

Depoe Bay City Council
Regular Meeting
Tuesday, May 21, 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

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: May 6, 2002 Budget Committee Meeting, and May 7, 2002 Regular Meeting minutes

Motion 1: Scorpio moved to approve the May 6, 2002 Budget Committee Meeting, and May 7, 2002 Regular Meeting minutes as written. Silver seconded the motion.

Steen said it was moved and seconded, and called for discussion.

Amendment: Alice Brown amended the motion to include the following statement on Page 1 of the May 7, 2002 Regular Meeting minutes: "...he felt the statement was reflective of distance rather than racial origin. *The issue wasn't racial origin, but discrimination based on residency issues or national origin.*" Silver seconded the amendment.

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
There were no applicants to interview.

B. Appointment to Fill Vacancies on City Commissions & Committees
Ballots were collected for appointment of a Depoe Bay resident to the Depoe Bay Economic Business Development Committee (DBEBDC); Dick Johnson interviewed at the May 7 City Council meeting. At the May 15 Planning Commission meeting, it was moved to appoint John Woodmark as their representative to the DBEBDC, should Johnson be appointed as the resident member at this City Council meeting. The Council voted unanimously to approve the appointment of Dick Johnson to the DBEBDC Committee for the resident position.

Motion 2: Silver moved to accept the canvass of votes and appoint Dick Johnson to the resident vacancy of the DBEBDC. Lavery 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

Motion 3: Lavery moved to accept the recommendation to appoint John Woodmark to the DBEBDC as the Planning Commission member. Silver 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

C. Proposed Resolution #310, Workers Comp for Volunteers

Murray said this was an annual update that is required by the City's insurer to let them know what the City's intentions are regarding the provision of Workers Comp coverage for volunteers that do work for the City. This proposed resolution would supercede Resolution #296, with the only change being the dates.

Motion 4: Lavery moved to approve Resolution #310. Silver 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

D. Proposed Ordinance #259, An Ordinance Relating to the Planning Commission and its Powers, Functions, and Duties

Murray said this proposed ordinance was written based on the Council's discussion and motion at the last meeting. On City Attorney's advice, five existing City ordinances relating to creation, membership, and duties of the Planning Commission are being codified into this document. Alice Brown suggested Page 2 Item (b) be amended as follows: "The secretary shall keep an accurate record of all proceedings of the Commission and shall perform such duties as are imposed upon him/*her* by law..."

Motion 5: Alice Brown moved to have the City Recorder do the first reading of Proposed Ordinance #259 by title only. Silver 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

Murray proceeded with the first reading of proposed Ordinance #259 by title, and asked for questions or comments from the audience or Councilors. Dick Johnson of 1915 McDonald, said he had no strong feelings on this proposal, but commented he had heard no valid reason why it should be changed. He said with nine people there are more people to assign “action items” to, and the larger number maintains a wider diversity within the Commission, even when some members may be absent. He argued strongly that the definition of “attrition” should not include “when a member’s term expires or”... Alice Brown responded that the proposed ordinance has been written as advised by the City Attorney. Doris Magee of 47 NE Williams, said she worked as Recording Secretary for the city of Salem, where they had seven Planning Commission members, and she did not understand why Depoe Bay should need nine when such a large city can function satisfactorily with seven. G.K. “Bud” Romans of 405 Coast, said the Planning Commission has nine members because at the time of its inception, the County Planning Commission had nine members, and the City mirrored that. He felt that a seven-member commission would be sufficient.

Motion 6: Scorpio moved to adopt Ordinance #259. Alice Brown seconded the motion.

Steen said it was moved and seconded, and called for discussion. Jack Brown said it was important to do this properly. He is comfortable with a seven-member commission, but uncomfortable with forcing members out upon expiration of term. Alice Brown said nobody owns a position on the Planning Commission, and all expiring members are required to re-apply. Scorpio said to do it any other way would be targeting. Johnson said this is a long-term solution, and there is no need to move quickly to achieve a seven-member commission; historically the commission has lost one-two people per year since he became involved with the commission. Murray said the draft ordinance was forwarded to the City Attorney, with a specific request to provide a definition of “attrition”, and what was before the City Council was what the City Attorney provided in response to this request. Silver said what he voted on at the last meeting was a gradual and natural reduction in the number of Planning Commission members, and that eliminating a job/position is not a natural reduction. Alice Brown noted that the original petition stated that there would be no need to fill “current vacant positions”, indicating that this was the chosen method to reduce the number of commissioners at that time by those persons who signed the petition. Silver said this petition should not continue to be brought up, that it had no validation, representing only a relatively small percentage of registered voters, and that the question of reduction had already been decided; it’s the method of accomplishing the reduction that is being discussed. Magee said attrition is a reduction by any means. Scorpio asked to have the motion re-read. Murray noted Alice Brown had requested a change to the proposed ordinance.

Amendment: Scorpio moved to amend the motion to include the following on Page 2 Item (b): “The secretary shall keep an accurate record of all proceedings of the Commission and shall perform such duties as are imposed upon him/her by law...” Alice Brown seconded the amendment.

Vote: Amended motion 6 passed.

Ayes: Scorpio, Taunton, Steen, Alice Brown

Noes: Silver, Jack Brown, Laverty

Murray said that since the vote was not unanimous, the second reading could not proceed until the next Council meeting. This item will appear on the June 4, 2002 agenda.

E. Bid Award - Whale Park Project

Owings said one bid was received from James Drayton, in the amount of \$66,841.80. The engineer, HBH, and Owings recommended the bid be accepted.

Motion 7: Silver moved to accept the bid from James Drayton for the Whale Park Project, in the amount of \$66,841.80. Alice Brown seconded the motion.

Steen said it was moved and seconded, and called for discussion. Alice Brown asked what portion of this project is being done; Owings said the concrete seawall, aggregate concrete patio, and the memorial wall, with no rock on the seawall. Alice Brown noted that the Budget Committee approved an \$8,000 addition for contingency costs associated with this project, and wondered if it would be spent this year. Owings responded that it would depend on change orders, and whether any unexpected costs arise. He said he did not anticipate the project taking over two years to complete.

Vote: Motion 7 passed.

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

Owings recommended the Council authorize the Mayor to sign the contract after legal review.

Motion 8: Silver moved to authorize the Mayor to sign the contract with James Drayton after legal review. 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. Closing of City Park During Special Events

Bud Romans said this issue is very important to the City of Depoe Bay. Fishing used to bring the most summer business to Depoe Bay. The town needs tourism, and we need other things to make Depoe Bay a destination. He said anything that will bring people to town is good, and closing the park for one week wouldn't hurt anybody. He said it is common for cities to utilize their parks for civic events, and this needs to be seriously considered. Alice Brown said that the term "closure" may be misunderstood - that escorts through the park will be provided for anyone who must get through the park. She said no one would be denied passage through the park. In response to a comment by Scorpio that creating a policy was premature, Silver said it was not premature to set a policy on park closure, so Staff would know limitations. Krista Robison of 250 Coast clarified that she does not take issue with the Gates of Thyme Renaissance Faire. Speaking for those who created the park on their own time and with their own money, she said none of them wanted it to be rented out to private enterprise, or to have

anyone excluded from the park in any way. She questioned the non-profit status of the faire and asked what happens to the proceeds. Alice Brown responded that the faire is a fundraiser for the Village Apprentice School that takes place prior to the faire (a free two-day event). Robison said the park was created and is maintained for the public, and should at no time be closed to the public. She urged the Council to adopt an ordinance protecting the public's right to use public parks. She said Newport does not allow their parks to be closed; they have a small gazebo/patio area which is available for exclusive rental. She expressed concern that closing the park for eight days would set a precedent for private enterprise. She charged the Council with the responsibility of protecting our public parks for everyone. Scorpio said the faire is to benefit locals and is not enterprise. She felt the entire issue was blown out of proportion, and said that no one should mind being escorted through the park. Fran Recht of 66 NE Williams said she agreed that the park should not be closed, nor should people have to be escorted through the park, which implies that the person being escorted has done or will do something wrong. She suggested charging a \$200 per day fee, with the money to be put into a special fund for maintaining the park. Scorpio was against charging a fee at this time, and did not understand why anyone would feel like a criminal while being escorted. Florence Shepard of 350 South Point, encouraged the Council to protect public parks. Taunton suggested having the Parks Commission review this issue. Silver said he spoke with former mayor Bob Jackson, who was emphatic that public parks should be maintained for the public. He was uncomfortable with the idea of rescinding a decision previously made by the Council, and said he wished the public input had been given at an earlier date. He suggested fulfilling the obligation which has been made to the faire, and tell them that this would be the last year they would be able to have this arrangement. He noted that the Parks Commission had already submitted their recommendation to allow the faire this year. He felt the Council should decide how to direct Staff to develop a policy to handle this issue. There was discussion regarding the degree of commitment to the faire and possibilities for compromise in allowing public access to the park during this year's faire. Silver requested this item be carried to the next agenda, and wants the opportunity to review what was agreed to in the proposal. He was in favor of asking citizens to vote on this issue.

VI. PUBLIC INPUT

Austin Scorpio of 147 Hwy 101, expressed concern about how much concrete would be going into Whale Park, noting that the small amount of existing riparian vegetation should be protected. He felt that if the vegetation is destroyed, in time the entire slope and all its wildlife will drop into the ocean. Owings said the Memorial Wall will be the closest item to the north fence line. He said he had to get permits from ODOT and ODF&W, and consulted the State Historical Department before proceeding with the project. He said when complete, the wall will prevent people from disturbing the wildlife in the area. Austin Scorpio said he was more concerned about the sea wall and the beautiful 30-40 year old rose bushes which provide a visual barrier between Whale Park and his property. Addressing the concern about erosion, Owings said a geo-tech will be taking samples, and also stated there is money in the budget for new vegetation. He said erosion control has been factored into the project; there will be two-three drains going into a 24" culvert, and the drainage will be controlled.

Grace Strom of 302 NE Hwy 101, said existing off-street parking has been paved at the owners' expense, and essentially donated to the City. A couple of years ago the City provided

edging for semi trucks delivering goods. She requested the edging be re-done. She talked about shop owners and employees who park in customer parking areas, saying that these parking lot property owners have not donated the parking space for shop owners and employees, and that business owners should tell their employees not to park in front spaces. She said Newport has successfully addressed this issue by installing signs which say "Parking for Guests", and suggested Depoe Bay install similar signs with a maximum parking limit of three hours. Owings said ODOT would have to be consulted, since Hwy 101 is their right-of-way, and that re-striping is being done as weather permits. Strom asked Owings about enforcement - specifically whether he could write tickets. Owings responded that he has in the past, but it's very difficult without having a control person to mark tires, and that currently the best option is to call the State Police.

Austin Scorpio asked Lavery if the pea gravel spread by ODOT can be swept by ODOT. Lavery responded that ODOT no longer does street cleaning. Owings said the City pays to have it done two times a year.

Debbie Davilla represented the Chamber of Commerce. 1) The Fleet of Flowers will be on Memorial Day, and the ceremony will begin at the harbor at 10 AM. The Chamber is still looking for volunteers to put together wreaths for the boats. Tanya York and Carole Barkhurst are the contact persons for anyone with further questions. 2) The Citizen of the Year Banquet will be held Saturday, June 15, at 6 PM at the Gleneden Beach Community Hall. There will be a silent auction. This year's theme is "Freedom Forever". Alice Brown asked if the Fleet of Flowers will accept donations of flowers from people's yards. Davilla responded that flowers, money, and time are all accepted and are welcome.

Bill Sachs of 1450 Walking Wood, said there are two City-controlled signs by the bank which were installed by ODOT. These signs say "Two hours maximum parking in any 24-hour period". These signs are evidence that ODOT can provide the signage discussed earlier in this meeting.

VII. CORRESPONDENCE

Murray said there were four items of correspondence: 1) A memo from Fran Recht (copy attached to the original of these minutes) regarding discussions in recent Council meetings. She requested the Council provide an apology to Bill Sachs, Ron Nowark, and Cliff Wamacks. 2) A second memo from Fran Recht (copy attached to the original of these minutes) in which she requested to receive a copy of a confidential memorandum to the City Council. 3) A letter from Andre Sampier (copy attached to original of these minutes), who is a student at Taft High School. He encouraged the City to develop a skate park. 4) A fax was received from Phillip and Linda Mengucci requesting relief from a high water bill caused by a burst water heater which ran unchecked for some time. City crew turned the water off when the leak was discovered during meter readings. A subcommittee consisting of Silver and Taunton was established to review the request.

VIII. LIAISON OFFICERS' REPORTS

Alice Brown said she was absent from the last Planning Commission meeting due to illness, and asked Scorpio, who was present at the meeting as a private citizen, to provide the liaison report.

Jack Brown said the Harbor Commission had not met since the last Council meeting.

Laverty reported that the Traffic Safety Commission met last Tuesday afternoon. There was an ODOT representative from Region 2 present. Borrowing the sheriff department's trailer (with counter and speed computer) was discussed. The City had hoped to borrow the trailer during May; but it will probably be June or July before this occurs. Making improvements in the traffic safety corridor in the Rocky Creek and Whale Cove Inn area. They are still considering putting in a turn lane to prevent more accidents in that area. There is money in the STIP program for making improvements in that area. They continue to look into skateboarding.

Scorpio reported that the DBEBDC will meet this Thursday, May 23. She also reported that she attended the first two hours of the Planning Commission meeting. She said she found the city map Larry Lewis had prepared for the meeting to be very imposing. She said there was a tremendous amount of input against overnight rentals, and very little input in favor. She said her opinion is colored because of how it was handled; there was steering by people on the Commission. She defined "steering" as certain remarks which sounded initially prejudicial, such as comments about drunken parties.

Taunton had no report.

Silver reported that 1) The Safety Committee met this morning. There were no reported injuries in the past month. 2) The Solid Waste Consortium met this afternoon. There was further discussion on the budget, and there will be another meeting on June 18 for possible adoption of the budget. 3) Parks Commission was unable to meet this month. He asked if the Council wanted the Parks Commission to discuss a possible policy regarding park closure. It was the consensus of the Council that they should work on a long-term policy.

IX. CITY STAFF REPORT

Murray reported that 1) The application process to the Oregon Economic Community Development Block Grant Program for ADA improvements at City Hall requires a public hearing. The hearing has been scheduled for the June 4 Council meeting. 2) She has been working on getting the parking lot least with Rich and Val Allyn finalized, and hopes to have this accomplished by the end of this week. 3) The closing date for receiving proposals for legal services is May 30. There have been some phone contacts, and one proposal has been received.

Owings 1) Asked the Council to grant him the authority to retain the services of an engineering firm for the Sidewalk Improvement Project, between Bradford and Bechill Streets. The "quick fix" money from ODOT could possibly be unavailable after June 30.

Motion 9 Laverty moved to authorize Owings to retain the services of an engineering firm for the Sidewalk Improvement Project. Jack Brown 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

Owings continued with his report: 2) He had two options which were distributed to Councilors regarding the new sound system proposed by an acoustic engineer for Council Chambers. Each option was configured to handle 12 microphones, with the additional capacity for four extra microphones for larger meetings. The second bid was for \$1,157.90, which includes the microphones, a 100-watt PA system, and a mixer for equalizing voice levels. He recommended the Council approve the second option, which was slightly more expensive due to better quality equipment.

Motion 10: Lavery moved to approve the purchase of Council Chambers sound system Option #2. Scorpio seconded the motion.

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

Vote: Motion 10 passed.

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

Owings continued with his report: 3) The Harbor Gangway Project is well on its way. There had been one change order, which will increase the contract by \$361.34, for a total contract price of \$37,311.34. The project should be complete by June 15. 4) There was a valve failure at the water treatment plant. A new valve has been ordered, at a cost of \$2,407.70. Until the new valve is in place, the water must be turned off manually at night; if it is misjudged, it floods everything.

X. ACCOUNTS PAYABLE

Motion 11: 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 11 passed.

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

XI. COUNCIL COMMENTS

Scorpio said her comments on the overnight rental discussion at the Planning Commission meeting were reflective of her perspective as a private citizen, and stated that she was not present at the meeting as a City Councilor.

Taunton encouraged everyone to attend the Fleet of Flowers on Memorial Day.

Silver said he continued to be distressed over ongoing lack of communication, specifically referring to Fran Recht's memos. Speaking directly to Alice Brown, he said he didn't understand the confidentiality of the memo, although he agreed that each others' opinions need to be respected, whether agreed with or not. He said over the past several months there have been many instances of abuse of that respect. He encouraged elected and appointed officials and citizens to offer respect to whomever is speaking, and said that having a different opinion is fine, but not at the expense of demeaning, embarrassing, or laughing at the speaker. He asked Alice Brown to speak to her memo.

Alice Brown said she received a certified letter from Recht, which frightened her, and her response was in the form of a confidential memo to City Councilors. The memo was sent confidentially because she didn't want it to be blown into a big public situation. She said the letter that appeared in *The Beacon* was never intended to be a letter to the editor. She said perception is again the issue - if 10 people witness an accident, you will get 10 different reports on who did what. She also said the acoustic system has been a problem for her, and she is very grateful that it is being upgraded. She is concerned about civil rights issues regarding residency. Since the word "bigot" was used in the letter, she defined it as "one whose attitude or behavior expresses intolerance because of race, religion, or politics". Her concern as expressed to Rick Beasley was about people expressing intolerance toward others based on residency issues. She said many people would never discriminate based on race or religion, but do discriminate based on residency. She said she was sorry for any negative consequences Fran Recht may have experienced. She said the issue about what was illegal had to do with having a Planning Commission meeting without a quorum, which was what Ken Powis objected to that led to an unfortunate action.

Laverty said he was the Chairman of the meeting in question, and there would have been no meeting had there not been a quorum.

XII. ADJOURN

There being no further business, the meeting was adjourned at 9:22 PM.

Mayor John Steen

Silver Fox, Recording Secretary