

Depoe Bay City Council  
Regular Meeting  
Tuesday, April 16, 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: April 2, 2002 Executive and Regular Meetings

Motion 1: Alice Brown moved to approve the April 2, 2002 Executive and Regular Minutes as written. Silver seconded the motion

Steen said it was moved and seconded, and called for discussion. Scorpio requested Public Input of Bill Sachs on Page 6 be amended to include his question: would we want to have a Russian on a City body? She is half Russian, and said there is no room for bigotry, racism, sexism, etc. She said the minutes did not reflect the true nature of his statements, which appear benign without including this comment. Silver said if this change is made, he would like to see a verbatim record of that statement in the minutes.

Amendment to Motion 1: Alice Brown amended her motion to approve the minutes as written, with the inclusion of a verbatim record of Bill Sachs' statement. Silver seconded the amendment.

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

Vote: Amended Motion 1 passed.

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

#### IV. NEW BUSINESS

##### A. Interview Applicants for City Commissions and Committees

Ken Powis was present and was interviewed by the Council for a position on the Sign Committee.

##### B. Temporary OLCC License - Classic Wooden Boat Show and Crab Feed

Murray said she provided copies of the Temporary Sales / Special Event for the Chamber of Commerce Wooden Boat Show and Crab Feed (copy attached to original of these minutes),

which is scheduled to be held April 27-28, 2002. Attached is a copy of the section of Oregon Administrative Rules that addresses what the City can or should do. She has drafted a letter from the City for the Chamber to include with the application.

Motion 2: Lavery moved to grant a temporary OLCC license to the Classic Wooden Boat Show and Crab Feed, sponsored by the Chamber of Commerce. Taunton seconded the motion.

Steen said it was moved and seconded, and called for discussion. Silver suggested an amendment, since the City can only make recommendations, not actually grant the permit.

Amendment to Motion 2: Silver moved to amend the motion to recommend approval of a temporary OLCC license. Lavery seconded the amendment.

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

Vote: Amendment to Motion 2 passed.

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

Vote: Amended Motion 2 passed.

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

#### C. Proposed Resolution #308, No Parking on a Portion of NW Sunset Street

Motion 3: Silver moved to adopt Resolution #308. 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

#### D. OLCC License Renewals

Murray said that last year the OLCC started handling annual license renewals in a new way. Applicants no longer are required to bring application forms to the City, and Council has made a blanket recommendation to approve, provided there were no complaints. She has no record of any complaints against any entity on this year's renewal list (copy attached to original of these minutes).

Motion 4: Silver moved to direct Staff to draft a letter to the OLCC, to validate that the City has no objections to continuing licensing for those listed on the OLCC Renewal Notice. 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

#### E. Legal Services

Steen said that due to constraints on her time, the City Attorney will not be renewing her contract with the City. He asked for Council input on putting out requests for bids. Alice Brown reviewed the procedure used previously. Murray said three weeks are usually allotted from the time of the mailing until the closing date. Alice requested a one month time frame, to allow people adequate time to respond.

Motion 5: Alice Brown moved to establish a closing date of one month for receiving proposals from prospective attorneys, and to authorize the mayor to approve the RFP (request for proposal) mailing list. Scorpio 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, Alice Brown, Jack Brown, Lavery

Alice Brown said there should be a three-person subcommittee (to include the mayor and two Council members) established for reviewing proposals, and offered to serve on this subcommittee. Silver also volunteered to serve on the subcommittee.

Lavery said he'd like to add George Heilig's name to the list of prospective attorneys that Councilors were given.

#### F. Liaison Officer Assignments

Steen said he wrote a memo to Councilors regarding team building. He would like to see cross training between commissions/committees and liaison officers. He suggested either a six-month or fiscal-year rotation. Alice Brown said she would prefer a calendar year approach, and didn't think six months is long enough. Scorpio and Taunton said due to their schedules, this would be a hardship for them. Silver was in favor of a six-month program. Alice Brown liked the idea of encouraging voluntary visitation. She suggested Councilors attend one extra meeting per month, and said this would not interfere with the normal liaison duties of taking notes and reporting back to City Council. Jack Brown said the idea of cross training is good; he didn't have a preference of one option over the other.

Motion 6: Silver moved to adopt a six-month rotational scheduling for liaison officers to various commissions and committees in Depoe Bay. Lavery seconded the motion.

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

Vote: Motion 6 passed.

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

Noes: Scorpio, Alice Brown

### V. UNFINISHED BUSINESS

#### A. Tabling of Zoning Code Text Amendments

Murray asked if all Councilors received copies of City Planner Larry Lewis' April 10 memo (copy attached to original of these minutes). There were several comments that Lewis did an outstanding job. Dale Jordan at the DLCD (Department of Land Conservation and Development) provided information regarding the required notifications if the text amendment hearings are re-opened. A minimum 10-day notice of the next text amendment public hearing date must be provided to all persons who previously provided testimony during the Planning Commission hearing or the City Council hearings. An amended notice identifying the date of the public hearing also needs to be provided to the DLCD. Scorpio clarified that these meetings will be solely to discuss those items which are out of compliance. There was discussion as to a workable date with May 9 being suggested. Alice Brown said State and Federal guidelines would be addressed first, and codification would be the next agenda item.

Motion 7: Silver moved that the City Council consider the April 10 letter of recommendation to readdress the zoning ordinance text amendments, for the purpose of aligning City ordinances with State and Federal statutes, including codification at the end of that process. Alice 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, Alice Brown, Jack Brown, Lavery

Motion 8: Silver moved to direct Staff to organize meeting times, typically on Thursday as events allow. Alice Brown seconded the motion.

Steen said it was moved and seconded, and called for discussion. Murray asked if the Council wanted to schedule one meeting per month. Alice Brown said some items may be moved through quickly, and that testimony will still need to be looked at.

Vote: Motion passed.

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

#### B. Planning Commission Membership

Alice Brown thanked everyone who provided citizen input at the last meeting, and for the constructive phone calls she received. She said she asked the mayor for a second attempt to resolve this issue. She reviewed Gracie Strom's 2001 petition (copy attached to original of these minutes) containing 131 signatures requesting a reduction in Planning Commission size from nine to seven (originally presented to City Council on 1/2/01).

Motion 9: Alice Brown moved to instruct staff to draft an amendment to Ordinance #9 to reduce Planning Commission size from nine to seven members, and membership to include up to two non-resident Depoe Bay property owners. Reduction is to be accomplished by attrition. The amended Ordinance is subject to approval by legal counsel. Scorpio seconded the motion.

Steen said it was moved and seconded, and called for discussion. Silver was concerned with the description of Planning Commission size stated in the petition: "unwieldy and quite unnecessary". He said the Comprehensive Plan indicates that citizens are to be included in planning operations. He referred to a 2001 clipping from the *News Times*, in which Joel Gallob reported on activities of the Planning Commission over a period of 18 months. During this time, most applications were approved at the same meeting where they were first heard. He said the newspaper survey did not reflect an "unwieldy and quite unnecessary" size. Alice Brown said there will still be citizen involvement with a seven-member commission, and she continued to feel that applicants are intimidated by a nine-member commission. After Jack Brown asked how attrition affects this issue, there was discussion on attrition. Alice Brown said it can be accomplished by 1) voluntary resignation, 2) removal for cause, or 3) forced by closing existing positions. The next two expiring commission position terms will be Debbie Davilla and Betty Langdon, in December of this year. Laverty said this is targeting; Jack Brown was concerned because whether or not there is actual targeting, there is a perception of targeting.

Vote: Motion 9 passed.

Ayes: Scorpio, Taunton, Steen, Alice Brown

Noes: Silver, Jack Brown, Laverty

## VI. PUBLIC INPUT

Krista Robison of Little Whale Cove, commented on the preceding discussion: 1) Instead of following other cities in determining the number of Planning Commissioners, why not lead, with a group of nine commissioners that truly represents the community. 2) She also said that a petition with 131 signatures does not represent the City of Depoe Bay. 3) It is her hope as a citizen of Depoe Bay that no one comes before the Planning Commission and feels intimidated. Her understanding of the Planning Commission is that they are there to serve, and to help people with their concerns - not to intimidate them. Robison's main reason for attending this meeting was to address the City Council's decision to close the Depoe Bay City Park to public access for eight days during the Renaissance Faire in September. She said that 17 years ago, she and her immediate family spent every weekend for a year developing the park. Their intent was to have a City Park for the people and by the people, for citizens to enjoy - not so any private enterprise could close down access to the park. She said during last year's Renaissance Faire, there were two local boys who were denied access to cross the bridge in the park to get to their homes. She urged the Council to reconsider this decision, saying they are setting a precedent for private enterprise in a public park. She does not feel the citizens of Depoe Bay are in support of having the park closed off to everyone for eight days unless they pay to get in. Having public festivals is fine, but she has very strong concerns about closing it to the public for even one hour. Alice Brown said the faire is non-profit - not a private enterprise. Scorpio suggested having the Renaissance Faire organizer (who was present) answer questions tonight. Silver said if the Council is going to reconsider this decision, it should appear as an agenda item so it can be advertised and any interested parties can provide input. It was agreed that the matter will be scheduled on the next meeting agenda.

Dick Johnson of Depoe Bay, strongly recommended a joint meeting between the Planning Commission and City Council before the public hearing on amending Ordinance #9, for the

purpose of achieving mutual understanding. He said there is a prevalent misunderstanding regarding the role of the Planning Commission vs. the role of the City Planner. He has done some research in other small towns, where he has found the same sort of interactions as we have in Depoe Bay. Silver said he was in favor of a joint meeting, as long as it isn't mandatory. Alice Brown said there was a 90-day hold on having a joint meeting between the Planning Commission and City Council, and questioned whether that 90 days was up. Johnson said the 90-day hold was only regarding text amendment discussion.

Austin Scorpio 147 Hwy 101, resigned his position on the Depoe Bay Budget Committee. He said he has no desire to participate in any City Government. He strongly disapproved of behaviors tolerated in Council chambers, and "illicit actions taken outside chambers to fulfill the agenda of a few". Speaking as a citizen, he said people serving in voluntary positions, paid or otherwise, should never have to defend themselves when unsavory tactics are employed to discredit them, referring directly to Planning Commissioner Larry Tyler. He said Tyler made false accusations against him with the sheriff and the mayor. He said the opposite was true - that Tyler made unrepeatable derogatory statements against members of City Council during Council meetings. He said several people have heard his comments, and that Tyler videotapes in an inappropriate manner, antagonizing him. He said others have been subjected to these types of transgressions, and such behavior continues to go unchecked. He called this terrorism, and called the video camera Tyler's "weapon of choice". He stated he resigned out of disgust and fear of wrongful retaliation.

Peggy Leoni Chamber of Commerce, reported 1) A limited number of Ducky Derby tickets are on sale for \$5 each - first prize is \$100 cash, and there is a long list of wonderful prizes. Proceeds will benefit the Chamber. 2) She is treasurer of the Fleet of Flowers, a non-profit entity. Donations are tax deductible. 100% of collections are used for the Fleet of Flowers, which only had \$235 at the beginning of this year. Normally over \$2,000 is spent on the flowers. The Fleet of Flowers is on Memorial Day (May 27). There is a fundraising fish & chips dinner at the Spouting Horn on April 23; it is all you can eat from 4-8 PM, \$9 for adults, and \$5 for children. Contact the Chamber if you would like to help with the Fleet of Flowers. Contact Jack Brown or the Chamber if you would like to help with the Boat Show & Crab Feed or the Ducky Derby. Scorpio said Sule Whitlock expressed a desire to have a potluck in her mom's honor at the Fleet of Flowers - Leoni said this can be coordinated through the Chamber office.

Fran Recht 66 NE Williams, made a correction to the April 2, 2002 City Council Meeting Minutes: In Alice Brown's liaison report, she referred to Planning Commission action involving a setback encroachment of 6", the variance requested was 5'8", rather than the 6" reflected in the minutes.

Debbie Davilla thanked Peggy Leoni for getting community volunteers' spirit charged up for this Saturday's Clean-Up Day, scheduled from 8 AM to noon. They will be starting at the Community Center. Following Clean-Up Day, the ProNet professional networking group is hosting a \$6 spaghetti feed dinner from noon to 7 PM, as a fundraiser for the Kidzone.

## VII. CORRESPONDENCE

Murray said there were two items of correspondence: 1) A letter dated April 4 from Ron Nowark requesting a public apology from the mayor to his wife, Chris Nowark. 2) A complaint form submitted by Larry Tyler, with two letters attached, regarding threats to his property and person, and regarding conduct of City officials.

#### VIII. LIAISON OFFICERS' REPORTS

Alice Brown reported that the Planning Commission will meet tomorrow. The action item on the agenda is on the Findings, Conclusions, and Final Order for variance of a rear yard setback. They will also look at Commissioner Romans' request to discuss rules and procedures for the Planning Commission (he will be providing the Planning Commission with copies of Council Rules). She requested a consensus of the Council, giving her permission to include an item in her liaison report to the Planning Commission: she wished to draw attention to the "Decorum of Meeting" section on Page 5 of Council Rules. Silver said he would choose not to emphasize any specific portion of the Council Rules, as it is a complete document that needs to be reviewed and considered.

Motion 10: Alice Brown moved to request permission to take information from Page 5 of Council Rules on improper conduct, to the Planning Commission. There was no second. The consensus of the Council was that Alice Brown be permitted to include this item in her liaison report to the Planning Commission.

Jack Brown reported that the Harbor Commission has not met since the last Council meeting.

Laverty reported that the Traffic Safety Committee met on April 9. Officers from Oregon State Police (OSP) and the sheriff's office added insight into traffic safety, and discussed PSAs (public service announcements) for approaching holidays. The sheriff's officer discussed their radar trailer that counts cars and records the speeds of cars going by. The radar trailer will be used on upcoming holidays, and in the summer. Use of this radar trailer will help build up factual information to forward to ODOT (Oregon Department of Transportation) that we have a traffic safety problem. Last Friday he went to Tillamook for the Scenic Byways Program. We are competing for 2003 funding for the area between the SE end of the bridge and the Siletz Tribal Smokehouse, as a possible viewing area for the harbor. It is important to obtain a viewing site while the land is still available.

Scorpio had no report.

Taunton had no report.

Silver reported that the Solid Waste Consortium met this afternoon, holding their first 2002-2003 Budget meeting. The proposed budget was passed with the addition of one significant line item - \$80,000 for the pollution liability insurance premium. They are still investigating the viability of \$1M in catastrophic failure coverage for landfill in Agate Beach. Adoption of the Budget is scheduled for June's meeting. The Parks Commission met April 10. New Commissioner Ty Pedersen had concerns regarding the fence around skateboard ramp. City Field Superintendent Terry Owings will look into this. Pedersen was charged with putting together a subcommittee to offer suggestions for park improvement. Owings will also be looking into trail improvement at the south end of Bay View Avenue. The Safety Committee

met this morning. There were no reported accidents this last month. The Worker's Compensation modification experience rate has been very high. It is a multiple of the base rate, which was at 2.68. It has been reduced to 1.79. We are excited about our employees being safe. The next Parks meeting will be May 17.

#### IX. CITY STAFF REPORT

Owings reported that 1) There will be a bid opening on the Harbor Gangway Improvement Project at 4 PM on April 19. 2) We are re-advertising for the Whale Park Improvement Project; the bid opening for this project will be on May 15. He hopes to bring this back to the Council on May 21. 3) Tsunami maps are again available at City hall, the Chamber, and the fire department.

Murray reported 1) The first Budget meeting will be April 30 at 7 PM. The new opening on that committee will be advertised. 2) There was Council discussion on possible dates for the joint meeting with the Planning Commission. Silver clarified that he felt it was important to have the joint meeting before addressing the Planning Commission membership size at City Council.

Rick Beasley said it has been recently pointed out several times that when there is public testimony pending on an issue such as a change to an ordinance, there should be no testimony prior to the hearing. He asked the Council to explain how a joint meeting can be held with a public hearing pending. Scorpio said that the meeting is to address things like misconceptions and personality issues, rather than text amendments. Planning Commission Chairman Dick Johnson clarified that membership and text amendment issues will be avoided in favor of discussion on misconceptions and misinformation about the Planning Commission and what it does. He said there is frustration in the Planning Commission over ongoing statements about endless debate, irrelevant items, delays costing time and money, etc., and these issues need to be cleared up. Silver said he stood corrected by Beasley, and said he is in favor of a joint meeting.

#### STAFF REPORT, CONTINUED:

Murray concluded her report by establishing the dates of May 16 and 23 as available for the joint meeting with the Planning Commission. Johnson will bring these two dates to the Planning Commission meeting tomorrow night.

#### X. ACCOUNTS PAYABLE

Motion 11: Serena moved to approve Accounts Payable as presented. Lavery seconded the motion.

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

Vote: Motion 11 passed.

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

#### XI. COUNCIL CONCERNS

Silver said 1) Regarding Tyler's complaint, in the past a subcommittee has been assigned to investigate both sides of allegations, bringing results back to the Council for action. 2)

Regarding the joint meeting, if the Planning Commission has issues, he suggested an agenda for the meeting, and requested that Johnson develop one.

Alice Brown said she thinks videotaping the meetings is a great idea. It gives everyone a chance to review meetings at home. It could also be a deterrent to acting-out behaviors. She suggested videotaping all Council and Planning Commission meetings.

Jack Brown 1) Expressed concern over Austin Scorpio's comments, saying Scorpio is talented and the City needs people like him to be involved. He would like to interview Tyler, and get his side of this issue. He doesn't like to see these kinds of diversities, as it takes away from everyone. He hopes to come up with a fix - a compromise of some sort. 2) He said Robison had interesting input, and her feelings about the park made sense to him.

Laverty brought up the idea of going to Washington DC to get support for our harbor, and suggested creating a line in the budget for this purpose. He said letter writing is fine, but meetings in person are more effective.

Scorpio was bothered that Jack Brown made light of the situation between her husband and Tyler. Although people in the audience were laughing, it isn't exciting or entertaining. She doesn't want the City to be involved, and said that unless it's an extreme situation, everyone should deal with their problems on their own time. Behaviors have gotten out of hand. She said it is intolerable, unprofessional, impolite, and low class. Alice Brown said we should have zero tolerance for foul and abusive language. Jack Brown said he didn't mean to make light of the situation - he's looking for a resolution - a compromise. Bud Romans said there is a simple solution to this sort of conduct at Council meetings and Planning Commission meetings - it is up to the man with the gavel. Leadership should take the lead.

## XII. ADJOURN

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

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Mayor John Steen

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Silver Fox, Recording Secretary