

Depoe Bay City Council
Regular Meeting
Tuesday, May 7, 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 16, 2002 Regular Meeting and April 30, 2002 Budget Committee Meeting

Motion 1: Alice Brown moved to approve the April 16, 2002 Regular Meeting and April 30,
2002 Budget Committee Meeting minutes as written. 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

Silver reminded Councilors that meeting minutes are a documentation of what happens in a meeting. Referring to the last Council meeting when Scorpio requested an amendment to the minutes to include a question perceived as a racial slur made by Bill Sachs during Public Input, he said that after reviewing a taped record of the meeting, he felt the statement was reflective of distance rather than racial origin.

IV. New Business

A. Proclamation

Murray read a proclamation (copy attached to original of these minutes) designating the week of May 19-25, 2002 as Emergency Medical Services Week. PacWest General Manager Russ Harper said they look forward to continuing to provide emergency services to residents of the City of Depoe Bay, as they have since 1987. Their goal is to meet emergency needs in a timely, compassionate, and professional manner. Other EMS team partners include fire, police, and hospital emergency room staff. He thanked the City for its continued support of emergency medical workers. He extended an invitation to participate in an VIP ride-along program during EMS Week, where people have an opportunity to ride in an ambulance in a non-emergency setting. The invitation included a BBQ at the PacWest base in Newport on

Friday May 24 at 3PM. Ambulance crew presented a plaque to Mayor Steen, who read its inscription into the record and thanked Mr. Harper.

Motion 2: Silver moved to recognize the Emergency Medical Services Week Proclamation May 19-25, 2002. Lavery seconded the motion.

Vote: Motion 2 passed.

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

B. Interview Applicants for City Commissions & Committees

Dick Johnson said John Woodmark attended the first Depoe Bay Economic Business Development Committee (DBEBDC) meeting. Johnson feels Woodmark would be a very valuable member of this committee. He noted that the one open position is for a resident, and since Woodmark lives just outside of City limits, Johnson requested being reappointed as a resident member and appointing Woodmark as Planning Commission member, upon Planning Commission approval. Silver noted the next meeting of the DBEBDC is scheduled for May 23.

C. Appointment to Fill Vacancies on City Commissions & Committees

Ballots were collected for appointment to the Sign Committee; Ken Powis interviewed for the vacancy on April 16. The Council voted unanimously to approve the appointment of Ken Powis to the Sign Committee.

D. City Planner Services

Larry Lewis was present to answer questions regarding renewal of his contract, to be effective July 1. He said the contract remains the same with the exception of an increase in salary. The increase was based on research of City Planner salaries statewide, done by the mayor of Yachats, and is comparable to his contract with that city.

Motion 3: Lavery moved to accept Larry Lewis' renewal of contract for City Planning Services. 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. Bid Award - Harbor Gangways Project

Owings said that bids for this project ranged from \$36,950 to \$53,250. After reviewing submitted bids, the engineers recommended acceptance of the bid from 2G Construction Company. Owings also recommended 2G Construction, who can start right away. He reminded the Council that the City is on a tight schedule, with the salmon bake and salmon season both coming up soon. He would like to see this project expedited, and requested the Council give the mayor authority to sign the contract without returning to Council.

Motion 4: Lavery moved to accept 2G Construction's bid for the Depoe Bay Harbor Gangway Project, docks 1-4 at the bid amount of \$36,950, and to authorize the mayor to sign the bid packet when it's received. Jack Brown seconded the motion.

Vote: Motion 4 passed.

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

F. Proposed Resolution #309 - Application to ODOT SCA Program for Winchell Street Improvements

Murray said the City has applied for Special City Allotment (SCA) from ODOT in prior years. Improvements to Williams Avenue and Ainslee Street have been accomplished through this program. ODOT requires the inclusion of a resolution stating intent to make application to the program. The resolution would then become a part of the application.

Motion 5: Silver moved to adopt Resolution #309 Special City Allotment. Lavery 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

G. Participation in Lincoln County GIS Program

Murray reviewed the memo she sent to City Councilors (copy attached to original of these minutes) regarding the GIS viewing application developed by Lincoln County. She noted that it would be necessary for Staff to spend time working with the County on this system. The current system can be integrated with this new system, and the City could be up and running in six months to a year. Although it's basically a tool for staff, it can also provide information for residents on their own property or on any property. If the City is to participate in this program, a letter stating this must be sent to the County. Silver said this project was started years ago in Newport. The City has a disk with Auto CAD programming, and what the County is proposing is far cheaper than the original Auto CAD contract. He felt it would be money well spent, and would be helpful to Staff.

Motion 6: Silver moved to direct Staff to draft a letter of support to send to the County. Alice Brown 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

H. Urban Growth Boundary Expansion

Alice Brown said there is a concern that based on one State law, cities can be forced to expand the urban growth boundaries, to provide up to 20 years worth of developable property. This resolution is to request the State to change the law to allow local governments to have

more control over whether urban growth boundaries are expanded. Silver questioned the 20-year aspect of maintaining buildable land. His observation is that there is plenty of buildable land to last 20 years. Alice Brown responded that it has to do with conservation, using as an example the possibility that the City may decide to preserve a large amount of property around wetlands or streams, thereby reducing the amount of buildable land. She felt that the City should be able to choose its rate of growth, rather than have it dictated by State law. Murray said she will work with the City Planner to get information to the Council on the percentage of buildable land in the City.

I. Requests for Funding: Fleet of Flowers and Ron Slane VFW Post/Aux 5653
Murray reviewed the VFW wreath request (copy attached to original of these minutes), which is for five wreaths for five ceremonies through the year. She said the City normally authorizes the purchase of various wreaths for the VFW throughout the year, at an expenditure of \$100 per wreath/ceremony. This year they are requesting one additional wreath for a new event in remembrance of the September 11 attack. Murray then read the Fleet of Flowers request (copy attached to original of these minutes) into the record.

Motion 7: Silver moved to authorize Staff to purchase wreaths for five VFW events in 2002, not to exceed \$500 total. Lavery 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

Silver asked if the City has the resources to cover the Fleet of Flowers request. Murray responded in the affirmative.

Motion 8: Silver moved to authorize the donation of \$1,000 to the Fleet of Flowers in 2002. Alice 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, Alice Brown, Jack Brown, Lavery

V. UNFINISHED BUSINESS

A. Draft Lease Agreement

Murray said if the Council is agreeable, a copy of the draft lease will be sent with a cover letter to the Allyns to begin negotiations.

Motion 9: Silver moved to authorize the mayor to sign the lease agreement commensurate with the Allyns' acceptance of the lease. Lavery 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, Lavery

B. Closing of City Park During Special Events

Krista Robison was not present to address this agenda item. Silver asked Cheryl Preston (the organizer of the renaissance faire) if she has come up with a compromise to allow local citizens to walk through. Preston said she came specifically for this issue and appreciated the opportunity to address it. She said the main reason for requesting park closure was insurance, as there are specific requirements for events held in public areas. Also, their raptors, which are part of their endangered species class, must be safeguarded from loose dogs and cats, and they had a problem with this last year. She said the claim that people were not allowed to walk through the park was incorrect. Their security was set up so passers-by were escorted through the park. She said no one was thrown off the property and there was no rudeness. Historically, rudeness was not acceptable, and it is not acceptable to them now. Scorpio said she felt that considering the amount of culture available in Depoe Bay, having the park closed for eight days is a small price to pay for the enrichment, edification, and education the faire provides to so many people. She said merchants and security camped in the park with approval; other people camped by the salmon bake fire line, and nothing was disrupted or ruined. Fran Recht of 66 NE Williams, said she attended the last meeting and found Robison's argument quite eloquent. She shared Robison's concern that people should have access to the park; they should not feel like trespassers in their own park. She noted that a formal complaint was filed regarding the faire last year. She acknowledged that the faire will bring good things, but she didn't believe that all options have been considered for ways to control the park without denying access. Preston said the bridge and walk spaces are utilized by faire personnel, and some of the clothing costs between \$25-50,000. Larry Tyler of 935 Pine, said the bridge is the only walkway other than the highway for the public to get from one end of town to the other. He didn't see a need to escort people through the small park. Preston said safety is the main issue and an escort is a position of honor. Silver requested this item be carried forward to the next agenda. He said Robison had brought up three concerns: 1) closure of the entire park, including the swing set area, 2) the bypass walkway, and 3) setting a precedence for park closure. The Council may want to consider a policy that sets a maximum number of days per year that the park can be closed. Taunton noted the Wooden Boat Show closes certain areas of the harbor and causes inconvenience, but it's temporary. It was agreed to schedule this matter for the next agenda.

C. Review Draft Ordinance Regarding Planning Commission

Silver said he appreciated the codification efforts by the City Attorney. Not noted in the attorney's notes was how the reduction would be facilitated. He stressed the importance of all Councilors agreeing on the meaning of attrition ("a gradual, natural reduction of membership or personnel as through retirement, resignation, or death"), and he questioned how "retirement" would be defined - what if a person wants to continue, but their term is up? He recommended including the mechanism to be used to reduce the number of Commissioners in the proposed ordinance. Alice Brown said she spoke with former mayor Bob Jackson, who recommended leaving it at "attrition", because vacancies are being closed. She reminded the Council that nobody owns a position - when a term is up, reapplication is necessary. Closing vacancies is the correct legal way to do it, and the only decision being made is to close the

next two vacancies, regardless of how they occur. Lavery said that is targeting, and it was important to know which two people would be affected when their terms are up. Silver reiterated that it is important that all Councilors understand and agree how this will be accomplished. He feels attrition is the proper and fair way to approach the process, with the definition of “retirement” not to include expiring terms. He also stated the importance of including the City Attorney’s recommendations in completing this process.

Discussion turned to written comments by the City Attorney. Alice Brown said that proposed Ordinance #259 deals with issues other than the reduction in Planning Commission size, and these other issues should be reviewed. She agreed with the City Attorney’s recommendation to delete the second sentence of Section 1 on Page 1: “Not more than two (2) members of the Commission may be city officials who, if appointed by the City Council, shall serve as ex-officio non-voting members”, and suggested that Item (c) on Page 2 should read “Four (4) members of the Commission shall constitute a quorum”, deleting the remainder of the sentence, because it is pertinent to the statement on Page 1. She expressed concern at having the third sentence of Section 1 on Page 1 removed: “The Depoe Bay Planning Commission shall have the powers and duties as may be conferred upon such Commission by the Constitution and laws of the State of Oregon, by the Charter of the City of Depoe Bay, or by the ordinances or orders of the City Council”, because it refers to the Constitution. Scorpio noted two items, Section 2 (a) and (b), that use the term “the pleasure of the Commission”, which she found vague, saying no one should be dismissed without just cause, and she suggested adding a just cause clause. She also suggested adding “With prior approval by the City Council” to the beginning of the last sentence of Section (b) on Page 2: “The Commission shall have the power and authority to employ consulting advice on municipal problems...”.

Motion 10: Silver moved to direct Staff to revise the draft ordinance to include the City Attorney’s recommendations and observations, identifying the mechanism to be used, through attrition, to reduce the number of Planning Commissioners from nine to seven, and not deleting the sentence making reference to the Constitution. Alice Brown seconded the motion.

Steen said it was moved and seconded, and called for discussion. Silver said he would like to see what a just cause clause would look like. He said adding “with prior approval by the Council” was unnecessary because the City’s by-laws state that money cannot be spent without the approval of the Council. Alice Brown seconded the motion.

Vote: Motion 10 passed.

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

VI. PUBLIC INPUT

A. Law Enforcement District

Steen said he has compiled about 60 pages of research on developing a police department, and requested citizen input on the idea of creating a police district that is the same size as the fire district (Salishan to Otter Rock). He has spoken with the sheriff about getting someone here on a regular basis. Taunton said that several years ago the City employed an officer for 40 hours per week, on a rotating day/night basis. Murray said it cost about \$45,000 the first year, and increase to about \$60,000 by the third and final year. Steen said there is a possibility

of obtaining a three-year grant. Alice Brown suggested Staff do research and get something on the ballot for this fall. Scorpio was surprised that there is not more community support for this issue.

Debbie Davilla said she comes from a small community that has faced similar issues, and although establishing a police department appeared on their ballot several times, it was always voted down. She felt this was because there was always something added onto it, such as parks, etc., causing people to feel that although they were being offered one thing, they were being forced to accept something else with it. Her suggestion was to limit the ballot measure to simply establishing the police district.

Cliff Wamacks of 445 Spindrift, said he has addressed this issue many times over the years. Money was always an issue, and in the past Councilors did not agree on the number of hours police personnel should be available. He said the establishment of a “public safety district” matching the fire district, would be a viable and valuable option for citizens. The public would need to be educated as to the boundaries of the district, then the district would need to be created on paper, and then submitted to a vote of all the residents within the boundaries of the proposed district to establish the district. Determining how to implement services would not be determined until after the vote, with funding requiring another vote.

Peggy Leoni 355 SW Hwy 101 said this would be a good thing, and she sees a need for a police force in town. The question is how much is it going to cost and how do you get it? The cost will have to be shared by everyone.

Jack Brown said the town may be too small to support police.

VII. CORRESPONDENCE

Murray said there was one letter (copy attached to original of these minutes) written to and submitted by Jack Brown. The letter suggested establishing a location for dropping off giveaway items. Alice Brown said there have been complaints about junk on people's lots, and she suggested a bulletin board where people could advertise for their giveaways, or a rummage sale to raise money for fireworks. Debbie Davilla suggested people with giveaway items contact Tradio at radio station KYTE.

VIII. LIAISON OFFICERS' REPORTS

Scorpio reported there will be no town hall meeting this month due to the number of other meetings scheduled. The DBEBDC met, and elected officers. It was a productive meeting. A questionnaire will be distributed to all businesses in town. The mayor and John Woodmark were the only guests. Woodmark discussed immediate signage needs on Hwy 101 to divert parking to side streets. Scorpio had a concern about establishing areas of jurisdiction because so many issues they might deal with could fall under the jurisdiction of City Council or Planning Commission. Dick Johnson met with ODOT last week, and he reported that they suggested the City get in contact with certain people to start the process of getting design and traffic studies done, and identify highway alternatives. He will meet with Larry Lewis tomorrow to get started on this. There are places that finance these types of studies. Once the studies have

been accomplished, then they can apply for grants to accomplish the ODOT changes. Lavery said ODOT guided the City toward grants to obtain the money to get engineers on board.

Taunton reported that the Salmon Enhancement Commission met. Oregon Fish & Game sent an engineer to examine the overflow tube in the reservoir. At the end of May or early June they will be clipping the fins of the fish. This process is estimated to take about four days, and they are looking for volunteers to help.

Silver had no report.

Alice Brown reported that the Planning Commission met April 17. They discussed topics for the joint meeting between the Council and the Planning Commission scheduled for May 30. Since then, she has reviewed the 1999 Planner's Training Manual, which addresses most of her prior concerns about the functioning of the Planning Commission. She encouraged other Councilors to review this manual prior to the joint meeting.

Jack Brown reported that the Harbor Commission met on April 18. They would like to see a re-evaluation of the harbormaster's position to allow extra hours. This was deferred to the City Field Superintendent. They were also concerned about putting money in the budget for representation in Washington DC. He noted the Army Corps of Engineers report had no author or date. They defined problem as a lateral displacement of the southern 300 feet of the retaining wall bordering Depoe Bay. The movement is being driven by a slide which is impacting the moorage basin, the Coast Guard station, and local businesses. Slippage is an averaged 1/4" per month. It is strongly linked to rain, and moves faster in the winter. It will continue to move until fixed, and continued movement will likely damage the utility infrastructure buried in the harbor parking lot (a 15" sewer line).

Lavery reported that he attended a CWACT (Cascades West Area Commission on Transportation) meeting in Albany. They concurred with the City's Scenic Byway Project. The City is in line for receiving grant money, having moved up to first on that list. Also, the speed humps are now marked. There are four on Williams and two on Ainslee. They will be marked with paint, and then signs will be going up. Parking was one of the items discussed at last week's meeting with ODOT. He spoke with Michael Ronkin, who awarded the City the "Quick Fix" money, and he was not aware that the City was having a problem acquiring the money; he will follow up on this. This money will be used to repair the sidewalk on the east side of Hwy 101, one block at a time.

Motion 11: Lavery moved to direct Staff to make contact with Bob Woods, Dick Upton, and whoever else needs to be, to get a guarantee on the money and to get an engineer on board and get a contract in place to complete this project. Alice Brown seconded the motion.

Steen said it was moved and seconded, and called for discussion. Scorpio questioned the legality of making a motion for an item not on the agenda for a public meeting. Alice Brown said it's only under Council Comments where motions cannot be made also, it is an existing item.

Vote: Motion 11 passed.

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

Lavery continued with his liaison report. Also discussed at the meeting was the need for another sidewalk on the west side of Hwy 101 from the bank toward Worldmark. Applications for grant materials will be going out in June. The Traffic Safety Committee will meet May 14 at 4PM. Oregon has a new law implementing electric restructuring and deregulation. Last year he attended a meeting on this, and there is another one scheduled soon to be held in Beaverton. He asked if the Council wanted him to attend. The consensus was to have him attend the meeting.

IX. CITY STAFF REPORT

Murray said the Planning Commission Training Manual edition the City has is the 1999 edition, and the 2001 edition is now available. The cost is \$20 per copy. She asked if the Council wanted Staff to order any.

Motion 12: Silver moved to authorize Staff to purchase the current Planning Commission Training Manual to allow each every Planning Commissioner to have one, plus three to be available in the office to be checked out for review. Alice Brown seconded the motion.

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

Vote: Motion 12 passed.

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

Owings reported that 1) He anticipates complaints about the new speed humps. They have been installed because of the number of complaints the City received regarding speeding on Williams and Ainslee Streets. 2) Whale Park Project bids are due in and will be opened on May 15. 3) Regarding the sea wall, the Corps study is only facts - it contains no solutions. There is a copy in the office for people to review. The City needs as much input and support as possible from citizens and the Council to put pressure on Federal government to budget the money to fix it. Right now the sewer line is OK; it was TVd 2-3 months ago. If it were to break, it would be a disaster. Moves everything from the north, including Gleneden Beach to the lift station across from the park. 4) He is in the process of getting an acoustic engineer to look at the Council Chambers sound system. There is money in the budget for this. He hopes to get an engineer here next week to get an idea of what will be needed.

X. ACCOUNTS PAYABLE

Motion 13: Scorpio moved to approve Accounts Payable as presented. Silver seconded the motion.

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

Vote: Motion 13 passed.

Ayes: Scorpio, Taunton, Silver, Steen, Alice Brown, Jack Brown, Lavery (with one exception).

XI. COUNCIL COMMENTS

Alice Brown thanked Owings for looking into the acoustic system.

Jack Brown expressed his thanks to those who helped with the Wooden Boat Show.

Taunton said the gazebo is 99% done, with special thanks to Rick Davilla, Wayne Howard, and Councilor Silver. Also, the fish & chips dinner for the Fleet of Flowers was a big success. He wished local media would turn out for positive events like this.

XII. ADJOURN

There being no further business, the meeting was adjourned at 9:20 PM.

Mayor John Steen

Silver Fox, Recording Secretary