

City of Rockaway Beach

Regular City Council Meeting Minutes



Date: Wednesday, September 11, 2024
Location: Rockaway Beach City Hall, 276 Hwy 101 - Civic Facility

1. CALL TO ORDER

Mayor McNeilly called the meeting to order at 6:00 p.m.

McNeilly made a statement regarding deportment, requesting that all people respect those in attendance and the opinions of those with whom they may disagree prior, during and after City business meetings.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Start time: [06:02:08 PM \(00:02:08\)](#)

Council Members Present: Mayor Charles McNeilly; Councilors Penny Cheek, Mary McGinnis, Tom Martine, Kristine Hayes, and Alesia Franken

Staff Present: Luke Shepard, City Manager; and Melissa Thompson, City Recorder; Dan Emerson, Public Works Superintendent; Todd Hesse, Fire Chief; and Kevin Grogan, Sheriff's Deputy

4. CONSENT AGENDA

Start time: [06:02:25 PM \(00:02:25\)](#)

- a. Approval of August 14, 2024 Regular Meeting Minutes
- b. Approval of August 14, 2024 Workshop Minutes
- c. Review of August 2024 Check Register

McGinnis made a **motion**, seconded by Martine, to approve the consent agenda.

The **motion carried** by the following vote:

Aye: 5 (Cheek, McGinnis, Martine, Hayes, Franken)

Nay: 0

5. PRESENTATIONS, GUESTS & ANNOUNCEMENTS

- a. **Presentation – Strategic Plan Update** – Ashley Sonoff, SSW Consulting

Start time: [06:03:53 PM \(00:03:54\)](#)

Sonoff gave a presentation covering the goals of the strategic plan, timeline, engagement summary, themes emerging from outreach surveys, and next steps in the strategic plan process. Councilors asked clarifying questions and praised the comprehensive explanation of the strategic plan process and community-driven approaches

6. STAFF REPORTS

a. Fire Department

Start time: [06:29:58 PM \(00:29:58\)](#)

Hesse, attending remotely, presented his staff report on the activities and operations of the Rockaway Beach Fire Rescue department for the month of August 2024. Hesse shared that he and Captain Grace were attending the EMS World Conference. Hesse added that the fire danger has been reduced to moderate, and noted that Tillamook County has participated in five of the fifteen State conflagrations this year. Hesse acknowledged the anniversary of September 11th, 2001. Hesse answered questions about the Nixle alert system and clarified for the Council that summer staffing would continue through October 31st.

b. Sheriff's Office

Start time: [06:38:50 PM \(00:38:50\)](#)

Deputy Kevin Grogan apologized for last month's absence due to training. Grogan summarized the Sheriff's Office report for August 2024. Grogan added that school was in session and to be aware of speed. He commented on law enforcement efforts to make connections with school students. Councilors noted a lighter activity report and expressed gratitude for the deputies' work during the busy summer period. They looked forward to possibly adding more deputies to relieve workload.

c. Public Works

Start time: [06:42:46 PM \(00:42:47\)](#)

Emerson presented his report on recent activities and operations within the Public Works department. He thanked Rachel Johansson and Jeanette Singleton for their generous plant donations for landscaping Anchor Street Park. Emerson confirmed that new signs were installed by Ramsay Signs. It was noted that Narcan installed at Phyllis Baker Park was donated by Robin Bach.

d. City Manager

Start time: [06:47:39 PM \(00:47:40\)](#)

Shepard shared a presentation providing background information on the action items on the agenda. Shepard also provided updates on Lake Lytle improvements, the Wayside Beach Access project, Nedonna Beach Water System improvements, new signs and landscaping at Anchor Street Park and Lake Lytle, upcoming public meeting dates, and a staff highlight.

7. PUBLIC HEARING

a. Ordinance 2024-04 Amending Code Chapter 31 Related to the Planning Commission

Start time: [07:01:37 PM \(01:01:37\)](#)

At 7:01 p.m., McNeilly opened the public hearing.

McNeilly explained that the purpose of the public hearing was to receive comment on Ordinance 2024-04 Amending Code Chapter 31 Related to the Planning Commission.

McNeilly invited public testimony.

Lisa Finkle, resident, testified in opposition, expressing concerns regarding reducing community representation, transparency and accountability, and impairing the Planning Commission's role in strategic planning.

Daniel Howlett, resident, testified in opposition, expressing concerns about the process for advertising and filling vacancies. Howlett advocated for bringing new members to city committees and rotating the Council liaison to the Planning Commission position annually.

McNeilly closed the public hearing at 7:08 p.m.

b. Ordinance 2024-07 An Ordinance Providing Authority and Procedures for Administrative Warrants and Creating a New Code Chapter 97

Start time: [07:08:56 PM \(01:08:56\)](#)

At 7:09 p.m., McNeilly opened the public hearing.

Debby Hunn, resident, expressed concerns regarding safety implications for city employees and advocated for a process and procedure manual to accompany the Ordinance. Hunn advocated for holding a first reading, public hearing, and second reading on different dates, and urged the Council to review the process.

Lisa Finkle, resident, spoke in opposition to the Ordinance and hoped for broader discussion regarding bringing back the police department. Finkle expressed concerns regarding residents' privacy and rights, and potential misuse. She urged the Council to seek community perspectives, particularly from those directly impacted by the ordinance.

McNeilly closed the public hearing at 7:15 p.m.

8. CITIZEN INPUT ON NON-AGENDA ITEMS

Start time: [07:15:20 PM \(01:15:20\)](#)

Ronnie Duckworth expressed frustration and concern over an ongoing drug-related issue on his street, describing a recent fire that broke out at a suspected drug house, resulting in a bus explosion. He requested law enforcement action. McNeilly commented that he would contact Duckworth.

Debby Hunn expressed shock that open litigation was discussed at a recent City Council meeting. Hunn referred to her written testimony, expressing concerns that certain Transient Room Tax (TRT) fund expenditures had been incorrectly budgeted. Hunn expressed additional concerns about election procedures, pointing out inconsistencies with the City Charter, and suggesting that issues could have been resolved without litigation.

Justin McMahan commented that he was a relator in a legal case against the city regarding the election process case and was running for City Council. McMahan acknowledged that they lost the case, but the judge deemed the case reasonable and not frivolous. McMahan stated that city's election process had been changed illegally, and expressed concerns that Ordinance 2024-02 had been presented differently in court than in public meetings. He advocated for ethics and transparency.

Lisa Finkle expressed concerns regarding a neighboring short-term rental property. She shared that the fire pit was a hazard affecting air quality and health. Finkle commented that the property's hot tub led to noise and activity extending beyond the city's quiet hours. Finkle urged the Council to enforce existing regulations and hold property managers accountable.

Rosemary Hamilton waived her time to Nancy Webster. Nancy Webster appreciated that the City was considering microphones for the Council Room.

Nancy Webster spoke in opposition to the Nedonna Wave development, asking the City to deny the entire development. She expressed concerns that development is within the DEQ Source Water Protection Area and near Jetty Creek, another primary water source. Webster stated the area's wells are vulnerable to contamination from high-density housing, construction, pesticide use, and potential saltwater intrusion. She expressed additional concerns that septic systems and sewer infrastructure could not accommodate more density. Webster raised additional concerns about inadequate fire exits and fire risks from beach fires and grass. She urged the Council to protect the area's wetlands, which are part of a saltwater marsh and critical fish-bearing habitat.

Daniel Howlett commented on the recent court case. Howlett expressed concerns that city leaders initially indicated support for removing council position numbers but later reversed their position. He expressed concern that council position numbers were added in 2014 without a vote. Howlett expressed additional concerns about council members running unopposed, concerns regarding meeting audio recordings, and concerns about the expressed intent of the nomination ordinance.

Howlett referred to his submitted written testimony and urged the public to support new leadership in November.

9. OLD BUSINESS – None Scheduled

10. NEW BUSINESS

a. Consideration of Resolution 2024-41 Adjusting Appropriations for the 2024-2025 Fiscal Year Budget

Start time: [07:41:58 PM \(01:41:58\)](#)

McNeilly explained that this resolution transfers funds within the General Fund from Contingency to the Administration Department for sound amplification equipment to address residents' concerns with the sound quality at City Council Workshops and Meetings.

No audience members wished to comment.

Martine made a **motion**, seconded by Cheek to approve Resolution 2024-41.

The **motion carried** by the following vote:

Aye: 5 (Cheek, McGinnis, Martine, Hayes, Franken)

Nay: 0

b. Determination of the Scope of Review for Land Use Appeal #24-1 on the Nedonna Wave Planned Unit Development – Phase 2

Start time: [07:43:54 PM \(01:43:55\)](#)

McNeilly explained to Delta Holderness that the scope of review determination was a non-hearing item. Holderness requested time to comment later on a non-agenda item.

McNeilly explained that the Rockaway Beach Zoning Ordinance, section 11.070(4) provides that the City Council must determine the scope of review prior to hearing appeals. He stated the City Council shall determine, as a non-public hearing item, that the scope of the review will be one of the following: (a) Restricted to the record made in the decision being appealed. (b) Limited to the presentation of additional evidence on such issues as the reviewing body determines necessary for a proper resolution of the matter. (c) A de novo hearing. (d) A remand of the matter to the hearing body for additional consideration.

McNeilly stated the City Council held discussion and consultation with the land use attorney in the workshop, and he would now entertain a motion.

Franken made a **motion**, moved, seconded by Cheek, to review land use appeal #24-1 on the Nedonna Wave Planned Unit Development – Phase 2 in accordance with Rockaway Beach

Zoning Ordinance, Section 11.070(4)(B): Limited to the presentation of additional evidence on such issues as the reviewing body determines necessary for a proper resolution of the matter, with a scheduled hearing date of October 9, 2024. Additional evidence shall be provided regarding the issues and criteria raised in the Appeal.

McGinnis explained that the motion was the second option (b) listed by McNeilly. She stated that both the applicant and the appellant gave some indication of what new testimony they would like, and all of their considerations would be included in this scope of review.

Hayes declared that she was going to recuse herself from the vote, stating that she was paid by the developer in 2009 to create the big circle of wetlands that are there. Hayes stated she worked with the wetland specialist and did the signs and the nautical rope that you see around all the wetlands. Hayes said she spoke with the attorney in the workshop and he said while she might not have a conflict of interest, she might have some bias. Hayes stated she had a lot of attachment to the property and so was going to recuse herself and not vote.

The **motion carried** by the following vote:

Aye: 3 (McGinnis, Martine, Franken)

Nay: 1 (Cheek)

Abstain: Hayes

McNeilly invited Delta Holderness to provide public comment on a non-agenda item.

Delta Holderness shared a copy of written testimony submitted by Gary and Renee Corbin urging the Council to deny approval of the Nedonna Wave development. (A copy of the Corbin's testimony is included in the record for the meeting.) Holderness read aloud a statement urging the City Council to start over with a new application process for the 2008 Planned Unit Development (PUD). (A copy of Holderness' testimony is included in the record for the meeting.)

c. First & Second Reading of Ordinance 2024-04 Amending Code Chapter 31 Related to the Planning Commission

Start time: [07:51:16 PM \(01:51:17\)](#)

McNeilly explained Ordinance 2024-04 amends the City of Rockaway Beach Code of Ordinances regarding the Planning Commission. He stated this amendment was approved by the Planning Commission and reviewed by the City Council at two workshops. McNeilly explained that the ordinance was available for inspection in accordance with the City Charter.

McGinnis made a **motion**, seconded by Cheek, to perform the first and second reading by title only of Ordinance 2024-04.

The **motion carried** by the following vote:

Aye: 4 (Cheek, McGinnis, Martine, Franken)

Nay: 1 (Hayes)

McNeilly performed the first and second reading by title only of Ordinance 2024-04.

Cheek made a **motion**, seconded by Franken, to approve the first and second reading by title only of Ordinance 2024-04.

The **motion carried** by the following vote:

Aye: 4 (Cheek, McGinnis, Martine, Franken)

Nay: 1 (Hayes)

d. Consideration to Adopt Ordinance 2024-04 Amending Code Chapter 31 Related to the Planning Commission

Start time: [07:54:06 PM \(01:54:06\)](#)

McNeilly explained that with the first and second reading now complete, Ordinance 2024-04 is ready for adoption.

McGinnis made a **motion**, seconded by Martine, to adopt Ordinance 2024-04 Amending Code Chapter 31 Related to the Planning Commission.

McGinnis commented that the Ordinance broadens the Planning Commission's authority and makes it more effective. She noted that the old ordinance had strange, outdated provisions. McGinnis noted that some provisions, including limits on the number of real estate professionals, are required by state law. She explained that the Charter provides rules for appointments. McGinnis noted that the work on the ordinance began in February and included citizen involvement, and multiple public meetings.

The **motion carried** by the following vote:

Aye: 4 (Cheek, McGinnis, Martine, Franken)

Nay: 1 (Hayes)

e. First & Second Reading of Ordinance 2024-07 Providing Authority and Procedures for Administrative Warrants and Creating a New Code Chapter 97

Start time: [07:58:04 PM \(01:58:04\)](#)

McNeilly explained that Ordinance 2024-07 amends the City of Rockaway Beach Code of Ordinances, adding a new chapter in the City code that provides the authority and procedures for administrative warrants. McNeilly stated that the ordinance was available for inspection in accordance with the City Charter.

Cheek made a **motion**, seconded by McGinnis to perform the first and second reading by title only of Ordinance 2024-07.

The **motion carried** by the following vote:

Aye: 4 (Cheek, McGinnis, Martine, Franken)

Nay: 1 (Hayes)

McNeilly performed the first and second reading by title only of Ordinance 2024-07.

Franken made a **motion**, second by Martine, to approve the first and second reading by title only of Ordinance 2024-07.

The **motion carried** by the following vote:

Aye: 4 (Cheek, McGinnis, Martine, Franken)

Nay: 1 (Hayes)

f. Consideration to Adopt Ordinance 2024-07 Providing Authority and Procedures for Administrative Warrants and Creating a New Code Chapter 97

McNeilly explained that with the first and second reading now complete, Ordinance 2024-07 is ready for adoption.

Franken made a **motion**, second by Martine, to adopt Ordinance 2024-07.

Hayes commented that she shared in workshop that she spoke with the Sheriff about it and he said nobody should go on property without being accompanied by law enforcement. Hayes advocated for requiring that law enforcement accompany staff. She expressed concerns about loss of land rights and overreach. Hayes indicated she would vote no.

McGinnis spoke in favor of the ordinance, commenting that the city already has an abatement ordinance, and this ordinance gives authority for a Sheriff's Deputy to accompany staff. McGinnis added that some abandoned properties might be treated differently. At the request of McGinnis, Shepard confirmed that the ordinance gives the Sheriff's Office authority to assist.

Cheek concurred with McGinnis, commenting that there was some misunderstanding, and the ordinance allows an officer to accompany staff.

Franken suggested that no one would knowingly put city staff in danger.

The **motion carried** by the following vote:

Aye: 4 (Cheek, McGinnis, Martine, Franken)

Nay: 1 (Hayes)

RECESS INTO EXECUTIVE SESSION

At 8:07 p.m., McNeilly announced that the City Council would now recess to a conference room and into Executive Session pursuant to ORS 192.660 (2)(h) to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed. McNeilly stated this executive session will include discussion of pursuit of attorney fees against relators in Case No. 24CV37762. He added that no final action will be taken in this closed session it is if a decision needs to be made it will be done when open session resumes.

RECONVENE REGULAR SESSION

McNeilly called the regular session back to order at 9:19 p.m.

g. Consideration of Pursuit of Attorney Fees against Relators in Case No. 24CV37762

Start time: [09:19:10 PM \(02:08:04\)](#)

McNeilly explained that the Council may now consider taking action regarding whether or not to pursue attorney's fees against relators who filed a legal action against the City that was decided in the City's favor.

McNeilly invited public comment.

Debby Hunn commented that today was September 11th and was hoping town would come together. Hunn expressed concerns about Ordinance 2024-04, stating that the state requires single topic ordinances, and one ordinance cannot cover both elections and nominations. Hunn expressed additional concerns about public notice and holding a public hearing and two readings of the ordinance on the same day. She was concerned that video and audio evidence were not allowed in court. Hunn advocated for running an open election with top three votes serving a four-year term, and next two votes serving a two-year term.

Martine made a **motion**, seconded by McGinnis, to pursue an award of attorney fees against realtors in case number 24CV37762.

McGinnis commented that there was a long discussion and consideration that took place during the executive session. She emphasized that while they can provide their reasons for voting, they cannot disclose the legal advice shared in the session. McGinnis addressed misinformation circulating within the community and expressed a desire for healing. She

noted that the judge in the case clearly denied the writ twice and cited laws that supported the city's position, which was her reason for supporting the decision.

The **motion carried** by the following vote:

Aye: 4 (Cheek, McGinnis, Martine, Franken)

Nay: 0

Abstain: Hayes

McNeilly read aloud Council Meeting Rules and Procedures Section 3.13 Duty to Vote: When a question is taken, every member of the Council eligible to vote shall vote unless a Councilor states a valid reason to abstain or has a direct conflict of interest. McNeilly requested that Hayes state a valid reason for abstaining or state that she had a direct conflict of interest. Hayes stated she didn't think so unless she could step out and call her attorney. McNeilly asked that the record show that Hayes did not follow the Council rules that she voted into place.

11. ITEMS REMOVED FROM CONSENT AGENDA – None removed

12. COUNCIL CONCERNS

Start time: [09:26:54 PM \(02:15:48\)](#)

Cheek commented that she was pleased with the audience attendance and participation, and that the whole community should have input into everything that the Council does.

Franken commented that the Tillamook Bay Community College Small Business Development Center is partnering with the Economic Development Council of Tillamook County for a pitch contest, noting that it was a great resource for entrepreneurs or business owners. Franken reported she attended the emergency management meeting for water sanitation and thanked Captain Grace and the Emergency Management team. She encouraged all to view the presentation on the website. Franken also encouraged participation in the Great Shakeout. She reported on attendance at a tour of the Bone Ridge forest. Franken encouraged participation in the Sourcewater Protection Plan Town Hall.

Hayes commented on the hearing about elections, stating that three public officials testified that the Council did not pass an ordinance adding seats and one testified otherwise. Hayes expressed concern and confusion, stating that the judge basically said I'm sorry if you don't understand that you passed that. She encouraged those who were confused to watch the testimony. Hayes expressed additional concerns that the litigation was discussed publicly for political reasons, when others were handled in executive session. Hayes felt this discouraged citizens from speaking up and found it shameful. Hayes shared additional comments reflecting on 9/11.

Martine shared reflections on 9/11, noting that none of us will ever forget.

McGinnis shared reflections on being a teacher during 9/11 and acknowledged first responders. She shared that the League of Oregon Cities' *Local Focus* magazine featured Rockaway's Anchor Street Park. McGinnis commended Bill Hassell and shared about work they were doing to acquire benches for the Boardwalk, and efforts to mitigate milfoil. She shared that they represented Rockaway with Hassell's drone photos at a Salmonberry Trail Foundation event, thanking Public Works for their help. McGinnis encouraged attendance at the upcoming Arts & Music Festival and the Great Shakeout event.

13. MAYOR'S REPORT

Start time: [09:37:35 PM \(02:26:29\)](#)

McNeilly shared slides, providing updates on an increase in visits to the visitor website, indicating that the QR was being utilized. He shared images of new Rockaway Beach Shopping Bag designs. McNeilly extended thanks to Nan Devlin and the Tillamook Coast Visitors Association.

14. ADJOURNMENT

Start time: [09:39:56 PM \(02:28:50\)](#)

Martine made a **motion**, seconded by Cheek to adjourn the meeting at 9:39 p.m.

The **motion carried** by the following vote:

Aye: 5 (Cheek, McGinnis, Martine, Hayes, Franken)

Nay: 0

MINUTES APPROVED THE
13TH DAY OF NOVEMBER 2024



Charles McNeilly, Mayor

ATTEST



Melissa Thompson, City Recorder