

CALL TO ORDER

City Manager Hoffman called the Special Council meeting to order at 12.10 pm.

ROLL CALL

Present: Binkley, Buttane, Carpenter, Hoffman  
Sullivan, Veit

Absent: Guinn

City Attorney Lubovitch was in attendance.

motion

M/M by Binkley, 2nd by Carpenter to appoint Joe Sullivan as acting Mayor. Voice vote, motion carried.

APPROVAL OF AGENDA

M/M by Carpenter, 2nd by Binkley to approve the agenda with the following addition:

Item D: Southern Lawsuit

Voice vote, motion carried.

NEW BUSINESS

AVCP RESOLUTION SUPPORTING ALCOHOL/DRUG TASK FORCE RECOMMENDATIONS

Item A: AVCP  
Resolution

M/M by Binkley, 2nd by Veit to approve the language of the resolution for AVCP's consideration supporting the Alcohol/Drug Task Force. Voice vote, motion carried.

A joint meeting of the Council and Task Force will take place on October 18 at noon.

Item B: Pensgard  
Property

PENSGARD PROPERTY

Councilmember Binkley abstained, with Council permission, from the discussion.

City Manager Hoffman reviewed the proposed purchase of the Pensgard property.

Councilmember Sullivan expressed concern that any purchase of the Pensgard property at this time might have a detrimental impact on the arbitration proceedings underway concerning the Faulkner/Walsh land.

City Attorney Lubovitch also expressed a similar concern about the proposed purchase at this time and indicated that it would be appropriate to distinguish land value from good will in purchasing the property; that the City is not purchasing the business itself, but only the property.

City Planner Stigall reviewed methods of determining price for such a business under the 'blue sky' method which incorporates the concept of good will in the purchase of a business.

Councilmember Buttane recommended the purchase using the 'blue sky' concept.

Councilmember Veit indicated that the 'blue sky' formula is used only when the business operation itself is purchased, usually with the purchase of a professional service, which purchase results in a non-competition relationship between the former owner and purchaser. Mr. Veit indicated that such is not the case with the City purchasing the Pensgard property; Mr. Pensgard could re-open the business at another location.

Councilmember Carpenter asked why the City was buying the property and if the purchase was within the appraised value of the land. City Manager Hoffman noted that the Council in '81 or '82 had directed Administration to purchase the Pensgard property in connection with the dock expansion program.

Councilmember Hoffman noted that Mr. Pensgard has indicated that if the City does not purchase the land that he will sue the City for damages caused to his property by a drainage problem alleged to have been caused by the City.

City Manager Hoffman noted for Council that the funds needed for the purchase would come from State funds and not from the City's general fund.

Councilmember Sullivan asked if the Port Commission had considered the purchase. Councilmember Buttane, a member of the Port Commission, indicated that the Port Commission had voted 2 yes, 2 no for the purchase.

Councilmember Sullivan asked if other options were available as to how the City could obtain the property. City Attorney Lubovitch indicated that the property could be condemned through a State agency as part of the dock expansion or through local condemnation proceedings if the electorate gave the City the right to so proceed.

Councilmember Sullivan opposed the purchase.

City Manager Hoffman informed Council that the proposed purchase price would be \$225,000 down with the balance of \$262,000 paid out over a 9 year period at 10% interest.

M/M by Buttane, 2nd by Hoffman directing the Administration to negotiate a purchase agreement with Mr. Pensgard for the purchase of Chuck's Place in an amount no to exceed \$487,000. Poll vote, 2 yes, 3 no, motion failed.

motion

motion

M/M by Veit, 2nd by Carpenter directing the Planning Department to develop a meaningful plan as to the use of the Pensgard property by the City and to present the plan to the City Council as soon as possible. Poll vote, 2 no, 3 yes, motion failed.

motion

M/M by Carpenter, 2nd by Buttane directing Administration to work with Mr. Pensgard on seeking a solution to the drainage and foundation problems at Chuck's Place. Voice vote, motion carried.

Item C: Alaska  
Coastal Policy  
Appointment

ALASKA COASTAL POLICY APPOINTMENT

City Manager Hoffman noted for Council that the person recommended by Council must be an elected official.

Council made no recommendation as to the appointment.

Councilmember Buttane was excused at 1 pm.

Item D: Southern  
Lawsuit

SOUTHERN LAWSUIT

M/M by Binkley, 2nd by Veit to go into executive session concerning legal matters. Voice vote, motion carried. Executive session from 1.05 to 1.41.

Councilmember Hoffman did not participate in the executive session.

M/M by Binkley, 2nd by Carpenter to instruct the City Attorney to contact the City's insurance carrier as to the lawsuit, and that due to a possible conflict of interest involving the City Attorney, to have the insurance company tender a defense in the matter. Voice vote, motion carried.

ADJOURNMENT

M/M by Binkley to adjourn. The meeting adjourned at 1.45 pm.

PASSED AND APPROVED THIS *[Signature]* DAY OF DECEMBER, 1984.

ATTEST:

*[Signature]*  
Wayne S. Maier, City Clerk

*[Signature]*  
Joe Sullivan, Mayor