

1 Depoe Bay City Council  
2 Regular Meeting  
3 Tuesday, December 18, 2018 - 7:00 PM  
4 Depoe Bay City Hall

5  
6 PRESENT: Mayor B. Leff, Council Members R. Gambino, D. Callender, C. Bates, K. Short, L.  
7 Goddard, J. Grant

8 ABSENT:

9 STAFF: City Superintendent B. Weidner, Interim Recorder C. Duering, Recording Secretary J.  
10 Coggins

11

#### 12 I. PLEDGE OF ALLEGIANCE

13 Mayor Leff called for all to stand for the Pledge of Allegiance.

14

#### 15 II. CALL TO ORDER

16 Mayor Leff called the meeting to order at 7:10 PM and established a quorum.

17

18 III. APPROVE MINUTES: City Council December 4, 2018, Regular Meeting Minutes and Executive  
19 Session Minutes.

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21 Mayor Leff asked for a motion to approve City Council December 4, 2018, Regular Meeting Minutes and  
22 Executive Session Minutes.

23

24 Motion 1: Short moved to approve the December 4, 2018, Regular Meeting Minutes and Executive  
25 Session Minutes. Gambino seconded the motion.

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27 Mayor Leff said it was moved and seconded. No additional comments were made.

28

29 Vote: Motion 1 passed.

30 Ayes: Gambino, Bates, Leff, Short, Callender, Goddard, Grant

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#### 32 IV. ACCOUNTS PAYABLE

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34 Motion 2: Gambino moved to approve Accounts Payable as presented. Callender seconded the motion.

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36 Mayor Leff said it was moved and seconded. No additional comments were made.

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38 Vote: Motion 2 passed.

39 Ayes: Gambino, Bates, Callender, Leff, Short, Goddard, Grant

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#### 41 V. SPECIAL ORDERS

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43 A. Public Hearing: Appeal of Planning Commission Decision on Application for Development in  
44 Coastal Shorelands Overlay Zone (Case File #4-CS-PC-18) Keith Sheldon

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1 Mayor Leff explained the Public Hearing procedure: She will call for City Council ex-parte contact,  
2 conflict of interest or bias to declare. There will be an opportunity to object to any City Councilor hearing  
3 the case. The Appellant will have the opportunity to present information relevant to their Appeal, followed  
4 by testimony in support of the Appeal, then testimony in opposition, with the Appellant having the  
5 opportunity for rebuttal. Unless there is a request to hold the record open, testimony will be closed and  
6 the City Council will enter into deliberations on the Appeal.

7  
8 At the request of Mayor Leff, City Planner, Larry Lewis, stated testimony and evidence given must be  
9 directed toward criteria described by the City Planner, or other criteria in the code that the testifier believes  
10 apply to the request. Failure to raise an issue, accompanied by statements or evidence sufficient to afford  
11 the City Council and the parties an opportunity to respond to the issue precludes appeal to the State Land  
12 Use Board of Appeals on that issue. Application materials or other evidence relied upon by the Appellant  
13 had been provided to the City and made available to the public.

14  
15 Mayor Leff asked if any City Councilor had ex-parte contact, conflict of interest, or bias to declare. There  
16 was none.

17  
18 City Planner, Larry Lewis, read his Staff Report regarding 571 SW Point Ave. Mr. Lewis provided Council  
19 with a summary of the nine arguments being brought forth by the Appellant, Planning Commission  
20 Findings, and Staff Analysis (copies attached to the original of these minutes).

21  
22 City Planner, Lewis, stated the following Council options:

- 23  
24 1. Overturn Planning Commission approval.  
25 2. Uphold Planning Commission decision.  
26 3. Uphold Planning Commission decision and revise conditions.  
27

28 Lewis then asked if anyone had objection to any City Councilor hearing the case. There was no objection.  
29

30 The Appellant was given an opportunity to testify and answer questions from City Council.  
31

32 Appellant, Carol McCarthy, gave a presentation with pictures of the area. (copy attached to the original  
33 of these minutes). She also requested materials from the first and second Planning Commission Public  
34 Hearings be put into the record.

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36 Mayor Leff called for testimony in support of the Appeal.

37  
38 Fran Recht spoke in support of the Appellant. In conclusion, Recht recommended option three from the  
39 Staff Report.

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41 Claudia Crum spoke in support of Fran Recht's testimony.

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43 The Mayor called for testimony in opposition of the Appeal.  
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45

1 Joan Chambers, Attorney for the Applicant, Keith Sheldon, gave testimony regarding the classification of  
2 the Appellant’s definition of retaining wall, she stated there is no evidence of fill as stated by Appellant,  
3 no one knows who placed the rocks on the property, this is a frivolous appeal, pointed out numerous  
4 instances of trespassing by the Appellant including video and pictures and supported conclusions by staff.  
5 Chambers requested Council support the Planning Commission decision. In addition, she feels there is  
6 no reason to remove the rocks since they are not affecting the building of the house and are not a retaining  
7 wall.

8  
9 The Appellant was given an opportunity for rebuttal.

10

11 McCarthy spoke in support of her backfill statement. She also stated the definition of a retaining wall is  
12 correct and claims no material holding the rocks together is irrelevant and stated it’s a safety risk due to  
13 erosion and zoning code. She also spoke about the area of visual concern as stated in the Comprehensive  
14 Plan. In conclusion, McCarthy requested the record remain open for seven days.

15

16 Mayor Leff closed the Public Hearing at 8:31 PM. City Planner, Lewis, explained the hearing will be  
17 continued to the January 15, 2019, Council Meeting.

18

19 VI. REPORTS OF OFFICERS, BOARDS, OR STANDING COMMITTEES

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21 VII. PUBLIC COMMENTS

22 Fran Recht spoke about possible funding to protect the water shed. She attended a meeting in Tillamook  
23 about water protection grants and how to find resources to protect the water shed. Protecting the water  
24 shed from erosion is a priority. Recht stated that with the constant need to dredge the harbor, she thinks  
25 the City needs to explore where all the silt is coming from. She thinks professionals should be hired to  
26 walk the water source and find where the silt is coming from. Mayor Leff will go to the next Harbor  
27 Commission meeting to talk about a possible solution.

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29 VIII. UNFINISHED BUSINESS

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31 A. License Agreement – Street Right of Way Encroachment at 55 S.E. Bay Street

32 John Woodmark has been working with Weidner and Lewis to find solutions for the bank removal. Mr.  
33 Woodmark provided engineered plans, after review, it was determined that a portion of the stairway and  
34 landing are within the public right of way. The Council will have to sign the agreement for a right to  
35 encroach. Council reviewed pictures and drawings to determine the amount of encroachment. There are  
36 two parts to this project. The first part requires the agreement to allow encroachment within the City right-  
37 of-way. The second will be a building permit from the County. Council reviewed the agreement and  
38 requested the building materials be corrected and the City Attorney’s suggestion on insurance be followed  
39 for approval.

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41 Motion 3: Grant moved to approve the License Agreement with corrected inaccuracies, and additional  
42 information on the retaining wall. Gambino seconded the motion.

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44 Mayor Leff said it was moved and seconded. Neighbor on Bay Street voiced some concerns. Discussion  
45 followed.

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1 Vote: Motion 3 passed.  
2 Ayes: Gambino, Bates, Callender, Leff, Short, Goddard, Grant

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4 IX. NEW BUSINESS

5 A. Canvass of Votes – November 6, 2018, Election

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7 Motion 4: Goddard moved to accept the Canvass of Votes from the November 6, 2018, Election. Short  
8 seconded the motion.

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10 Mayor Leff said it was moved and seconded. There was no discussion.

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12 Vote: Motion 4 passed.  
13 Ayes: Gambino, Bates, Callender, Leff, Short, Goddard, Grant

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15 X. CORRESPONDENCE

16 No Correspondence.

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18 XI. CITY STAFF REPORT

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20 Weidner: The Port of Newport requested a letter of support to replace port dock 5. The Port is applying  
21 for grant funding and needs the additional support.

22 .  
23 Motion 5: Grant moved to a write letter of support for the Port of Newport. Gambino seconded the motion.

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25 Mayor Leff said it was moved and seconded. There was no discussion.

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27 Vote: Motion 5 passed.  
28 Ayes: Gambino, Bates, Callender, Leff, Short, Goddard, Grant

29  
30 Weidner reported the high wind storm that came through left trees and debris on roads. The harbor  
31 gangways had to be fixed and the crew took care of power outages at the plants. Mayor Leff would like  
32 to send an email to the crew thanking them for their hard work. The Christmas Tree at the Whale Fountain  
33 has a breaker issue that is being worked on.

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35 Dueling: No additional comments.

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37 XII. COUNCIL COMMENTS

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39 Callender: The Council tackled some hard stuff in the last two years.

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41 Short: No additional comments.

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43 Goddard: The crew did a great job this morning cleaning up and fixing the harbor. They removed a broken  
44 dock.

45  
46 Gambino: Happy Holidays.

1 Bates: No additional comments.

2

3 Grant: The last six months have gone well and was a testament to good leadership.

4

5 Mayor: Thanked Carla for stepping up in her temporary position. Thanked Council for making the last  
6 two years productive and positive. Some wonderful work was done and she appreciates everyone's hard  
7 work.

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9 Adjournment 9:00 PM

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Mayor Barbara Leff

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Jodi Coggins, Recording Secretary