

Depoe Bay City Council
Regular Meeting
Tuesday, March 19, 2002 - 7:00 PM
Depoe Bay City Hall

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

ABSENT: M. Laverty

STAFF: City Attorney J. Launer, City Field Superintendent T. Owings, City Recorder
P. Murray, City Secretary S. Fox, City Planner L. Lewis

Pledge of Allegiance

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

Approve Minutes: February 28, 2002 Executive Meeting, March 5, 2002 Executive and Regular Meetings

MOTION 1: Scorpio moved to approve the minutes of the February 28th and March 5th meetings as written. Silver seconded the motion.

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

VOTE: Motion 1 passed.

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

Steen announced a change to the agenda schedule due to young persons present in the audience who wished to address the council and who were present for interview.

UNFINISHED BUSINESS

Request for Assistance-Community Survey Mailing-NAD/Kid Zone Committee

Olivia McKenna said she and many other kids enjoy the Kid Zone, the kids play on the computer or work on homework. A television was donated to the Kid Zone yesterday.

Sharron Kelley distributed a copy of a draft community survey (copy attached to the original of these minutes) saying these surveys tend to be a community builder and aid in seeking grant funding. City support and endorsement is needed. The committee feels that mailing with water/sewer bills would be the most cost-effective means of distributing and collecting the surveys. People could return the surveys when paying their bills, eliminating the need for enclosing a stamped return envelope. There would be one collection site, which would make collection of returned surveys easier. The committee will be distributing additional surveys to persons not receiving water/sewer bills. The committee offers labor and some funding but is requesting financial support and endorsement by the council.

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MOTION 2: A. Brown moved to approve the expense of \$100.00 for the survey mailing.
J. Brown seconded the motion.

Steen said it was moved and seconded and called for discussion. Silver suggested the question of council endorsement be included also.

AMENDMENT to MOTION 2: A. Brown moved to amend the motion to add endorsement of the City Council for the survey. Silver seconded the amendment.

Steen said it was moved and seconded and called for discussion. Brief discussion followed.

VOTE: Amendment to Motion 2 passed.
AYES: Scorpio, Taunton, Silver, Steen, A. Brown, J. Brown

VOTE: Motion 2 passed.
AYES: Scorpio, Taunton, Silver, Steen, A. Brown, J. Brown

NEW BUSINESS

Interview Applicants for City Commissions and Committees

The following applicants were present and were interviewed:

Ty Pedersen for Parks Commission.
Kyel Wright for Harbor Commission position # 4.
Frank Button for Harbor Commission position # 4.

Response to Planning Commission Concerns: Application for Tourist Accommodation Text Amendment

A. Brown distributed a copy of the 1997 ballot measure to repeal Ordinance No. 234 (copy attached to the original of these minutes) saying the application for Tourist Accommodation Overlay Zone would amend Ordinance No. 234 and is a citizen initiated action, just as the implementing of Ordinance No. 234 and the attempted repeal of the ordinance were citizen initiated actions. A. Brown noted there are six issues addressed in Ordinance No. 234, only two of the issues deal with prohibition of vacation rentals in residential zones. A. Brown provided her opinion of why the initiative measure failed. A. Brown said her concern is that the application for a Tourist Accommodation Overlay Zone receive a fair hearing, since several members of the Planning Commission have made pre-judicial statements against any amendment to Ordinance No. 234.

City Attorney Launer opined that council action taken on January 10, 2002 to table work on text amendments does not affect the application for Tourist Accommodation Overlay Zone text amendment. The council can only take action on an item that is before the council, or pending, at the time, which was proposed Ordinance No. 256. The application for text amendment was not being considered by the council at the time the tabling occurred. Launer

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said the application has been properly received and there is a defined process to be followed for legislative amendments. The question of whether the proposed amendment is a good idea or not should not be addressed until the process is underway.

MOTION 3: A. Brown moved to give the Planning Commission direction to go forward on this application. Scorpio seconded the motion.

Steen said it was moved and seconded and called for discussion. Silver said it was his understanding that the Planning Commission had requested rationale for direction given by the council. A. Brown said the tabled text amendments were city initiated while the application for Tourist Accommodation Overlay Zone is citizen initiated. Silver asked if MSR 7 issues are of a lesser concern. A. Brown read from her February 19th memo in which she'd provided her MSR 7 concerns regarding Ordinance No. 234 (copy attached to the original of these minutes). Planning Commission President Dick Johnson asked to speak, to provide clarification, that the commission's question was not being answered. Launer reminded everyone that MSR 7 is not in effect, and its outcome is still to be determined. Launer said there is no distinction or difference between city initiated vs. citizen initiated text amendments regarding MSR 7 concerns. Any ordinance, once adopted, is the city's ordinance and MSR 7 applies the same as to existing ordinances. With regard to Ordinance No. 234, it includes limitations to property uses, as do other city ordinances. Steen said Ordinance No. 234 reduces property values. Launer responded any claim would have to be proven by the claimant. Silver said that Ordinance No. 234 arose from citizen complaints and petitions against vacation rentals in residential zones, before adoption it went through public hearing process at both Planning Commission and City Council level. He added that prior to adoption of Ordinance No. 234, the matter of vacation rentals in residential zones was not addressed at all in city ordinances. Silver referred to the Council Rules, saying he'd like to hear what Johnson had to say. It was determined Johnson could speak under public input, since there is a motion on the floor. Scorpio asked for the motion to be repeated, Murray read the motion and Steen called for the vote.

VOTE: Motion 3 passed.

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

Johnson asked if he could make a statement to request clarification, since the application would be an amendment to Ordinance No. 24, not to Ordinance No. 234. Launer suggested it may be helpful to hear what Johnson had to offer. Johnson said the application is a land use matter which would amend Ordinance No. 24, not Ordinance No. 234, the question is should the Planning Commission be considering a change to Ordinance No. 24 to provide for a new type of overlay zone. Silver asked City Planner Lewis if there is a mechanism to do a text amendment for a tourist accommodation overlay zone. Lewis responded affirmatively, the process for legislative amendments is the vehicle, it would result in amendments to Ordinance No. 24, the Comprehensive Plan (Ordinance No. 69), and Ordinance No. 234. Discussion followed.

A. Brown asked if the council's action, based on the information available to the council, to table the text amendments until MSR 7 is resolved was rational. Launer said that is not a legal question, the council made its decision, there is nothing illegal about the council's action. J. Brown asked if some of the tabled text amendments could be re-introduced, specifically those

addressing sections of the code that are out of compliance with state and federal laws. Launer said the council's motion to table to an event certain was an incorrect motion and the action actually was a postponed consideration. The motion must be interpreted as a postponement, because tabling means to set aside until the next possible opportunity. A motion to postpone can be rescinded entirely or in part by a motion specifically identifying the sections to be re-activated. A. Brown said that since MSR 7 would amend the constitution, it would take precedence over state law, but not federal law, suggesting the City Planner separate federal law noncompliance issues. J. Brown feels the city should move ahead with items where the city is out of compliance. Silver questioned procedure regarding reconsideration of the January 10th motion. Launer explained the motion she'd previously discussed is not a reconsideration, but a new motion to rescind, in part, prior action. The time frame for a reconsideration of the original motion has long since passed. Launer suggested Lewis finalize a list of non-compliance issues and present to the council for action. It was agreed to ask Lewis to compile a listing, separating state and federal issues, and to schedule this matter on the next meeting agenda.

Measure 7 - Ordinance No. 234

This item covered during previous discussions.

Launer departed at 8:05 PM.

Presentation of Audit for FY 2001 - Signe Grimstad

Signe Grimstad distributed copies of FY 2001 Audit, providing a brief overview, noting there was a \$27,000 depletion in the enterprise funds, the city's overall financial status is sound, the city has received a clean opinion. Brief discussion occurred regarding the upcoming GASB 34 requirements, Grimstad recommends contracting this out to a company that specializes in the appraisal and assessment work required. Silver asked if there were any other suggestions for the city. Grimstad suggested the accounting system could be streamlined by reducing the number of funds and to look forward to the larger changes coming.

Proposed Resolution No. 307 Revising Fees for the Use of the Harbor Facilities and Equipment, Effective July 1, 2002

Murray presented the proposed resolution, explaining it was drafted based on recommendation of the Harbor Commission. The resolution will effect a 3% increase to moorage rates and change the method of charging for electricity to a metered system. Electrical surcharges will continue to be paid in advance based on an estimate, monthly meter readings will be taken and charges, based on actual usage, will be applied against the prepaid amount.

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MOTION 4 : Silver moved to adopt Resolution No. 307, as recommended by the Harbor Commission. Scorpio seconded the motion.

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

VOTE: Motion 4 passed.

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

Fiscal Year 2003 National Scenic Byway Funding Opportunity

Murray reviewed her memo (copy attached to the original of these minutes), noting the deadline for submitting an application for funding is April 2nd, reviewing the eligible project categories, saying that if a project is decided upon and the required 20% match can be determined, staff would make every effort to prepare an application by the deadline. Discussion on possible projects followed. A special meeting was suggested to provide for public input and further discussion before arriving at a decision. A special meeting was scheduled at 7:00 PM on Monday, March 25, 2002.

UNFINISHED BUSINESS Continued

Request for Street Lights - Southpoint Neighborhood Watch

At a recent meeting George White, representing a Southpoint Neighborhood Watch Group, had presented a request for two street lights located at the intersections of Southpoint St. and Point Ave. and Cliff St. and Point Ave. Mr. White was asked to present a petition showing property owners' support for the lights. Since that meeting, a letter has been received from Tom and Erin Holznagel, 424 SW Cliff St., (copy attached to the original of these minutes) stating they would be directly affected by a light at the Cliff St., Point Ave. location and they do not want a street light. Present in the audience, Erin Holznagel said they are the only directly affected persons by the proposed light, those neighbors in favor of the light are not as affected by it and Tom Holznagel said street lights do not deter crime, their home is the most directly affected, they do not want the light at the proposed location. Scorpio suggested they meet with their neighbors and discuss alternatives. The couple responded they would have liked to have had that opportunity, they only by chance found out about the matter, and they haven't seen a petition. Owings said a list of property owners has been submitted to the city, but no petition has been received to date.

Public Input

Betty Langdon, 1635 Tintinnabulary, said the Planning Commission had asked the City Attorney to address questions the commission had and to clear up some confusion. Langdon said that people complained during the last council meeting about not being allowed to speak during the commission's workshop session at the last Planning Commission meeting. Langdon complained that Planning Commission members were not allowed to speak this evening to try to clarify the questions the commission had. Langdon said it was upsetting to her that she and Dick Johnson had to be rude this evening to be heard, in their efforts to clarify the Planning Commission's question since the liaison was not clearly presenting the

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commission's questions. Langdon commented on A. Brown interrupting the City Attorney, providing her own opinions on a question posed to the attorney. Langdon addressed A. Brown's comment that she feels the Planning Commission is prejudiced regarding Ordinance No. 234, and she wonders if the commission is capable of rendering a decision on the matter. Langdon said Ordinance No. 234 is not the issue, although A. Brown then provided her opinion on the ordinance. Langdon asked how A. Brown can make an impartial decision on Ordinance No. 234, should it come before the council. A. Brown said she was sharing her concerns, not legal opinions, regarding MSR 7 and Ordinance No. 234.

Correspondence

Murray presented two correspondence items: 1) Rich Allyn letter requesting consideration of a proposal to lease his parking lot at the corner of Bay St. and Williams Ave. It was agreed to schedule this matter as an agenda item for the next meeting. Staff is asked to provide an estimate of annual maintenance cost. 2) Ray and Elizabeth Moore and Cole McFarland requesting removal of five trees they feel are a hazard in the Austin St. area. Owings said these and trees in other parts of the city he's inspected (total of 9) could be removed at an expense of approximately \$1,200. Brief discussion followed.

MOTION 5 : Silver moved to direct staff to take care of the matter, at a cost not to exceed \$1,200.00, to the best of his ability. A. Brown seconded the motion.

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

VOTE: Motion 5 passed.

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

Request for Street Lights - Southpoint Neighborhood Watch - Continued

J. Brown asked if this matter had been resolved. Steen said alternatives would be researched. Tom Holznagel said they would not be opposed to moving the light to the west of their home. Owings said he could meet with PUD and bring back alternatives. Silver suggested the Holznagels meet with George White, he would also try to meet with Mr. White to remind him to provide the petition to the council. Erin Holznagel asked to be notified when the matter comes before the council again.

Liaison Officers' Reports

Planning Commission: A. Brown reported the commission meets tomorrow night at 7:30, and reviewed the agenda items for the meeting.

Harbor Commission: J. Brown noted a letter to Senator Wyden written by Onno Husing, OCZMA, regarding the harbor dredging budget cuts. The city is a dues-paying member of OCZMA and this is a good example of what the organization does.

Town Hall Meetings: Scorpio said the next meeting is scheduled for the last Monday in April.

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Economic Business Development Committee: Scorpio said the month of April is very busy for committee members, she is trying to coordinate a committee meeting in the month of May.

Salmon Enhancement: Taunton reported the commission met on March 6th, items discussed include: 1) There will be a STEP conference April 6th and 7th in Coos Bay. 2) The fish are in the reservoir, floating pens have been donated by Florence STEP group, Depoe Bay hats are being sent as a thank you. 3) Fin-clipping is tentatively scheduled for May or June. 4) Biologist Tony Stein is working on a design for screening at the water reservoir outfall. 5) The commission re-scheduled its meeting date to accommodate the April 3rd date for the council's joint meeting with the Lincoln County Board of Commissioners.

Parks Commission: Silver reported the Parks Commission met on March 12th and was unable to establish a quorum. There were a number of persons present, including local youth and a representative from Newport, and there was an interesting, informal discussion on park amenities and skateparks in particular. The date of the next Parks Commission meeting will be announced.

Lincoln County Solid Waste Consortium: Silver reported the monthly meeting this afternoon lacked a quorum. The consortium's budget meeting is scheduled for April 16th.

Staff Reports

City Field Superintendent

Owings reported the Harbor Gangway project schedule is to advertise for bids from April 5th through the 19th. The window for gangway installation is June 3rd through the 14th, in an effort to avoid interfering with the Wooden Boat Show, Fleet of Flowers, salmon season, the Salmon Bake and the Renaissance Faire. Efforts to ensure access to vessels moored are being worked on.

Whale Park contract bid is being advertised, bid opening date is March 28th.

Owings has ordered 5,000 tsunami maps at a cost of under \$2,100.00, the Chamber of Commerce and Fire Department are contributing \$700 each towards the cost. The names of those entities and the city will be included on the maps.

An instrument (a "sludge judge") used at the wastewater plant needs to be replaced at a cost of \$600, Owings asked for authorization of the expenditure.

MOTION 6: Silver moved to authorize \$600 for the purchase of the "sludge judge". Scorpio seconded the motion.

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

VOTE: Motion 6 passed.

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

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Owings continued his report saying there has been an agreement reached on the installation of the seven street lights on Ainslee Ave. and Winchell St. (requested by the SE Neighborhood Watch) and the lights should be in within a few weeks.

City Recorder

Murray said Lavery had called earlier today to notify the city he would not be able to attend tonight's meeting. Lavery's liaison report for Traffic Safety Commission is that he was not able to attend their March 12th meeting. Lavery plans on attending the COG-CWACT meeting in Albany on the 21st.

Murray presented an application for a liquor license which had been received today (copy attached to the original of these minutes). The business "Nautical Nook" is applying for a limited on-premise sales license. Murray explained the city recommends granting or denying the application. Brief discussion followed.

MOTION 7: Silver moved to approve granting the OLCC permit. A. Brown 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

Murray referred to the Traffic Safety Commission's draft PSA's (copy attached to the original of these minutes) they would like to submit to the news media for airing/publication during spring break, asking if the council had any comments or suggestions for revision. There were no objections to submitting the PSA's as drafted.

Murray reminded everyone of the upcoming joint meeting with the Lincoln County Board of Commissioners on April 3rd. The Board has requested a list of topics for discussion, which should be submitted at least a week before the meeting. Murray asked councilors to let her know of any issues so a listing could be compiled for the Board by March 27th.

Accounts Payable

MOTION 8: Scorpio moved to approve the accounts payable as presented. A. Brown seconded the motion.

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

VOTE: Motion 8 passed.

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

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A. Brown said the issue of reducing the membership of the Planning Commission had been tabled for a year and that year has passed. A. Brown read her statement on the issue (copy attached to the original of these minutes) suggesting a five member commission with two alternate members. A. Brown requested this be on the agenda for the next meeting. There were no objections.

There being no further business, the meeting was adjourned at 9:14 PM.

Mayor John Steen

Pery Murray, City Recorder

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