated that she would cancel the Chamber meeting with Michael Corey since we will not get it done in just 45 minutes. Teri asked if Council wanted David at the meeting on the 23<sup>rd</sup>? Council felt they would like to meet first and listen to the tapes. Councilor Hall stated that the attorney is not going to tell us what to do, he is going to give us what we have, legally, as option, and we need to decide what to do. What we need to do is to decide what we are going to tell David, what we would like

to do. We understand our risks. Since there is a possible opportunity to come back with different numbers, then we need to take that. Mayor Carnes stated that she feels it is helpful having David here and that we as a Council feel more confident with him here and we can work through the issues. Councilor Hall does not want to waste his time, having him trying to do our job. Council Corwin, stated that when David was here last week he did not give us a straight answer, he gave us options. Councilor Hall said we need to all decide what it is we want to do before we have David back here. Steve Draper suggested having the Monday meeting to listen to the executive tapes, have the discussion, figure out what it is the Council wants to do then schedule David to attend a Council meeting. Councilor Hall said that he foresees an honest argument out of this; this process needs to be less than passive. To rubber stamp anything at this point in time is a sad mistake. Councilor Baleztina stated that it would be good to get out from under the taxes and get it on the tax rolls. Councilor Hall stated that that is not the only reason to sell, we need to be sure that A&V can deliver and that these people have the ware withal. Councilor Hall disagrees with Mr. Taylor's comments with the bark plant rent dollars out there for 20 years right along with the contract. Hall stated I am not going to base my deal on the fact that those payments are going to be coming for the next 20 years to pay for the property. Regardless if it is a good idea to let them have those dollars or not. Therefore someone is going to have to show me that these people have the ware withal. We asked them for a credit report and were told that we cannot get credit report so we got nothing. That is not the way to do business. Steve stated that the attorney has e-mailed A&V's attorney for the financial reports but have not received it yet. Councilor Kirk asked if we could ask David to ask each of them to each give us their personal credit reports. John Taylor asked and was granted to make a comment. He stated that there is a difference between a credit report and a financial statement. He also stated that when you get to an impasse go back and ask yourselves what the objective were when you took this property. We were going to get the well, jobs, back on the tax rolls, and a lagoon sight. Mr. Taylor also stated that F-4 is in direct violation of the addendum, because it states that the taxes are due from June 30<sup>th</sup> or until closing and now you are changing that and making a 3 month period that is in limbo. Mr. Taylor also said that everyone knows that he does not like executive sessions but I think this is a perfect place to have one. Councilor Kirk tasked the other Councilor with coming to Mondays meeting with reasons why they would like to sell. Teri tried to get a list of items Council needed of staff, the credit check or financial report, the well excluded from the contract is there anything else. Councilor Hall referred back to Mr. Taylor's list and stated that Council needs to know exactly what is in the document and we should have done this a year ago. We need to come to the table with a clear understanding of what we would like to do. On a motion by Councilor Kirk and seconded by Councilor Hall Council decided to table item F-4 and F-5 all present voted yes.

#### **F-5 Industrial Property Sale to A&V Investments.**

This item was tabled.

#### **G-1 Department Head Report**

Chief Richman addressed Council stating that he received a call from Lt. Anderson

regarding Officer Faber and that she passed her Use of Force with 100%, right now has a 94.5% average and has applied for the class leader for basic police class 329 and there is an interview process for that. She is doing really well.

Chief Richman is looking at trying to get a scholarship through the Child Abuse and Interviewing for a 4 day conference in April.

Chief also requested permission to close City Hall on Friday February 3<sup>rd</sup> 2012 from 1p to 5p to allow all staff members to attend CPR/1<sup>st</sup> Aid AED training with Richard Hemphill. The motion was made by Councilor Hall and seconded by Councilor Baleztena Council agreed to close City Hall to allow staff the training. Council Kirk asked if Councilors could attend as well. Chief Richman thought that they could, he would just need a head count. Councilor Corwin asked if there was a time frame needed for notice to close City Hall. Councilor Kirk felt this was the time frame we had last time. All present voted yes.

Teri Porter stated that Kimberley Coiner started last week and is doing wonderful.

Will be doing the W-2 and 1099's this week. First time ever doing them so will have her nose in books sorting it out.

She will be attending two classes in the next few weeks, both in Salem. One class is on Land Use and the other is on Budgets.

Teri stated she is gearing up to go through the budget process.

Teri also stated that she has been in contact with Mt. West regarding the check on back rent and they have assured her the check was cut and sent to Montana for signing and will be mailed to us in the next day or so. Teri will e-mail all of Council when it arrives.

Councilor Corwin asked about the snow removal in the City and what kind of equipment we have to do it. Steve said we have a dumb truck with a snow plow on it and a John Deere tractor with a blade for the sidewalks. Steve also stated that they had touched up the intersections but had not gotten to all the streets.

## **G-2 Quarterly Legal Expenses.**

Teri pointed out that as per Councils request for a breakdown on [Legal expenses, it is included in this packet](#). The quarterly report covers July 2011 through December 2011.

## **H-2 Consent Calendar**

On a motion by Councilor Kirk and seconded by Councilor Baleztena Council agreed to accept the consent calendar all present voted yes.

## **I. COUNCIL COMMENTS**

Councilor Hall wants to know the status of the Koch payments and wants to know if that

discussion needs to be done in executive session or open meeting. Teri said she would find out. Councilor Hall stated that because it was brought up again in the last meeting, we need to move forward. He stated got two opinions from the attorney; one is that the City should not be doing that. Then additional information was provided to the attorney and the attorney has reviewed the file, and the attorney was to meet with Mrs. Koch. Do not know if he talked with her but he has come back with a different opinion. It has been suggested that we not accept that opinion. So we are back to considering whether those payments again. We need to put this issue to bed one way or the other as it keeps raising its ugly head and it keeps raising its ugly head based on political necessity. Councilor Hall feels it is not fair for Mrs. Koch to be involved as a political football and he is not going to participate in it. Steve stated that Staff has put in a request to David to respond to this issue and we have not heard back yet. Councilor Hall stated that he does not want to hear about it anymore he wants to deal with it and be done with it. Councilor Hall yielded the remainder of his time to Nancy Lankford. Nancy stated that she thought that the issue would have been put to bed a long time ago based on David's opinion after he was given more information and a complete packet. She would assume that when the attorney gave his findings that we should take his advice.

#### **J. ADJOURNMENT**

On a motion by Councilor Kirk and seconded by Councilor Tester Council agree to adjourn at 8:02. All present voted yes.

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

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

