

Depoe Bay City Council
Regular Meeting
Tuesday, March 5, 2002 - 7:00 PM
Depoe Bay City Hall

PRESENT: Mayor J. Steen, S. Scorpio, P. Taunton, B. Silver, A. Brown, J. Brown,
M. Lavery

STAFF: City Field Superintendent T. Owings, City Recorder P. Murray

Pledge of Allegiance

Call Meeting to Order and Establish a Quorum

Mayor Steen called the meeting to order and established a quorum.

Approve Minutes: February 19, 2002 Workshop Meeting and Regular Meeting

MOTION 1: Scorpio moved to approve the minutes of the February 19th workshop and regular meetings as written. A. Brown seconded the motion.

Steen said it was moved and seconded and called for discussion. There was none.

VOTE: Motion passed.

AYES: Scorpio, Taunton, Silver, Steen, A. Brown, J. Brown, Lavery

NEW BUSINESS

Wastewater Improvements Project - Change Order # 5 and Final Pay Request -
J.W. Fowler Co.

Curt McLeod, Curran-McLeod Inc., reviewed the items included in Change Order #5 (copy attached to the original of these minutes), noting that while there are still unresolved matters, the change order incorporates the contractor's change order requests (COR's) for work done or deleted and the final pay request releases all retainage. The amount of Change Order # 5 is \$6,069.57 (net \$5,819.57) and the amount of the final pay request is \$172,790.43. McLeod noted that project funding remaining includes \$175,456 OECD grant funds and \$32,000 liquidated damages on the contract.

MOTION 2: Lavery moved to approve Change Order # 5 and the Final Pay Request. Scorpio seconded the motion.

Steen said it was moved and seconded and called for discussion. There was none.

VOTE: Motion 2 passed.

AYES: Scorpio, Taunton, Silver, Steen, A. Brown, J. Brown, Lavery

McLeod referred to the SDC study and water master plan update work, saying that CMI will be focusing their energies to complete those tasks. Silver asked if reports may be available by next month. McLeod said they would make efforts toward meeting that time frame.

Interview Applicants for City Commissions and Committees

Frank Button has applied for Harbor Commission and had planned to be present tonight for interview, but was unable to attend. Murray will contact him regarding attending the next regular meeting. There were no other applications received since the last meeting.

Appointments to Fill Vacancies on City Commissions and Committees

Rick Davilla and Donna Soelberg were interviewed at the last regular meeting. Councilors voted and submitted their ballots. Murray read the votes into the record. Vote was unanimous to appoint Davilla to Harbor Commission position # 5 and Soelberg to Traffic Safety Commission position # 2.

MOTION 3: Silver moved to accept the canvass of the vote and appoint Rick Davilla and Donna Soelberg to the relative commissions. Lavery seconded the motion.

Steen said it was moved and seconded and called for discussion. There was none.

VOTE: Motion 3 passed.
AYES: Scorio, Taunton, Silver, Steen, A. Brown, J. Brown, Lavery

Lincoln County Solid Waste District Preliminary Budget Proposal

The City, as a member of the district, is asked to review preliminary proposed dues amounts for the upcoming year (copy attached to the original of these minutes) and decide whether to fund both levels or not. Historically, the city has funded both levels 1 and 2. Murray provided a cost comparison with current year dues amounts, noting the proposed amounts reflect a slight increase to each level.

MOTION 4: Silver moved to continue participation in the preliminary budget proposal of support for level 1 and level 2 services. A. Brown seconded the motion.

Steen said it was moved and seconded and called for discussion. There was none.

VOTE: Motion 4 passed.
AYES: Scorio, Taunton, Silver, Steen, A. Brown, J. Brown, Lavery

Schedule Joint Work Session with Lincoln County Board of Commissioners

Murray said that since receiving the letter (copy attached to the original of these minutes) it has been determined that none of the Wednesdays in March will work for the joint meeting, the best potential date for the commissioners is April 3rd. That is the regular scheduled

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monthly meeting date for the Salmon Enhancement Commission, but if the date would work for council members, they could be asked if re-scheduling would be possible. It was

agreed, that if the Salmon Enhancement Commission could re-schedule, to hold the joint meeting with the county commissioners on April 3rd.

UNFINISHED BUSINESS

Curbside Recycling

Brief Discussion occurred regarding the survey results provided by North Lincoln Sanitary Service (correspondence item at 2/19/02 meeting). It was noted that of the 118 surveys returned, 80 responses were non-supportive of curbside recycling. There was some input from audience members on possible reasons for the survey responses. No action was taken on this matter.

Transportation Committee Report on Parking Concepts (added after agenda published)

Steen asked Dick Johnson to address this issue. Johnson, present in the audience, briefly reviewed the Open House that was held on February 27th to present the committee's report on their parking conceptual plan. Johnson said the committee wants to know if the council wishes to proceed with this project. If so, he suggests it be turned over to the Economic Business Development Committee, rather than continue the Transportation Committee which was only temporarily assigned. Steen said he'd like to see it go to the Economic Business Development Committee. There were no objections. Steen said that Scorpio, as chair of the committee, could get the committee meetings started. Scorpio agreed to contact the other members of the committee to schedule a first meeting date.

Public Input

Peggy Leoni, 351 SW Hwy 101, read from a prepared statement (copy attached to the original of these minutes) regarding her application for text amendment to the city's Comprehensive Plan and zoning code. Leoni referred to the February Planning Commission meeting, saying she was not allowed to provide any explanation for not revising the application to a zone change to commercial, and the Planning Commission refused to discuss the draft text amendment language due to the council having halted work on text amendments. Leoni asked the council to clarify that the moratorium on text amendments does not affect all text amendments and to direct the Planning Commission to process her application.

J. Brown said he views Leoni's application as a specific request by a citizen, it was not included in the tabled text amendments, and he is inclined to advise the Planning Commission to process the application. Discussion followed. Leoni said she'd like to see this change go into effect and that it be beneficial, not detrimental, to the city. Leoni hopes to work with the Planning Commission to arrive at a good solution.

A. Brown read her liaison report (copy attached to the original of these minutes) since it directly related to the discussion underway, referring to sections of the February 20th

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Planning Commission meeting minutes regarding the charge given her relating to text amendments and city liability. A. Brown said the Planning Commission specifically charged her with informing the council that if the commission goes forward with an amendment to ORD. 234 certain actions will be necessary as stated in the minutes. A. Brown stated she

views the city initiated text amendment work as a separate issue from an application by a citizen for a text amendment.

Dick Johnson explained that Leoni's application consists of two steps: first, a text amendment needs to be created and adopted; second, then particular properties could submit an application pursuant to the new provision in the zoning code. Johnson said the Planning Commission is concerned about Measure 7 risks, that this text amendment carries the same risks as the tabled amendments. Johnson said the Planning Commission is asking if the Council wants them to proceed, if so, the commission will proceed with the required process for the text amendment application.

Bud Romans said that one point against changing the zoning of the properties involved in the application to commercial is that there are private property owners included in the twelve properties and a change to commercial zoning would de-value their property. Romans said there needs to be better control of meetings, that bad attitudes require a tight rein to maintain control. Romans commented on the February Planning Commission meeting, saying it should have been adjourned until a time when some control could have been exercised.

Fran Recht, 66 NE Williams Ave., said that a workshop session is just that and there should be no public testimony taken during a work session. Recht explained the danger of receiving public testimony outside the setting of a properly noticed public hearing and that receiving input prior to the required public hearing can establish claims of pre-judgment or bias on an issue, which can be the basis for an appeal on a decision made on the application. Recht said the Planning Commission has asked their liaison officer, Alice Brown, to bring forward the issue of considering the text amendment application versus consideration of the other text amendments and for rationale be provided so the commission can understand what the council wants them to do. A. Brown said the major difference is a citizen initiated action versus a city initiated action.

Bob Ward, Drake in Oregon Society, said he's attended all the Planning Commission meetings where this case has been discussed and all the Council meetings where the text amendments have been discussed and he feels there have been inaccurate descriptions of what has transpired at the meetings. Ward sees a rift between the City Council and the Planning Commission and fears that if something isn't done, it will worsen. Referring to the January Planning Commission meeting, Ward said he'd interpreted the commission's suggestion to Leoni to apply for zone change to commercial as the commission seeing that as the least complicated method to proceed. He said Recht behaved entirely properly at the February meeting, he doesn't feel it's a case of rudeness, just an extremely difficult situation. Ward said the commission was facing a genuine dichotomy regarding their question on the text amendment issue. A. Brown addressed Ward, saying this has nothing

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to do with Whale Cove, Little Whale Cove or the South Point area since the draft text amendment language is specific to the commercial growth boundary.

Peggy Leoni asked Dick Johnson what the rules are regarding applicant participation in workshop sessions. Johnson responded that Planning Commissioners are trained, that in dealing with land use matters, they may not receive public testimony without proper notice

of public hearing. Leoni asked Johnson if input from the applicant is considered public testimony. Johnson replied that the applicant's testimony is public testimony. Johnson reiterated that the commission needs to know if the council wants them to proceed with processing the application for text amendment.

Debbie Davilla said that upon hearing the engineer's report on the wastewater improvements project, that it is close to completion, she wanted to bring the matter of detrimental impacts to city streets from the trucks hauling sludge to the council's attention. Davilla said that Coast Ave., Kent St. and Southpoint St. have realized significant damage due to the trucks and hopes the council will have the streets repaired before the project is closed out. Davilla warned that the potholes are a hazard, possible injury is likely for anyone walking at night.

Cheryl Preston, President, Kiwanis Club Central Oregon Coast, Neotsu, Oregon, requested use of the Community Hall with fees waived on March 30th. A Mad Hatter Tea Party for children is planned immediately following the Easter Egg Hunt. They plan to accommodate up to 50 children, free of charge, with donations accepted. Preston also requested use of the City Park for Flamingo Croquet following the tea party. Murray asked Preston if she'd confirmed that the Community Hall was available on March 30th. Preston said she hadn't.

MOTION 5: Scorpio moved to waive fees for the use of the Community Hall on March 30th for the Kiwanis Club tea party event. A. Brown seconded the motion.

Steen said it was moved and seconded and called for discussion. Lavery said there may be a conflict since it isn't confirmed that the Community Hall is available on March 30th.

AMENDMENT TO MOTION 5: Scorpio amended her motion to add "If the Community Hall is available" . A. Brown seconded the amendment.

VOTE: Motion 5, as amended, passed.

AYES: Scorpio, Taunton, Silver, Steen, A. Brown, J. Brown, Lavery

Preston provided an update on the Renaissance Faire, saying that application for the StarLite Parade float had been submitted last week. This upcoming week work on the tentcards (advertisement) for local restaurants will be in process, with the hope of having them available by spring break.

Peggy Leoni asked the council if they will answer the Planning Commission's question regarding her text amendment application tonight. Steen said it would be on the next agenda. Scorpio asked if it could be discussed tonight. A. Brown referred to her internal

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memo regarding existing concerns on Measure 7 issues in ORD. 234, suggesting the city attorney address those issues and the tabling of the text amendments. A. Brown asked if this could be an agenda item, saying members of the Planning Commission requested the council discuss this with the city attorney and she feels this is reasonable.

MOTION 6: A. Brown moved to have this as an agenda item as soon as possible. Scorpio seconded the motion.

Steen said it was moved and seconded and called for discussion. Silver asked if this would be on the next meeting agenda. A. Brown clarified that was correct. Steen said if the city attorney was available to attend the meeting, A. Brown agreed.

VOTE: Motion 6 passed.

AYES: Scorpio, Taunton, Silver, Steen, A. Brown, J. Brown, Lavery

Rick Davilla provided an update on the City Park Gazebo Project, saying the construction is progressing well, help is still needed with roofing. Davilla expressed special thanks to Phil Taunton, Dave Barkhurst, Rick Leoni, Bill Spores and Bruce Silver for their efforts on the project. Davilla said the project is a great success and is something the city can be proud of. The Council thanked Davilla for his assistance with the project.

Peggy Leoni, Chamber of Commerce, said the Highway 18 Coalition has printed travel information cards with checklists for people to have in their cars which can be obtained at the Chamber office. Leoni provided cards for distribution to the council members.

Correspondence

There was no correspondence for the meeting.

Liaison Officers' Reports

Scorpio reported that 23 persons were at the February 25th town hall meeting. Fire Chief Ron Smith, Taft High Principal David Phelps and Taft Elementary Principal Suzanne Kutsch were at the meeting. Ralph Graham was present to discuss neighborhood watch programs.

Taunton reported the Salmon Enhancement Commission meets tomorrow evening.

Silver reported the Parks Commission will meet on Tuesday, March 12th at 5:30 PM.

Steen noted Danny Arnold was named Fireman of the Year, and upon receiving the award, he shared the honor with all the firefighters. Steen said he is proud to have Arnold working for the city.

A. Brown said she'd already read her report, but did want to request that copies of information on Measure 7 received in August from the League of Oregon Cities be provided to the Planning Commission. There were no objections.

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J. Brown reported the Harbor Commission met on February 27th, the commission voted to increase moorage rates by 3%, the new harbormaster Gary Walls is doing a fantastic job, they noted the letters the city sent to Congresswoman Hooley and Senator Smith regarding dredging budget cuts.

Lavery reported the Traffic Safety Commission will meet on March 12th at 4:00 PM.

City Staff Reports

Murray reported on upcoming training sessions on March 9th and April 20th for elected officials which are free for CIS members, copies had been distributed previously to council members. Murray asked for any councilor interested in attending to let her know for registration purposes.

Owings reviewed his report (copy attached to the original of these minutes) noting the status of the Whale Park Improvements Project, Tsunami Maps, the Harbor Gangway Project, street lighting requests. Owings will be in Albany on Thursday for presentation of the city's grant application to the Rural Investment Board for technical assistance funding of engineering on the Water Storage Project.

Accounts Payable

MOTION 7: Scorpio moved to approve the accounts payable as presented with the addition of an invoice in the amount of \$310.80 from Imperial Marine which was received after the listing was printed. Silver seconded the motion.

Steen said it was moved and seconded and called for discussion. There was none.

VOTE: Motion 7 passed.

AYES: Scorpio, Taunton, Silver, Steen, A. Brown, J. Brown, Lavery

Council Comments

A. Brown read her written comments (copy attached to the original of these minutes) regarding Measure 7 concerns, and the idea of "buffer areas" of mixed usage between residential and commercial zones. She referred to an article in the January 2002 issue of LINC-BIZ regarding micro-enterprise business opportunities, suggesting better utilization of transparent home and home occupations in Depoe Bay for this purpose.

J. Brown commented on the willingness of people in the community to help out with the many activities and projects. He noted Neil Taunton is providing the crab for the annual crab feed at a very reasonable price and has helped with the storage of the crab until the event in April.

Scorpio said she had a few items to bring forward and asked to not be interrupted, that when she'd finished, she would afford the same courtesy to anyone's comments. Scorpio

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said Fran Recht's quote in a recent News Times article was an outright lie, using a statement of Bud Romans out of context. She feels Romans and Jack Brown have been taken advantage of by Recht and the News Times. Scorpio said she'd voted to re-appoint Recht to the Planning Commission last year based on merit and skills, but now regrets her vote, saying other issues such as decency, politeness, and playing well with others weigh more importantly. Scorpio feels Recht has been rude and Peggy Leoni was mishandled at the February Planning Commission meeting. Scorpio noted Larry Tyler had voiced disapproval of the council's line-by-line review of the text amendments. Scorpio feels Recht is not pleased with the tabling of the text amendments. Scorpio said Leoni's application should be processed and the Planning Commission's quick dispatch of Leoni at the February meeting was inappropriate and rude. Scorpio said Recht should be dismissed

from the Planning Commission, she is not asking for a resignation, but thinks the council needs to discuss the matter and it should be an agenda item.

Bob Ward, Drake in Oregon Society, said he's attended city meetings for 20 years, he feels Recht is extreme on some matters but has the right to express her views. Ward referred to the February Planning Commission meeting, saying Recht was specific in her concerns for the city on the public hearing issue and in his opinion the connotations placed on Recht's attitude are wrong. Ward cautioned against using personalities and driving issues just because there is disagreement over each other views.

Scorpio said she is not attacking anyone, but stating fact, and has never said planners can't their own opinions, nor does she disagree with everything Recht says or does. Scorpio said what she is talking about is lying to the press, twisting beyond belief, taking things out of context at the expense of a councilor and a commissioner.

A. Brown said she'd like to stick with the facts and define the term "testimony". Planning Commission members engaged in discussion for and against the consideration of the text amendment application. A. Brown said if commissioners are allowed to engage in testimony during a workshop why can't audience members participate as well.

J. Brown said he doesn't feel wounded over the News Times article, the press has for the most part been kind to him. Scorpio said its not about being wounded, its about proper decorum for a city official, and to lie to the press or to manipulate until its no longer truth is offensive. J. Brown said he considers Recht as a friend and doesn't think she's said anything against him.

Cliff Wamacks said he has served as a member of the Planning Commission and the City Council and has worked with Recht on the Planning Commission. He has not always agreed with Recht. He has listened to the tape from the February planning meeting and does not find Recht's comments to be offensive or degrading, she presented her disagreement in a decorous manner. Wamacks said everyone must be careful of comments that are made here, particularly those comments made during council concerns. Everyone who makes a comment should realize that comment has an affect. We should remember we're dealing with an entire community which should be working together rather than pulling apart, or trying to separate out any member of the community.

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Scorpio said no one is addressing the issue of context abuse by Recht, since no one is addressing the matter she'll let it go.

Fran Recht said there is no context abuse, no lying to the press, no substantiation of any kind for any of Scorpio's accusations. Recht categorically denied Scorpio's accusations and does not appreciate being continually attacked by Scorpio.

Bud Romans said he'd made a diplomatic effort last fall, by first talking to Recht about her criticism of Alice Brown's liaison reports, then by talking to Alice Brown about the things that bothered commission members regarding her liaison reports. Shortly after, he'd missed a meeting but heard that Alice Brown had given a good report and Recht had complimented her for it. Romans said he felt good about his effort but now only 3 months later Recht is using his comment out of context and that is wrong. Recht disagreed with Romans'

comment that she'd used his statement to her out of context and she'd like the record corrected.

A. Brown, in an effort to provide her perspective, said she is trying very hard to be precise and provide information to the Planning Commission that is important for them to know.

Scorpio responded to Recht's remarks, saying she has never attacked her, disagreed with or criticized or responded to, but not attacked. Scorpio is not speaking for the council but for herself on what she feels to be offensive.

Joel Gallob, News Times, apologized to Bud Romans for not having called him when writing the article being discussed this evening.

Taunton said he'd listened to the tapes of the February Planning Commission meeting and it sounded out of control to him, noting the chair used the gavel numerous times. Taunton then requested a moment of silence in honor of Evie Whitlock who'd recently passed away. Silver commented that Evie Whitlock had been a good friend and neighbor and very involved in the community, she will be missed. A. Brown voiced the same sentiment for Mrs. Whitlock, noting her never failing willingness to give a helping hand.

There being no further business the meeting was adjourned at 9:24 PM.

Mayor John Steen

Pery Murray, City Recorder