

Depoe Bay City Council
Regular Meeting
Tuesday, April 2, 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, Recording
Secretary S. Fox

I. PLEDGE OF ALLEGIANCE

Mayor Steen called for all to stand for the Pledge of Allegiance.

II. CALL TO ORDER

Mayor Steen called the meeting to order and established a quorum at 7:00 PM.

III. APPROVE MINUTES: March 19, 2002 Regular Meeting and March 25, 2002 Special Meeting

Motion 1: Alice Brown moved to approve the minutes of the March 19, 2002 Regular Meeting and the March 25, 2002 Special Meeting, with two corrections to the March 19, 2002 Regular Meeting minutes: 1) On Page 2 under Response to Planning Commission Concerns: Application for Tourist Accommodation Text Amendment, "A. Brown provided her ~~opinion of~~ *concerns on 'bundling' and why the initiative measure may have failed*". 2) On Page 3, after "A. Brown said the tabled text amendments were city initiated while the application for Tourist Accommodation Overlay Zone is citizen initiated", add: "*The Council had the right to postpone the Text Amendments but not the right to postpone and deny Peggy Leoni's right to a public hearing.*" Scorpio 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, Alice Brown, Jack Brown, Lavery (March 25)

Abstain: Lavery (March 19)

IV: NEW BUSINESS

A. Russ Harper, Pacific West Ambulance: Ambulance Service

Russ Harper of PacWest Ambulance spoke about ambulance service linkage. The linkage package was passed at the last County Board of Commissioners meeting, without any objection. It will go to the State next; they have 60 days to act on it. Whoever bids on ASA1(Ambulance Service Area 1) or ASA3 will also have to bid on ASA2, which assures that Depoe Bay will have 24 hour local coverage. There are five contiguous areas of service between Pacific City and Seal Rock. Because these areas are all part of the same system, they have flexible boundaries based on activity, and this ability decreases response times and

improves service. North Lincoln Fire District's desire to be an ASA of their own has implications that reach beyond the boundaries of their fire district. Ambulance service does not have the same geo-political boundaries as fire districts do, so if North Lincoln Fire District becomes a separate ASA, their location in the middle of this five-area system would interfere with quality of service both north and south of their district. The bidding is more complicated than just the boundaries of a single fire district.

B. Curran-McLeod: System Development Study & Water System Master Plan Update
Curt McLeod distributed a memo, a draft SDC (System Development Charge) Periodic Review, and a draft Water System Master Planning Periodic Review (copies attached to the original of these minutes). He said Curran-McLeod has been looking at updating the SDCs and the Water System Master Plan for the past year. Curran-McLeod is proposing new SDC rates, and he will return in two weeks or one month to discuss in detail, and set up scheduling for hearings (120 day notice is required). The Water System Master Plan is in the final stages, and McLeod hopes to have it complete in two weeks, at which time he will coordinate a committee meeting with Owings, before returning to City Council. His memo identifies five SDCs: Sanitary Sewer, Transportation, Storm Water System, Water System, and Parks & Recreation. Docks could be interpreted as a Parks or Transportation facility; each type has its own merit, and McLeod recommends including docks as a Park facility, because it may be easier for future grant funding. The Water System Master Plan will need more data from Owings before publishing. The Regional Plan misinterpreted the original Water System Master Plan peak flow, showing it as 1.3 million gallons per day by the year 2050, while McLeod is projecting a little over 2.5 million gallons per day. The City will have an adequate source until around 2020, and then will need additional raw water storage in the months of July and August. He estimates that in 20 years the City will need another 700,000 gallons of treated water storage, and ten times that for raw water storage. Alice Brown asked for a ball-park figure of how much it will go up per EDU. McLeod responded that there will be approximately a \$1,600 increase per EDU, in the four SDCs that have been completed.

C. Request for Restricted Parking on Sunset Street
Ken Powis, 410 Pine Court, was present on behalf of the Harbor at Depoe Bay Condominiums. Owings has evaluated the request for placement of no parking signs on Sunset Street (copy attached to original of these minutes). Owings said that the unsafe section is from Hwy 101 to Floral. Murray noted any action on this issue must be in the form of a resolution.

Motion 2: Lavery moved to direct Staff to draft a proposed resolution approving placement of "No Parking Any Time" signs on both sides of Sunset Street from Hwy 101 to Floral. Jack Brown 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, Alice Brown, Jack Brown, Lavery

D. Request to Waive Fees for Use of Community Hall - My Sister's Place

Murray said there were no date conflicts on this request from My Sister's Place (copy attached to original of these minutes) to waive the fees for use of the Community Hall on April 25 from 5:30 - 9 PM, for a Board meeting.

Motion 3: Lavery moved to allow My Sister's Place to use the Community Center with fees waived. Alice Brown seconded the motion.

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

Vote: Motion 3 passed.

Ayes: Scorpio, Taunton, Silver, Steen, Alice Brown, Jack Brown, Lavery

E. Appointment to Fill Vacancies on City Commissions & Committees

Ballots distributed before the meeting (copy attached to original of these minutes) were completed and turned in. Murray tallied the votes verbally. Kyel Wright received four of seven votes for Harbor Commission Position #4, and Ty Pedersen received 100% of the votes for Parks Commission Position #1.

Motion 4: Silver moved to accept the canvass of votes and appoint Kyel Wright to Harbor Commission Position #4, and Ty Pedersen to Parks Commission Position #1. 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, Alice Brown, Jack Brown, Lavery

F. Parking Lot Lease Proposal - R. Allyn

Murray said Staff was asked to provide an estimate of annual maintenance costs for the parking lot. Owings said the 52-stall lot will cost around \$1,751 per year, which breaks down to \$33.67 per stall and 1½ hours per week to pick up trash. Fence maintenance will cost \$100 per year, and striping will cost \$500 every three years. Money will come out of the Streets Fund. Silver asked if there was a renewal period associated with the lease. Murray said the lease agreements have generic language regarding length of lease, and that specific language can be added, if desired. Also, the parking lot is in an R-4 zone, and has basic conditional use requirements that the City would have to abide by.

Motion 5: Silver moved to direct Staff to develop a draft proposal for a parking lot lease for the Allyn property on Bay Street. Lavery seconded the motion.

Steen said it was moved and seconded, and called for discussion. Steen expressed concern about losing the lease if a definite term is not set, considering the amount of money it will cost to maintain the parking lot.

Vote: Motion 5 passed.

Ayes: Scorpio, Taunton, Silver, Steen, Alice Brown, Jack Brown, Lavery

G. City Streets - Truck Impact Concerns

Silver reviewed a citizen complaint presented at the last meeting about trucks hauling away from the wastewater plant. He said he and Owings investigated the complaint by walking the street in question. There was one specific area where a pothole was beginning, but the street was in pretty good condition. All street repairs are made on a priority basis. Debbie Davilla, 325 Coast, said the increased truck activity is a direct result of improvements to the sewer system. Silver said there is no money in the wastewater budget to upgrade or improve that section of street. She said she is not looking for upgrade or maintenance, but repair of two intersections that have had serious damage. Jack Brown said in the future we should write into contracts that the contractors will fix any damage they cause. Scorpio suggested getting an estimate for repair of the worst areas before the Budget Committee meets. Davilla said the Council should review this issue before completion of the contract - that the contractor is responsible, and the damage should be covered under the contingency factor.

H. Complaint Regarding Conduct of City Official

Steen announced that this item was dropped from the agenda.

V. UNFINISHED BUSINESS

A. Tabling of Zoning Code Text Amendments - City Planner Review: State & Federal Compliance Issues

Alice Brown said she was very impressed with the information provided by City Planner Larry Lewis (copy attached to original of these minutes), who identified which State and Federal regulations need to be addressed. Her preference is to address Federal regulations first, because they won't have a Measure 7 impact, and she suggested doing one a month. Lewis was present, and recommended contacting Department of Land Conservation and Development (DLCD) regarding the procedure for bringing back the Text Amendments, since they have only been tabled for a short period of time.

Motion 6: Alice Brown moved to direct Lewis to find out what the notification requirements are, and bring this information to the next Council meeting, along with a proposal on organizing and setting up meetings. Silver 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, Alice Brown, Jack Brown, Lavery

B. Planning Commission Membership

Alice Brown read a statement she submitted for the record (copy attached to original of these minutes). The statement was in favor of reduction in size of the Planning Commission from nine members to five, and also addressed Brown's perception of the way applicants are treated.

Jack Brown asked for reasons to leave this issue alone. Silver said he read some early minutes and it is his understanding that Lincoln County Planning Commission guidelines were

adopted by the City at that time, and they had a nine member commission. He also said that the Planning Commission is a forum for citizens to participate in the land use of their city. He sat on a nine-member Planning Commission for four years and did not find it cumbersome. He had a concern about the potential for two people to constitute a majority in a minimum quorum. Steen said out of 240 cities in Oregon, three cities have nine-member Planning Commissions, seven cities have seven-member Planning Commissions, and 201 cities have five-member Planning Commissions. Steen opened the meeting for public input on this subject.

Ron Nowark, 425 Pine Court, asked Alice Brown how she addresses the non-residency requirement in her proposal. Alice Brown responded that currently there are “up to two” non-resident members, that part-time residents are classified as non-residents, and the majority of the Commission seats will require residency. She also said that after speaking with Murray, she was dropping the idea of alternates. She stressed that her main concern was for the applicants, drawing on her personal experience in going before the Depoe Bay Planning Commission as a citizen. Nowark asked how she would propose to reduce the Planning Commission from nine members to five. Alice Brown responded that to be fair, everyone would be removed from the Commission, and five of the existing nine would be re-appointed. Nowark said during his tenure as a Planning Commission liaison, he did not note unruly meetings or frightened applicants, but he did see intense arguments.

Ed Perry, 70 Combs, said this is getting out of hand, and that the fault is with the City Council. He favorably compared prior Planning Commission meetings to current ones. He said everyone must learn to work together, and everyone has a right to their own feelings and opinions. He also was unhappy that the Council tabled the text amendments, saying this was wrong after the amount of time and effort that was expended by the Planning Commission to prepare the documents. Steen said two attorneys had advised the Council not to review at this time. Scorpio defended the Council, saying the new Council works together far better than it has in the past, in spite of the fact that all Councilors do not see eye to eye, and everyone is treated with respect. She also said that the Council *did* review the text amendments, individually, but did not adopt them on sight.

Dick Johnson said the Council should make clear why things are being changed. He also suggested that people not be discouraged from applying for these controversial positions. He said that of the 60-70 applications brought before the Planning Commission, 95% of these were completed the same night they were presented, and Joel Gallob has confirmed this with an independent review. He said people are not necessarily troubled by the questioning and debate between Commissioners, but rather the laws, which can be unclear and ambiguous. He said the Planning Commission’s approach to applications must be very structured, and people often don’t like the laws that the Commission invokes. He said the Planning Commission needs to maintain its diversity, and suggested the City not go below seven members. He also strongly recommended against alternates. Scorpio said her personal experience with the Planning Commission was that it is combative.

Bill Sachs, 1450 Walking Wood, said he has attended Planning Commission meetings which he felt were well run. He was concerned about the possibility of a five-member Planning

Commission, stating he felt it would be a detriment to applicants wanting a fair hearing. He felt a minimum quorum of three would not be able to adequately consider all problems. He was also against having two non-resident commissioners. He found it incomprehensible that the citizens of a community would want outsiders to have authority and power over them. He urged the Council to thoughtfully consider the problems that would ensue if members of the Planning Commission were removed.

Bud Romans, 405 Coast, said that civic-minded Betty Taunton has run a restaurant downtown for 50 years - long before Depoe Bay became a City, and eventually moved out of town because she couldn't find a house large enough for her family. He also noted the newest Commissioner has lived here for 25 years, and also lives just outside of city limits. He said just because someone doesn't live within city limits doesn't mean they are any less concerned than those who live within city limits. He said if the size of the Planning Commission is cut, it should not be cut further than to seven members.

Alice Brown addressed Sachs, asking him to consider the percentage of non-resident property owners, including business owners, to residents.

Cliff Wamacks 445 Spindrift, has spent years on the Planning Commission, and has also been its chair. He has attended many, many Planning Commission meetings over the years. In his opinion, "It's not broke. It doesn't need fixing." He has studied and used statistics long enough to know that whatever conclusion one wishes to reach, statistics can support it. He expressed concern about reducing the size of the Planning Commission to five members. He said the duty of the Planning Commission is much broader than just hearing applications. They also have the responsibility of reviewing and maintaining the Comprehensive Plan for the City, and to ensure that appropriate uses are maintained, and that citizens are provided for. They must also review Ordinances to ensure they are kept up to date. He has concerns about a five-member Commission, including non-resident seats. A five-member Planning Commission would not have been able to review a document such as the (tabled) proposed Text Amendments. He suggested the Council look at the "real" reasons for changing the Commission; and that removing and re-appointing Commissioners would do the citizens of Depoe Bay a severe disservice.

Brian Plechaty wondered how many commissioners Lincoln City and Newport has. Alice Brown said seven. He also noted that in the past the City hasn't had a City Planner to help the Planning Commission.

Austin Scorpio, 147 Hwy 101, said that less bureaucracy is less monotony, and that seven is a fair number.

Chris Nowark, 425 Pine Court, said she feels this is a smoke screen to eliminate a few Planning Commissioners that some Councilors don't like. If the Council wanted to resize the Planning Commission, then the last three vacancies should not have been filled, and the Council should have discussed lowering the number at that time. It bothered her to think that everyone is not being honest. Scorpio said she feels there is bias on both sides. Alice Brown said this issue was tabled for a year, and she would not have brought it back up if there were

not problems between the Planning Commission and the City Council, which she called a "situation bordering on insurrection". She felt it was important to resolve this so a joint meeting can be held between the Planning Commission and City Council.

Motion 7: Alice Brown moved to instruct Staff to draft a new ordinance to amend Ordinance #9, to reduce the Planning Commission from nine members to five members, to have it reviewed by legal counsel, and bring the draft to the next meeting. Scorpio seconded the motion.

Steen said it was moved and seconded, and called for discussion. Lavery said he chaired the Planning Commission with nine members, and it worked fine. If it is necessary to change, he would accept seven, but will vote no on five. Silver said that Page 1, Goal 1, line 1 of the Comprehensive Plan states "there shall be continued efforts to involve citizens in all phases of planning projects", and reducing the number of Planning Commissioners would be detrimental to that fundamental goal. Scorpio said the city has a lot of commissions and committees for a town of this size, and we are having a hard time filling vacancies. She did not feel that a seven-member or five-member Planning Commission would be risky. Silver wondered, out of the 201 Oregon cities mentioned above with five-member Planning Commissions, how many of those compensate their Commissioners. Alice Brown said we need to keep in mind how large the county is and the need for geographical representation, and that is why they have a nine-member Planning Commission.

Vote: Motion 7 failed.

Ayes: Scorpio, Steen, Alice Brown

Noes: Lavery, Taunton, Silver, Jack Brown

Motion 8: Scorpio moved to hold a mandatory workshop meeting between members of the City Council and the Planning Commission. Alice Brown seconded the motion.

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

Vote: Motion 8 failed.

Ayes: Scorpio, Taunton, Jack Brown

Noes: Silver, Steen, Alice Brown, Lavery

VI. PUBLIC INPUT

Debbie Davilla said the Crab Feed and Boat Show is coming on April 27, and a lot of visitors are expected for this event. There is another clean-up day being coordinated for Saturday, April 20, from 8 AM to 12 noon. There are some abandoned vehicles and significant trash in the watershed area. She is looking for additional adult participation and assistance with this. Coffee and doughnuts will be provided. She noted the great support from the City Council in the past. Also, there is a professional networking group called ProNet. They are hosting a spaghetti dinner Saturday, April 20 from 12 noon to 7 PM, to raise funds for KidZone.

Cheryl Preston said that PacWest Ambulance is coordinating a health fair at Chinook Winds Convention Center on May 20-22, 2002. Chinook Winds has offered a free shuttle service for

this event. US Coast Guard representatives will be there, as well as the American Heart Association and the Red Cross. As the owner of the Gates of Thyme Renaissance Faire and Village Apprentice School, she apologized to the Council for not having the table tent cards out by Spring Break as promised, due to an error in the date. Ads for the renaissance faire have started on Channel 4 and in the Beacon. The proposals and forms were submitted to the Rose Festival Association for the Starlight Parade on June 1, 2002, and an official letter of acceptance has been received. The Rose Festival Association has contracted with the Village Apprentice School, and will be teaching school in Portland the week of June 3-7, 2002, from 11 AM to 2:30 PM daily. Although there will be no flagrant advertising, there will be a table where handouts can be placed on Drake in Oregon, Depoe Bay events, etc. If anyone wishes to participate or assist, please call her at 994-6304 or 992-2847.

Ron Nowark apologized for his emotional outburst earlier in the meeting. He said the County Planning Commission has 12 members. He was curious about Item IV.H. on the agenda. Steen said it had been dropped from the agenda.

Roma Powis, 410 Pine Court, referring to the discussion on Planning Commission size, said it's hard for people to let go of what "was". She wondered why a second motion wasn't made for seven members vs five, since several Councilors said they would support seven. She does not think nine people are necessary to process applications.

VI. CORRESPONDENCE

There were two items of correspondence: 1) An email was received from Robert Manning (copy attached to original of these minutes), who requested use of the Community Hall on April 17, 2002 for a town hall meeting for Representative Alan Brown issues specific to rural House District 10. There are no date conflicts. The fee for governmental entities is \$25 per day, and she asked if the fee should be waived for this meeting. Silver said the government is already given reduced rates, and the City needs to be clear on the criteria used to waive fees. It was the consensus of the Council not to waive the fee for this meeting. 2) A letter was received from Jeffrey Lamb, of Oregon Communities For A Voice In Annexations (copy attached to original of these minutes) regarding Oregon's budget crisis. There were two draft resolutions attached for the Council's review: one was regarding SDCs for police, fire, libraries and schools, and the other was to repeal ORS 197.296 and 1997 Oregon Laws Ch. 763. Murray suggested reviewing this information and discussing it at the next meeting. There is no stated deadline.

VIII. LIAISON OFFICERS' REPORTS

Scorpio had no report.

Taunton said the Salmon Enhancement Commission's next meeting will be April 4.

Silver had no report.

Alice Brown reported that at the last Planning Commission meeting, there was a public hearing on a variance application involving a 6" setback encroachment. City Planner Larry Lewis was

directed to review and approve new drawings for Joan-E Gifts. The projected hearing date for the Tourist Accommodation Overlay Zone application is May 15. Commissioner Romans requested adoption of rules similar to Resolution #305.

Jack Brown reported that the new gangways will be built in May and June.

Laverty reported that the Traffic Safety Committee meets on April 9. The Bicycle and Pedestrian Advisory Committee was here a couple of years ago, and wants to meet here again within the next two years. Special issues include having a State highway running through town, and a pedestrian-friendly downtown area. He recommends approving this request, because it is beneficial to get people to come and look at what we have and what we need.

IX. CITY STAFF REPORT

Murray expressed thanks to Fran Recht for her help with preparing the Scenic Byway grant application, which has been submitted. The application includes acquisition of the two properties south of the harbor and east of the highway, and the life interest on the property along the ocean.

Owings reported that the bid opening for the Whale Park Improvement Project was the 28th. Both bids were still over the budgeted amount. He recommends rejecting both bids, scaling down, and trying again.

X. ACCOUNTS PAYABLE

Motion 9: Scorpio moved to accept Accounts Payable as presented. Silver seconded the motion.

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

Vote: Motion 9 passed.

Ayes: Scorpio, Taunton, Silver, Steen, Alice Brown, Jack Brown, Laverty

XI. COUNCIL COMMENTS

Jack Brown said part of him is excited because we have a participating government. He voted no on the Planning Commission motion because he thought five was extreme.

Scorpio said she was raised not to turn away from problems. She is disappointed in the Council because we need to be talking, and we're not. She's disgusted and frustrated, and said that many things could be changed if people would just speak up. Scorpio left the meeting.

Taunton asked if the new gangways would be completed before the Fleet of Flowers. Owings said the project schedule anticipates the various community functions and activities in the harbor.

Silver said 1) Council needs to direct Staff on Laverty's recommendation on the Bicycle and Pedestrian Committee meeting. Staff was subsequently directed to send a letter approving the meeting. 2) Owings needed direction from the Council on the Whale Park Improvement Project. He was subsequently directed to do the best he can, staying within the project budget.

XII. ADJOURN

There being no further business, the meeting was adjourned at 9:38 PM.

Mayor John Steen

Silver Fox, Recording Secretary