

**1. Roll Call**

The regular meeting of called to order 7:25 P.M. in the City Council Chambers at Bend City Hall, 710 NW Wall. Present upon roll call by City Recorder Patty Stell were Bend City Councilors Linda Johnson, Mark Capell, Chris Telfer, Bill Friedman, Jim Clinton, and Mayor Bruce Abernethy.

**2. Pledge of Allegiance**

The Pledge of Allegiance was recited.

**3. Administer Oath of Office to new City Councilor**

Hon. Lisa Bertalin administered the oath of office to Peter Gramlich.

**4. Receive Visitors**

Marine Brent Sonders requested that Council name the Newport bridge after Lance Corporal Randy Newman.

Travis Evans read a letter from Representative Gene Whisnant supporting the request to name the Newport bridge the Randy L. Newman Veterans' Memorial Bridge.

Tanya Curry requested naming the Newport bridge after Lance Corporal Randy L. Newman and read a letter from Representative Chuck Burley in support of the request.

Andrew Shooks requested naming the Newport bridge specifically for Randy Newman. He feels that naming the bridge the Veterans' Memorial Bridge is not enough.

Mayor Abernethy advised that the Council chose the name the Veterans' Memorial Bridge to honor all veterans. He asked whether Council wanted to reconsider its previous action. Councilor Friedman wants to honor Randy Newman, and he feels the Council did its best to do this by naming the walkway after Randy and the bridge after all veterans. Councilor Johnson agrees with Councilor Friedman. It was a difficult decision. She does want to honor Randy Newman's service and wants to honor others too. She would like Council to stay with its previous decision, but look for a way to honor each individual on the bridge. This would honor Randy and other veterans. Councilor Capell agrees. He wants to honor all veterans that have served this country. Councilor Telfer explained that the walkway will be named the Randy Newman Memorial walkway. Councilor Clinton hopes that the advocates will work with the City to design a memorial to honor all the individuals who have sacrificed for this country. Mayor Abernethy respects and admires all the support and outpouring of love for Randy. Randy made a difference in the lives of his family and friends. He hopes that

Randy's friends and family will view the decision as a way to honor all the veterans and hopes the family will work with the City in designing the memorial. Councilor Gramlich's sister is a lieutenant colonel in the service. It is not the Council's intent to dishonor to Randy Newman by honoring Randy's colleagues too.

Mike Brock discussed the value that Randy Newman brought to his community and requested that the Newport bridge be named the Randy L. Newman Veterans' Memorial Bridge with a plaque for each veteran.

Mike Aldrich discussed the value that Randy Newman brought to his community and asked that the bridge be named after him.

Kathy O'Neal is honored that the Council named the bridge the Veterans' Memorial Bridge and the walkway the Randy Newman Memorial Walkway. She asked that this be reversed.

Stephanie Wilson asked that the bridge be named after Randy Newman and that the previous naming of the bridge the Veterans' Memorial Bridge and the walkway the Randy Newman Memorial Walkway be reversed.

Les Combs spoke about Randy Newman's contribution to his school and community. He asked Council to reconsider its previous decision and name the bridge after Randy Newman.

Cindy Hurt asked Council to reconsider its decision. She is the mother of a disabled war veteran and discussed the monument constructed at a park in Prineville to honor veterans.

Russell Evans spoke regarding Bend Area Transit drivers' dispute with Paratransit. The drivers voted to unionize. Paratransit disputed this and charged that there were unfair practices. A hearing before the National Labor Relations Board found in favor of the election process. Paratransit appealed the decision. He asked Council to get involved as the City holds a contract with Paratransit and encourage Paratransit to honor the decision of the hearings officer.

Kristopher Maddox has been a BAT and DAR rider and serves on the BAT advisory committee. He spoke in support of the drivers for Paratransit and asked Council to ask Paratransit to drop its lawsuit with the workers.

Bill Groesz is a Paratransit driver and thanked Council for voting for the bus shelters. The drivers work for Paratransit. He asked Council to write to the Executive Director of Paratransit asking him to drop the lawsuit. He asked Council to consider taking over the transit system.

Legal Counsel Jim Forbes explained that the City doesn't have authority over Paratransit. Paratransit's contract will eventually expire and Council can decide

whether to renew it. Council doesn't have legal authority to tell Paratransit how to conduct its business.

Councilor Clinton is interested in passing a motion to encourage Paratransit to give up on further appeals. The hearings officer was clear that the objections did not have any merit.

As a point of order, Mayor Abernethy asked the audience to refrain from applause.

Councilor Friedman has worked with the ATU in the past and believes they are a great organization. He believes it is unwise for Council to put itself in the middle of this labor dispute. Councilor Capell is disappointed anytime he sees management not treating people the way they should be treated. It would be much easier if management did its job and there was no need for unionization. He believes Council should follow legal advice and stay out of this fight. When this matter first came before Council, Councilor Johnson felt they should stay out of it. She supports Councilor Clinton's recommendation to send a letter encouraging Paratransit to resolve the issue. The National Labor Relations Board decision was clear. Councilor Gramlich sees this as a moral issue and is in favor of sending a letter encouraging Paratransit to resolve this matter. Councilor Telfer believes the legal system has a process to deal with this. The City has an independent contract with Paratransit, and she is not supportive of sending a letter to Paratransit. Mayor Abernethy is willing to write a letter, but not willing to put the City at legal risk. Counsel Forbes does not believe that the City would incur legal risk by writing a letter of encouragement, but the City does not have authority to direct Paratransit. Mayor Abernethy advised that, based upon majority of Council opinion, a letter will be drafted to encourage Paratransit to drop the lawsuit because the hearings officer's decision was clear.

Michael Funke with Jobs with Justice, appreciates Council agreeing to send the letter and believes the City has right and responsibility to do this. He believes that Paratransit is spending City money on the lawsuit. This action will help safeguard the tax dollars and the workers of Paratransit.

Ira Holden, driver for Bend Area Transit, is disappointed in Council's decision. He was hoping for Council support.

Alyson Annunziata, driver for Bend Area Transit, talked about the drivers for BAT and DAR. She pointed out that other City employees are unionized.

Sammie Love encouraged Council to consider getting rid of the contractor and taking over the BAT.

Melanie Gibson encouraged Council to experience Bend Area Transit by riding the bus.

Ann Wheeler urged Council, when the letter is written, to be as strong as possible. The City pays Paratransit and taxes pay the City. The City should have authority to weigh in on this.

Nick Biddle welcomes the letter of encouragement to Paratransit and encouraged Council to get behind the drivers - an important part of the transit system.

Keith Scott welcomed Peter Gramlich to the Council. Development is underway in Woodriver Village. Affordable housing and veterans should be priorities for the Council. He acknowledged the advocates for naming the bridge and, although they didn't get exactly what they requested, their request did prompt naming the bridge the Veterans' Memorial Bridge.

Council took a brief break.

Ramona Newman, mother of Lance Corporal Randy Newman, expressed disappointment with Council's decision not to name the bridge after her son.

## **5. Good of the Order**

### **A. Receive report from Orchard District Neighborhood Association**

Cheryl Howard gave an update on the Orchard District Neighborhood Association, discussing its accomplishments such as the weed pull, Good Samaritan program, and partnership with Marshall High School for a GIS program to help neighbors.

### **B. Receive Presentation of an Award by the Oregon Department of Forestry for Tree City USA Program (Issue Summary) (Letters)**

A forester from the Oregon Department of Forestry recognized the City of Bend for its status as a Tree City. She presented Council with a flag and an addition to its plaque. Paul Stell from Bend Metro Parks and Recreation invited Council to a tree planting event on Tuesday at noon in Drake Park.

### **C. Consider a Proclamation on Arbor Week**

Councilor Clinton read the proclamation and moved adoption. Councilor Telfer seconded the motion which passed unanimously, 7/0. The proclamation was presented to Paul Stell.

### **D. Consider endorsing a resolution to support Local Option Levy to fund 9-1-1 Emergency Services (Issue Summary) (Resolution)**

Police Chief and Acting City Manager Andy Jordan explained that this five year local option levy will be placed on the ballot in June. The service district dispatches public safety for 18 agencies in Deschutes County. They are partially funded by a telephone tax. The district has been operating under ongoing local operating levies. The levy is

larger due to the need for additional service, aging electronic equipment, and the fact that the agency will have to pay rent.

Councilor Capell moved to approve the resolution. Councilor Johnson seconded the motion which passed upon unanimous roll call vote, 7/0.

**6. Consider authorizing the purchase of 62975 Boyd Acres for \$4.1 million (Issue Summary)**

Public Works Director Ken Fuller advised that Public Works is running out of space. Currently space is being leased and operations are spread throughout the City. Consideration has been given to building a new facility for Public Works. The cost would be over \$4.5 million. Purchasing the property at Boyd Acres would meet the space needs of Public Works for 20 to 50 years. The purchase price is \$4.1 million and worth of the property has been estimated at over \$5 million.

Councilor Clinton asked about the nature of the required modifications to the site. Mr. Fuller explained modifications would be needed in order to meet code requirements. Cost would be about \$50,000. Additional improvements may be requested for space for crews to shower and have lockers. This could be done in the future if necessary.

Councilor Telfer asked what projects the City will forego to accomplish this. Mr. Fuller explained that the project list equates to a couple hundred million dollars for water, wastewater improvements and plant facility work. He referred to the operations and maintenance costs. He referred to bonding and debt service. The projects on the capital improvement list are funded and included in the funding package for the budget. \$2 million out of water and \$2 million from wastewater could be an impact to the capital improvement program. He stressed that the department is at a point where it needs to find more space. Councilor Telfer asked whether the lease vs. purchase option has been considered. Mr. Fuller explained that lease expenses would be \$100,000 per year for wastewater collection crew alone. This figure would double when water, electricians and telemetry space is leased. The debt service is \$400,000 to bond for the \$4.1 million for the purchase. Leasing would be about half the cost of debt service on the loan. The source of revenue to service the debts would be rate increases included in the rate package. Councilor Telfer confirmed that there is not increase in rates due to this purchase. Mr. Fuller confirmed that rate increases are not anticipated directly due to purchase, but programmed rate increases that are part of the five-year commitment included capital improvements to facilities and operational costs. This money will come out of the programmed rate increases that are coming this year.

Councilor Capell declared an indirect conflict of interest as Todd Taylor is his cousin. He studied analysis on the options and sees a \$10 million savings over the other choices in the long run. He believes this purchase makes a lot of sense.

Councilor Friedman moved to authorize the purchase of 62975 Boyd Acres for \$4.1 million. Councilor Johnson seconded the motion.

Councilor Telfer clarified that the motion is to cover just for the purchase price of the property.

The motion passed unanimously, 7/0.

**7. Hold a Public Hearing to hear remonstrance regarding the creation of Local Improvement District 685 for Piper Drive Sewer Improvements (Issue Summary)**

Mr. Fuller explained that the hearing is held to hear remonstrance. So far there has been 60 percent approval for the LID.

Mayor Abernethy opened the public hearing at 9:13 P.M. Hearing no testimony, the public hearing was closed.

Councilor Telfer moved to authorize staff to move forward with the LID. Councilor Johnson seconded the motion.

The resolution passed unanimously upon roll call vote, 7/0.

**8. Consider a roll call vote on a Resolution Authorizing ~~\$98,000~~ \$51,000 to be transferred out of General Fund Contingency for the Community Development Block Grant Fund in the Fiscal Year 2006/07 Budget (Issue Summary) (Resolution)**

Finance Director Margaret Echeveste explained that the action asks for an operating subsidy. She explained there was an erroneous billing from December 2004 that shortchanged the City, and the amended resolution has been decreased to reflect this

Councilor Telfer moved to amend the resolution to decrease the contingency of the general fund and increase the non departmental requirement of the general fund rather than CDBG. Councilor Friedman seconded the motion which passed unanimously, 7/0.

The amended resolution passed unanimously upon roll call vote, 7/0.

**9. Consider a Supplemental Budget for an Accessibility Construction Fund for Fiscal Year 2006/07. (Issue Summary) (Resolution)**

**A. Hold a public hearing**

Mayor Abernethy opened the public hearing at 9:22 P.M. Hearing no comments, the public hearing was closed.

**B. Consider a Resolution Adopting a Supplemental Budget**

Councilor Johnson moved approval of the resolution. Councilor Capell seconded the motion which passed unanimously upon roll call vote, 7/0.

**~~10. Consider formal adoption of the City's Budget Policies (Issue Summary) (Policies)~~**

This item was removed from the agenda.

- 11. Public Hearing on a Measure 37 Claim (File No. PZ-06-761). The Claimant is seeking compensation in the amount of \$3,263,000 dollars for reduction in fair market value. The claim is based on all of the City of Bend land use regulations that have been adopted since January 11, 1985 which are claimed to restrict the use and reduce the value of the subject property. Specifically, the claimant has identified the City's Upland Area of Special Interest (ASI) Overlay Zone, Chapter 2.7.700, Ordinance No. NS-2016 (August 7, 2006), and the City of Bend General Plan, Chapter 2, Natural Features and Open Space. The property is located south of Reed Market Road and west of American Loop in southeast Bend (Issue Summary) (Staff Report) (Claim for Compensation or Waiver) (Land Survey) (Letters) (Map)**

Councilor Telfer recused herself as she is currently involved in a real estate transaction that is effected by the property in this decision.

Planner Brian Harrington explained that the 180 day decision timeline runs out on April 23<sup>rd</sup>. He noted that two letters were received, one on April 3<sup>rd</sup> and one on April 2<sup>nd</sup>. These were sent to Council. Staff found that the application was incomplete and the applicant did not follow City Ordinances. The application did not demonstrate that the property had diminished in value. In the staff report, staff found that the property was likely enhanced in value. Council can deny the claim or based on legal advice could waive the conditions to the time the owner purchased the property in 1985.

Mayor Abernethy opened the public hearing at 9:27 P.M.

Steve Miller agrees with the staff report and submitted a letter. Three developers in the surrounding area preserved a portion of the Area of Special Interest. He asked that the property owner preserve the ASI in the southwest corner of the property and that the City consider a density transfer when the subdivision plan is submitted.

Michael McGean, attorney for the claimant, pointed out that this is the second Measure 37 claim based on the City's ASI ordinance. It is not a complex claim. The major issues focus on the time the property was purchased. The property was in the County when it was purchased. The 5.12 acre parcel was designated in 2001 as an area of special interest. There was no overlay zone prior to 2001. There were policy statements in the general plan, but they are general policy statements. He noted that state statute governs Measure 37 claims and states that city standards cannot preempt state

regulations. He requested that Council adopt an order waiving the ASI overlay and permit his client to develop with standards in place in 1985.

Councilor Clinton inquired about the value of the property. The property was purchased for \$200,000 to \$300,000. The claim is for \$3.2 million for five acres. Councilor Clinton noted that that would make the market value of the property \$30 million. He believes that the increase in value is due to City regulations.

Councilor Friedman asked if the claimant would be willing to dedicate a portion of this property as a civic outreach gesture. Mr. McGean noted that development of the property will be subject to site plan review and that would be the appropriate time to enter into those kind of negotiations. Councilor Friedman asked if Mr. McGean would be willing to ask his client the question. Mr. McGean would need more time. He doesn't believe this is one of the elements established for the claim. If the City is looking for a gesture, he will address this with his client. Councilor Friedman is interested in giving legal counsel opportunity to discuss this with his client and staff in order to allow the claimant the opportunity to demonstrate interest in keeping a portion of the property for the ASI and allowing him to move forward without this being a potential barrier. City Legal Counsel Jim Forbes explained that, if there is a deal struck, it would have to be between now and the next meeting. If no action is taken within the 180 days, it would be the same as denying the claim.

Councilor Capell does not support the claim. He noted that the property has dramatically escalated in value because of City infrastructure and zoning and the only way he would vote to pay the \$3 million claim is if the property owner pays for the benefit of the infrastructure.

Councilor Johnson noted that the claimant did not meet the City's requirements for information to help the Council make an informed and educated decision. She feels this is disrespectful to the public and the process by not providing the information needed. Mr. McGean disagrees that the evidence does not give Council enough information. The claimant's preferred form of relief is for a waiver, not for compensation. The law in Oregon states that the owner is competent to provide the value of its property. The City requires more information but the state says that City regulations cannot be prerequisite. It is redundant to provide property appraisals. Councilor Johnson asked about the evidence of property value. Mr. McGean referred to the affidavit of the property owner. The criteria in the City ordinance were addressed, but the claim was filed under the state statute.

Mayor Abernethy advised that staff believes the claimant's property has increased in value. Mr. Harrington confirmed. Based on the original property and the new ordinance, there are density transfers, setback issues provide benefits, and tax benefits for open space.

Steve Miller walked the property and wants the application to save a specific portion of the ASI.

Mayor Abernethy closed the public hearing at 9:53 P.M.

Councilor Capell moved to reject the claim. Councilor Johnson seconded the motion which passed unanimously, 6/0. Councilor Telfer was out of the room.

- 12. Hold a discussion regarding whether or not to hear an appeal of Hearings Officer Karen Green's decision on File #PZ06-683. This file is a declaratory ruling application to determine the lawfulness of the existing commercial use on the premises located at 61999 Broken Top Drive in Bend (Issue Summary) (Appeal Materials) (Map)**

Councilor Johnson declared a potential conflict. The appellant was a member of the board of directors of her client's organization.

Planner Heidi Kennedy explained that the planning department received an appeal on March 13<sup>th</sup> on a declaratory ruling for an issue about whether existing use was authorized. The 120 day time clock expires on May 16<sup>th</sup>. The hearings officer's decision was that the use of the property is not lawful under zoning conditions. It could not have been approved by Deschutes County either. Staff recommends that the appeal not be heard. The appellant can appeal to the Land Use Board of Appeals. Staff was not able to determine any issues of citywide relevance in this matter.

Councilor Friedman moved not to hear the appeal. Councilor Johnson seconded the motion. Councilor Clinton has sympathy for the appellant; however, the issue hinges on some finely drawn legalities. He does not feel it is appropriate to hear the case and supports the motion. The motion passed unanimously, 7/0.

### **Quasi Judicial Land Use Matters**

- 13. Statement of Procedural Rules by City Attorney and declaration of ex parte contacts and conflicts of interest.**

No member of the audience requested reading of the procedures.

No ex parte contacts or site visits were declared by Council.

No member of the public objected to Council sitting as the land use body on this matter.

- 14. The City Council is asked to reconvene the public hearing that was opened on March 21, 2007 for accepting staff comments, Council questions, conclusion of the hearing and Consider the first reading of an ordinance amending the City of Bend Area Zoning Map, by Changing the Zoning Designation of a Parcel of Land as Shown in Exhibit "A" from UAR, Urban Area Reserve, to IL, Industrial Light. (20 acres located northeast of the planned realignment of the intersection of NE Cooley Rd. and 18th, just to**

**the northeast of Lava Ridge Elementary School and Skyview Middle School. Applicant: City of Bend (Issue Summary) (Ordinance) (Exhibit A - Map) (Exhibit B – HO Decision) Exhibit C – Conditions) (Evidence and Testimony)**

Planning Manager Colin Stephens explained that oral testimony closed on March 21st. Written testimony was accepted for an additional seven days with another seven days allowed for rebuttal. Mr. Stephens distributed the testimony received.

The proposal is to rezone 20 acres of land annexed to the City with a plan designation of IL. Current zoning remains Urban Area Reserve. The proposal is to locate the Les Schwab corporate headquarters on the site. If the zone change is approved, land will be partitioned.

Councilor Gramlich inquired about recusing himself, having not been present for previous discussions. Counsel Forbes explained that Councilor Gramlich can participate providing he gets up to speed before the second reading.

Mr. Stephens reviewed background information and conditions of approval. The hearings officer recommended approval with conditions. At the March 21<sup>st</sup> hearing before Council, several issues were addressed related to transportation. The issues were addressed. First, recommended conditions did not provide enough assurances that mitigation provided at Hwy 97 and Robal Rd. and Hwy 97 and Cooley Rd did not provide enough certainty in terms of scope and timing of construction of mitigation recommended in the Transportation Analysis. The second issue was the assumption that a corporate headquarters would be the worst case scenario. It was felt that something more intensive should have been modeled in the transportation analysis. Third, OTC was not in favor of a short-term mitigation on Hwy 97. Fourth, the Transportation Analysis Study area was not felt to be large enough. In response to conditions 1 and 2, the applicant, the City of Bend, requested new conditions of approval in place of the ones recommended by the hearings officer. The new conditions of approval would 1) limit use on the property to only corporate headquarters; 2) limit trip generated by development on the rezoned acreage to 325 peak hour trips; 3) prior to issuance of certification of final occupancy for a corporate headquarters building, the following improvements must be constructed (1) northbound right turn lane on US97 at the intersection of Cooley Rd; and 2) a westbound right turn lane on Robal Rd at the intersection of Robal Rd and US97.

Councilor Capell asked whether Les Schwab is comfortable with the limit of peak trips. Mr. Stephens confirmed. Councilor Capell asked if this condition would still apply if Condition 3 is met. Mr. Stephens confirmed that it would still apply.

Councilor Telfer referred to conditions 3 a and b. She asked how the specific mitigation fit into the long term plan and how it fits within the other projects in the area that are looking at solutions. She asked if the short-term fix ties in with ODOT's long term plan. Transportation Engineering Manager Nick Arnis explained that the City must ensure that

whatever improvements made are in alignment with the NEPA process. The plans do not preclude any long range plans.

Councilor Johnson discussed condition 3 and referred to the presentation from Paul Milana in the work session about new corridors. If traffic is directed a different way, would the requirement to meet condition 3 still be valid? Mr. Arnis confirmed that it would still be required.

Councilor Telfer wonders if there is a way to work with the other developers in the area. Councilor Friedman has been working on the refinement plan for three years and he explained that either of the two options being considered will cost over \$100 million and they won't be built for a long time. Local traffic on Hwy 97 is viewed by ODOT as an intrusion on their system. He believes a short term answer is needed. Neither of the options make anything worse or precludes the City from working with other agencies. He believes the City should accelerate work with the property owners in the area on a solution that will work for everyone and secondly, using resources of the City focus on what can be done to facilitate trips out of Juniper Ridge without being dependent on the Transportation Commission to get there. Mr. Arnis explained that staff has been in contact with Lowes and WalMart representatives. The Memorandum of Understanding with ODOT will address a study at the intersection of Hwy 97 and Cooley Rd.

Councilor Clinton agrees with Councilor Friedman. The MPO has talked about short term solutions and conditions have been placed that the short term solutions won't impede long term plans. Rebuttals are not persuasive. The applicant has proved that the mitigation proposed is sufficient to handle the 325 peak trips. A traffic analysis has been done.

Mr. Stephens submitted findings (Exhibit D) in support of adoption of the ordinance to be included with the ordinance.

Councilor Friedman moved to substitute new Exhibit C for old Exhibit C and add Exhibit D. Councilor Johnson seconded the motion to amend which passed with Councilor Telfer opposed, 6/1.

First reading of the amended ordinance was held with Councilor Telfer opposed.

### **Conclusion of Quasi Judicial Land Use Matters**

- 15. Consider a Motion to approve the Consent Agenda A:**
  - A. Consider approval of the City Council meeting minutes:**
    - **March 19, 2007 Work Session**
  - B. Approve Central Oregon Cities Organization 2007/08 legislative agenda and City of Bend Contribution (Issue Summary)**
  - C. Authorize City Manager to sign Quitclaim Deed for Newport Gardens LLC (Issue Summary)**
  - D. Receive report on liquor license endorsements (Report)**

Councilor Johnson moved approval of Consent Agenda A. Councilor Clinton seconded the motion which passed unanimously, 7/0.

**16. Consider a roll call vote on Consent Agenda B:**

**A. Consider a roll call vote on a Resolution supporting financing for Breedlove Guitars headquarters construction in Bend (Issue Summary) (Resolution)**

Consent Agenda B passed unanimously upon roll call vote, 7/0.

**17. Council Action and Reports.**

Councilor Clinton indicated that former City Councilor John Hummel was the Council representative to Central Oregon Intergovernmental Council. Councilor Clinton was the alternate, but can't attend most of the meetings. Councilor Gramlich volunteered to serve as the Council representative to COIC, and Councilor Clinton will remain as the alternate.

Councilor Clinton referred to a previous executive session wherein Council discussed an expenditure of \$10,000 to Double Happiness restaurant. This small business lost half of its occupancy because of the elimination of its backdoor. The business incurred a loan of \$200,000 to relocate. The building it is moving into has to pay \$52,000 in SDCs. The developer of the D&D parking lot agreed to assist in the move in the amount of \$20,000, though they were not legally required to do so. The owner of the building that Double Happiness currently occupies has agreed to rent concessions in the value of \$20,000. Councilor Clinton asked Council to follow through on the majority opinion in executive session and give Double Happiness \$10,000 from proceeds of sale of the parking lot to help the restaurant with its move.

Councilor Clinton moved to reconsider the vote at the last meeting (the vote to deny the expenditure). Councilor Friedman seconded the motion.

Councilor Clinton has issues with the allocation. He believes that businesses should be responsible for their decisions. He is concerned that this action might set a precedent. There are a number of businesses that were harmed because of road construction. It is the City's responsibility to wisely spend the money it has.

Councilor Johnson will support the expenditure. It was a decision that the City made by majority. The business did not make a bad decision. The City gave the business a property right and then took it away.

Councilor Telfer acknowledged that the majority of Council decided to accept this, but she voted against it to begin with and will vote no now. She has received 21 e-mails of business owners who believe this is wrong.

Councilor Clinton agrees with Councilor Capell's analysis in general, but it was misapplied in this situation. There is a difference between a permanent impact on a business that the City played a part in causing vs. a temporary interruption of business to make public improvements. The City played a part in this because it required the restaurant to put in the back exit.

The motion passed with Councilors Capell and Telfer opposed and all other Councilors supporting the motion, 5/2.

Councilor Friedman requested that Council discuss visitor comments in a future work session. Council agreed.

Councilor Johnson acknowledged the VCB board for a fine presentation. Councilor Johnson moved to ask staff to prepare a five percent budget increase for the VCB. She also moved to eliminate the Council directed special projects with TRT revenues for fiscal year 2007-08 in order to reconcile the budget shortfall that continues to build. Councilor Telfer asked that the conversation be held at a later time. Counsel Forbes explained that this is outside the budget process. Councilor Johnson clarified her intent to specify this as a Council priority not to micromanage the budget. Councilor Friedman recommended to direct staff to consider bringing these two proposals in as part of the budget process. He is comfortable giving this direction. Councilor Clinton noted that if funding for the VCB is eliminated, proper notice is needed. If Council does not intend to eliminate funding then he supports Councilor Johnson's recommendation. Councilor Telfer can't make a determination until she sees the financial report she asked for from the VCB. Councilor Johnson noted that the VCB is required to report to the Council according to its contract. Councilor Telfer moved to hold the conversation until another time.

Councilor Friedman seconded Councilor Johnson's motion about directing staff to prepare the budget with a five percent increase.

Councilor Capell does not intend to eliminate funding to the VCB and is comfortable, having heard their presentation, in supporting the motion.

The motion passed with Councilor Telfer opposed and all other Councilors supporting the motion, 6/1.

Councilor Johnson moved elimination of Council directed special projects for Transient Room Tax fund for fiscal year 2007/08. Councilor Friedman seconded the motion and clarified that the elimination is for the first year of the biennial budget. The motion passed with Councilor Telfer and Mayor Abernethy opposed, and all other Councilors supporting the motion, 5/2.

## **18. Receive City Manager's Report.**

Acting City Manager Police Chief Jordan had no report.

**19. Adjourn**

Councilor Telfer moved to adjourn. Councilor Johnson seconded the motion which passed unanimously, 7/0.

The meeting adjourned 10:54 P.M.

Respectfully submitted,

Patricia Stell  
City Recorder

/km