

CITY OF PILOT ROCK

COUNCIL MEETING

May 1, 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, George Hall and Shawna Kirk on the speaker phone. Also present were City Recorder Teri Porter, Public Works Director Steve Draper and Police Chief Darren Richman. Citizens present were Jeff Mills, Nathan Savage, Mark Dickey, John Taylor and Mary Lue Slabik.

B. INVOCATION

Pastor Harley Jeffers gave the invocation.

C. PLEDGE OF ALLEGIANCE

Mayor Carnes asked Council permission to add two items to the agenda. F-4 Farmers Market and F-5 The Bike Pit. On a motion by Councilor Hall and seconded by Councilor Tester, Council agreed add these two items. All present voted yes.

D. APPEARANCE OF INTERESTED CITIZENS

E. PRESENTATIONS

Robert L. Cannon for Sheriff of Umatilla County.

F-I Rocket Espresso Lease and Request for Rent Reduction – Steve Draper

Steve addressed Council informing them that the lease for Rocket Espresso is up for renewal. He also stated that Janet and Dan Stewart, are requesting to have the rent reduced by \$50 for the months of January through March. It is their slowest time of the year they go backwards. If allowed to lower the rent by \$50 they may break even during those months. Councilor Kirk made a motion to approve the renewal of the lease with the rent reduced by \$50 for the months January through March. The motion was seconded by Councilor Tester. Councilor Hall stated that he did not feel it was appropriate for Staff to represent a private citizen. If they want a rent reduction they should come to the meeting to make the request of Council in person. That is the way that we typically do it and we should be consistent. Mr. Taylor asked how much are the property taxes and who pays them. Steve answered that the property taxes are paid by the Stewarts and did not know the amount. Regarding the motion, Councilors Tester,

Moss and Kirk voted yes. Councilor Hall voted no. The motion carried.

F-2 Letter from Mr. Taylor – Teri Porter

Teri stated that she had received the attached letter from Mr. Taylor. Teri stated that she started doing the research and compiling the information but was advised that these types of request should be brought before Council. She is asking for Council's direction as to how to respond. Councilor Tester stated that Teri would have to find the background information so that Council would know how to respond to the letter. Chief Richman stated that there was a motion made some years ago that all questions are to go to the Council first then they would assign them to us, we will bring the answer back to Council and they would decide how to distribute the information. Councilor Tester made a motion to instruct staff to do the background work to answer Mr. Taylor's questions. The motion was seconded by Councilor Moss. Councilor Hall made a statement regarding the length of time these types of request take and that the motion on the floor did not address compensating the City for staff time to put the response together. Councilor Hall stated that a lot of communities charge for labor time, depending on how long it takes. He said that Council passed a motion, when someone turns in a list to bring it to Council for the purposes of deciding whether or not we are going to charge for it. Steve Draper stated that he thought we would find that the motion set a time table such as 15 minutes. Anything more would be charged a certain amount. If we had to contact legal we charge them that fee as well. Councilor Hall stated that if we want to divorce ourselves from that policy then we would need a motion to do so. Councilor Tester stated that she has questions herself to be sure that the money in escrow is being handled correct. Therefore the information would be for Council and does not feel there should be a charge to the citizen. Teri stated that she has not read through the minutes to answer Mr. Taylor's question regarding minutes, it takes hours of reading, but she has some information that she acquired from talking with David Blanc, the title company and the Dept. of Revenue. Regarding the motion Councilors Tester, Moss and Kirk voted yes. Councilor Hall voted no. Councilor Hall recommended that Council make a motion to direct staff to put together a staff report and bring it to the table as an action item. Mayor Carnes asked if Mr. Hall would make that motion. He said he was just laying it on the table for thoughts. Mayor Carnes asked again if Councilor Hall would like to instruct staff by virtue of a motion. Councilor Hall said no, he did not want to put anymore burden on staff, it was for Council to decide. On a motion by Councilor Moss and seconded by Councilor Tester Council directed staff to go back and find the motion and bring it back for Council to make a decision. Councilors Moss, Tester and Kirk voted yes. Councilor Hall voted No.

F-3 Cap on Cost of Employee Medical Insurance – Teri Porter

Teri Porter asked to table this item. She stated that she had hoped to have more information pulled together for Council to consider but due to a death in her family she was not able to be at work yesterday and therefore did not get it pulled together. Councilor Tester made a motion to table this item and the motion was seconded by Councilor Moss. Councilor Hall asked who asked for the information. Teri stated that Glen Snively had suggested looking into a cap back when he was on Council and that it

has been on the futures agenda since. Councilor Hall asked if it was addressed at the Budget meeting and was informed that it was brought up but not pursued. Mr. Taylor stated that Glen Snively made the suggestion after the approval of the last budget. Regarding the motion All present voted yes.

F-4 Farmer Market Requests.

Teri Porter stated that Shelby has submitted a letter (attached) requesting Councils permission to place a shed by the pavilion and to place a sign on the property near and facing Hwy. 395. Councilor Tester made a motion to grant the Farmers Market request to place the shed near the pavilion and to place a sign on the property. Councilor Kirk seconded the motion. Councilor Hall stated that we need to ensure that the sign conforms to the sign ordinance and that they would have to go to the State for permission to put the sign on Hwy 395. Steve Draper stated that the sign could be put on the City's property off ODOT's right of way. Councilor Tester amended her motion to include that the sign follow the City Ordinance for signs and that it is on City property 45' from the center line on Hwy 395. All present voted yes.

F-5 Bike Pit 501c3

Nathan Savage, Jeff Mills and Mark Dickey addressed Council with an update on the 501c3 application. Mr. Dickey stated that it is quite a lengthy application that needs to be filled out accurately and completely to ensure that it is not kicked back to them. He feels he has all the numbers needed, but will be meeting to hammer out any remaining questions. It costs about \$700-\$800 for the application so you want to be sure it is done correctly. Mayor Carnes asked if he had any time frame once it is submitted. Mr. Dickey stated he had no idea. Mayor Carnes stated that the Downtown Association submitted theirs in October and we heard last month that they were just dealing with July of 2011. Councilor Hall asked what jurisdiction the application goes to. Mr. Dickey stated the IRS. Councilor Hall stated that he has no insight but would personally like to help if he could. Councilor Moss asked that it could be presumed that we could be about a year out on receiving the 501c3. Mr. Taylor asked Mr. Dickey if he was familiar with the disc that is offered on the internet. Mr. Dickey stated that he has access to all the IRS information, all the publication that give you line by line instructions and he has downloaded it into his computer. Mayor Carnes appreciated Mr. Dickey for coming down and giving Council and update.

Jeff Mills asked for Councils permission to use the Bike Pit grounds for the evaluation program. They would like to schedule 4 more evaluation events June 3, July 15, Aug. 19 and Oct. 13th. The OMAR will be handling the insurance just like last time. Mayor Carnes stated that it is mandated by the state for all riders 6-15 and it is a bonus to have it in our community. Jeff said that the only other places doing the evaluation in Eastern Oregon is Heppner and Enterprise, so we have a pretty big area to try to cover. There are 35000 kids that have to get their licenses this year. On a motion by Councilor Moss and seconded by Councilor Tester, Council agreed to grant permission to the Bike Pit board to use the Bike Pit for the evaluation events. All present voted yes.

Councilor Hall inquired about the trailer. Jeff stated that the doors are locked up right now and they are working on getting the metal welded to put over the windows. Councilor Hall asked if the City had done all that they were to do? He was told they had.

G-1 Department Head Report

Chief Richman stated that they are still contacting folks with ordinance issues. The biggest project right now is Mr. Prescott and he is working with us hauling a lot of cars and busses out of there. Officer Faber is working on her FTO with Officer Legore. The Chief stated that he had to repair the transmission torque strap which is a weak point on the gold car. The materials cost \$226. He did the work himself to save the City some money. Spring clean up is coming up and we are contacting volunteers. Rachell's husband will be helping out. We have come across a 2002 Chevy Tahoe in good shape with 3900 mi, they are asking \$13500. Would like to come up with a couple more options for Council to consider. The SUV's would be helpful in rocky terrain. Would like to leave the gold car to use for City staff travel to training and a backup police car. We would be looking at another \$2500 for lights to put on it. Councilor Hall asked about financing. Chief Richman stated that he has \$15000 in his capitol vehicle outlay and \$1500 in his equipment capital outlay so it would take all of that. The chief would have to ask Council to transfer funds from the economic development fund to help pay for this. Council Hall stated that rather than take from an actual functioning account, that we take the additional funds from the economic development fund, as we do the funding for the shortfall in the general fund. Mayor Carnes asked why if it such a good buy why are you not buying it. The Chief replied that he wanted to present several options to Council. Mayor Carnes expressed concern that it would still be there in two weeks. The Chief felt confident that it would. Councilor Hall made a motion to that the funding streaming for the shortfall of your capital expenditure account for the purpose of purchasing new vehicles come from the economic development fund, subject to staff presentation and Council approval. Councilor Tester seconded. All present voted yes.

Teri Porter covered her report stating that she has spoken with Katie Weinke regarding renewing the lease and making so that it renew automatically. Katie will present it to their board at the next meeting. The deed for the property owned by Mr. and Mrs. Slabik is now in their hands and awaiting their signature before we can move forward there. Teri wanted to point out that during the process of the A&V contract council made a motion allowing staff to spend up to \$7000 on legal, surveying and partitioning. Council is aware of it because we have transferred money per resolutions, Teri has submitted quarterly reports and many motions made, but that \$7500 has been exceeded. Regarding Mr. Taylors question at the last meeting whether we are in negotiation or contract. Teri has contacted David Blanc and it is his opinion that we are still functioning under the terms of the original option to purchase. Teri also stated that she is having computer issues. Teri added to her Dept. Head report that there was question at the last meeting whether or not we needed another resolution to keep the public safety surcharge at \$5. Teri stated that the current resolution which states the various fees has the surcharge at \$5 already so no further action is necessary.

Mr. Taylor asked for clarification that David said we are in contract under the contract dated

July 23, 2011. If that is so, are we going to collect rent from A&V? He went on to say that it states that in addition to all other obligation of rent as set forth in paragraph 3, that would indicate that the City is to get the money from the bark plant in addition to the rest of the money they have been allocated under paragraph 3. It has been a year that A&V has been using City property with no rent. Chief Richman requested that Mr. Taylor put that in writing to the Council and then Council can direct staff how to respond. Mr. Taylor thought that was a good idea.

Steve Draper, asked if Council had any questions regarding his staff report? No questions.

H-2 Consent Calendar

On a motion by Councilor Tester and seconded by Councilor Kirk, Council agreed to accept the Consent Calendar. All present voted yes.

I. City Council Comments

Mr. Taylor stated in the minutes Teri had the Surcharge under F-1 and it should have been under public comments. Teri disagreed but said she would look into it.

Regarding the option to purchase, Councilor Hall asked if we ever resolved the question whether A&V has lived up to their side of the option to purchase. Did they make an offer appropriately or whether they didn't? Steve stated that legal council considers the letter that was presented to Council back in May 15, 2012, requesting the reduction in price, as an offer to purchase. Councilor Hall clarified, so that letter satisfies their right to purchase clause 100%. Steve said yes according to legal it does. Teri added that since Council or Staff has not disputed or questioned whether or not they were exercising their option. We have always been functioning under the understanding that they are exercising their option.

Steve Draper raised the question whether citizens can comment during council comments. Council Hall stated that there was an article in the LOC bulletin that addressed this matter and he thought there may be a change to the rule. Councilor Hall suggested looking into this article for clarification. It should come under the rules of decorum and is a legal opinion which has been developed. Mr. Taylor stated that in Council rules it states that anything that is not on the agenda an individual concerned citizen can be brought up under section D. It also states that the chair can recognize anyone they want at anytime.

J. EXECUTIVE SESSION

ORS 192.660 (2)(h) Legal Council. To discuss the contact of sale of City owned Industrial Property with A&V Investments.

Council went into executive session at 8:22pm. Present were Councilors Moss, Tester, Hall, Kirk on the phone. Also in attendance are Teri Porter, Chief Richman and Steve Draper.

Council came out of executive session at 9:37pm.

On a motion by Councilor Tester and Seconded by Councilor Kirk Council agreed to direct staff to find out if we can withdraw all offers made to A&V prior to the May 9th 2012 date. On a motion by Councilor Kirk and seconded by Councilor Moss Council agreed to On a motion by Councilor Kirk and seconded by Councilor Moss Council agreed to On a motion by Councilor Kirk and seconded by Councilor Moss Council agreed to to discuss a letter from David Blanc to Council regarding the sale of the City owned Industrial Property to A&V Investments.

All present voted yes.

On a motion by Councilor Tester and seconded by Councilor Kirk Council agreed to direct staff to ask legal If A&V accepts the offer made April 9th can we still go back to the original contract. All present voted yes.

Councilor Halls stated that legal has to have an understanding that Council preference is to go back to the original contract. All agreed.

K. ADJOURNMENT

On a motion by Councilor Tester and seconded by Councilor Kirk, Council agreed to adjourn the meeting at 9:43pm. All present voted yes.

APPROVED _____

ATTEST _____

April 19,2012

City Council of Pilot Rock
att: Pilot Rock City Recorder
PO Box 130
Pilot Rock, Oregon 97868

Teri,

Yesterday, Wednesday, April 19,2012, you and I discussed a number of issues, one being the Pioneer Escrow Instructions. As I have stated, escrow instructions are a legal binding document and should not to be taken lightly.

It was my understandings from the discussion:

1. The public funds (\$54,000) are still in escrow.
2. The funds were not included in the 2012-13 budget document.
3. The instructions were signed prior to you being employed as City Recorder.
4. You have no knowledge of any City official changing or modifying the instructions.

If any of my understandings are incorrect, please so state.

Please find attached a copy of the Collection Escrow Instructions between the City and A&V Investment LLC, and where Pioneer Escrow is a neutral collection escrow agent.

Please note highlighted, "You are to distribute the proceeds as follows: REMIT TO SELLER." Further on down, highlighted, "You are instructed to disburse funds as received in your office"-----and so on. The Account History Ledger indicates Pioneer disbursed a check in the amount of \$18,000 on 12-13-10 and then voided check #188250 in the amount of \$18,000 on 12-14-10. I searched the Council minutes and couldn't find a motion whereby the Council directing Pioneer Escrow to hold the public funds. If I missed that motion I'd appreciate having a copy of said motion. If there is no motion, I would appreciate knowing on whose authority Pioneer Escrow has held public funds beginning August 16, 2010. Handling of public funds is a serious matter.

Respectfully,

john taylor
PO Box 207
Pilot Rock, Or 97868