

Depoe Bay City Council
Regular Meeting
Tuesday, September 3, 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: August 20, 2002 Regular Meeting and Executive Session

Motion 1: Alice Brown moved to approve the August 20, 2002 Regular Meeting and Executive Session 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

IV. NEW BUSINESS

A. Water System Master Plan Update - Final Draft and Adoption

Owings asked to table this item until later in the meeting, since Curt McLeod was not present.

B. Update - Neighbors Against Drugs, KidZone, and Rowing Club

Maggie Brown 15 SE Ainslee said 1) The Rowing Club now has eight boats. Thanks to Ernestina and Dale Dixon, the Rowing Club has been available most Saturdays this summer. The Rowing Club offered a sailing course this summer, through Lincoln City Parks and Recreation. 2) Contact has been made by the Tobacco Free Coalition, and a day was spent with them and 10 kids, covering subjects from public speaking to facts about not smoking. 3) There are plans for the kids to get boater education cards for cold water survival this fall. 4) They want to hold a refresher course on CPR this fall. 5) Several events were held this summer, including a 4th of July parade, swimming in Lincoln City, and a back-to-school picnic. 6) With Loretta Hoagland's help, a small grant was received from the Lincoln Commission on Children and Families. 7) They will be moving to Bayside Chapel, which will provide a safer play area and more rooms to work in for after school study time. 8) Jennie Wedel will be teaching the kids music. 9) Over the summer the KidZone was given some good computers, and will be setting up the old KidZone as a computer lab. They are trying to get a good DSL service deal from CenturyTel. 10) She expressed thanks to the Chamber of Commerce, the newspapers, Channel 4, Pat Peterson, Pro-Net, the Neighborhood Watch, and Pacific Sea

Lions. They are honored to have all this support. The kids like to give back - some help out every month at the pancake breakfast in Gleneden Beach, and they will be helping at the salmon bake and the renaissance faire, and with cleanup later this fall.

A. Water System Master Plan Update - Final Draft and Adoption

Curt McLeod of Curran-McLeod provided a brief overview of the master plan (copy of cover letter attached to original of these minutes). Their initial task was to substantiate the need for raw water rights at the Rocky Creek intake, because the State was going to take our rights away. With a 50-year outlook, all the current source capability (four cubic feet/second) will be needed to satisfy our demands (based on an estimated population of 5,500+). In 50 years, the peak daily demands will exceed what we can treat, but we will have storage that will provide three days' worth of peak demand. The second task was to put together a capital improvement plan for building the necessary improvements to satisfy growth for the next 20 years - for storage, treatment and source improvements, and distribution improvements. Immediate pressing items are: 1) \$204,000 in water treatment needs - see page 3 of August 2002 Water System Master Planning Update for details. 2) Treated water storage - the City is currently ½ million gallons deficient (for three-day peak demand), with a projection of a one-million-gallon deficiency by the year 2020. The City is currently getting by with domestic demands, but if there was an emergency (e.g. fire) we would fall short. Curran-McLeod said a 1.2 million gallon reservoir (at a cost of \$1.125 million) will suffice through the year 2020. 3) Minor source and distribution improvements spread over the next 20 years are estimated at \$260,000. The total Capital Improvement Plan to cover all water needs for the next 20 years consists of \$1,800,000; and immediate needs are \$1.35 million. McLeod advised that the plan update needs to be formally adopted, contingent on OECDD (Oregon Economic and Community Development Department) approval. Following that, the City will need to make application to appropriate sources for funding, and then solicit proposals for engineering work. Lavery asked about flooding of pumps at Rocky Creek intake station in winter, and station security. McLeod said one of the interim improvements they'd like to make is to install two small submersible pumps that could tolerate being flooded, and improve the roadway and screening, at an estimated cost of \$40,000. Security is achieved by the station having a discreet appearance and armor-plated waterproof panels that can be locked out.

Motion 2: Silver moved to adopt the Water System Master Plan Update, August 2002 pending OECDD approval. Alice Brown seconded the motion.

Steen said it was moved and seconded, and called for discussion. Scorpio questioned whether the plan could be modified in the future, and Silver replied that it could.

Vote: Motion 2 passed.

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

C. OLCC Application - Mr. P's Ristorante

Murray referred to the Dan Pistorosi's application (copy attached to original of these minutes). It's a change to his current license, which is treated by OLCC as a new application, and requires local government recommendation to grant, grant with conditions, or deny.

Motion 3: Silver moved to approve the license application for Mr. P's Ristorante. Lavery 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. Solid Waste Consortium Insurance/Pollution

Silver said the consortium consists of municipalities that utilize the landfill at Agate Beach. There is a pollution liability in the event of containment failure (due to earthquake, tsunami, etc). Gulf Insurance company will provide \$1 million catastrophic coverage at \$40,000 for a five-year term, or \$2 million for \$50,000. Currently the City has no coverage. He wanted to take the Council's recommendation to the consortium, regarding participation in the purchase of pollution liability coverage. Depoe Bay's percentage of the purchase price would be small - perhaps 3-4%. He noted that this landfill has been closed, and it is monitored. Scorpio asked what the downside would be to not obtaining the insurance, and Silver replied that the land could get polluted to the point where it could not be used, and people could get sick. Taunton asked if the insurance would cover any other areas of Depoe Bay, and Silver replied that it was particular to the landfill.

Motion 4: Silver moved that the City of Depoe Bay recommend \$2 million catastrophic coverage for the Agate Beach landfill, at \$50,000 for five years. Lavery seconded the motion.

Steen said it was moved and seconded, and called for discussion. Jack Brown noted that a catastrophic event is not necessary to cause a problem - that landfills are known to leak, causing latent cancers and other problems to emerge years later. Alice Brown asked about the economic impact to the City. Murray responded that it was about 3% of the contract price, and that the City has a fund established for money carried over from Agate Beach closure. The fund currently contains \$40-50,000.

Vote: Motion 4 passed.

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

E. Bid Award - Hwy 101 Sidewalk Improvements/East Side - Bradford St. to Austin St. Owings said bids were opened on August 26. Two bids were received. Based on the engineer's evaluation (copy attached to original of these minutes), Owings recommended awarding the bid to Devil's Lake Rock Company.

Motion 5: Lavery moved to accept Devil's Lake Rock bid for sidewalk improvements on Hwy 101 from Bradford Street to Austin Street. Alice Brown seconded the motion.

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

Vote: Motion 5 passed.

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

F. Music in the Park Event - Parks Commission Recommendation
Lavery asked for the Council's approval of the Parks Commission recommendation to approve the music in the park event on September 15, 2002.

Motion 6: Lavery moved to allow Joren Rushing to have music in the park on September 15. Alice Brown seconded the motion.

Steen said it was moved and seconded, and called for discussion. Silver asked if the City was being asked to provide any facilities, and Lavery said none have been requested. Alice Brown asked if there was any fundraising associated with this, and Murray said the Park Commission minutes do not reflect any fundraising or other function - they just want to set up in the park and play music. Scorpio asked if they would charge admission, and Lavery said they would not.

Vote: Motion 6 passed.

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

G. Oregon Coast Aquarium Lease Agreement

Murray said the Council had a copy of Mr. Collson's latest input, and if the Council agreed to all the items addressed, staff could be directed to draft an amendment to the lease; if the Council was not in agreement with the items addressed, a special Executive Session could be scheduled to discuss this issue. Taunton asked if the City would be taking over maintenance of the restrooms. Steen said the City would be responsible for supplies, but not cleaning, and Alice Brown said the base water rate would be adjusted.

Motion 7: Lavery moved to direct Staff to make modifications to the lease for the Oregon Coast Aquarium. Alice Brown seconded the motion.

Steen said it was moved and seconded, and called for discussion. Scorpio asked for worst case scenarios, and Murray responded that if the lease was terminated earlier than its term (May, 2004), the City would be faced with choosing what to do. Alice Brown noted that this is a good-faith re-negotiation, with an increase in rent and water base rate decrease, and asked the Council to keep in mind the trouble the aquarium is going through, saying that working with them on the re-negotiation would foster good will toward the City on a long-term basis. Silver noted that the increase in rent would virtually cover the expenses of the restroom supplies. Scorpio expressed a concern about the City being at risk because the business doesn't do well.

Vote: Motion 7 passed.

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

H. Planning Commission Recommendation for Text and Map Amendments - Comprehensive Plan and Zoning Code - Limited Land Use Overlay, Zone Change, North Coast Avenue (NCA) LLU Zone

Dick Johnson Planning Commission Chairman, formally submitted the Commission's recommendation to the Council. He provided background information on the application (copy of outline attached to original of these minutes), explaining the steps the Planning Commission went through to arrive at their recommendation, and noted the Commission was careful regarding possible Measure 7 implications and had consulted with the Council during this process. The Commission's recommendation involved three parts: 1) Revision of Ordinance 24 (land use) and the Comprehensive Plan to incorporate the general concept of a limited land use (LLU) overlay. 2) Rezoning the 12 properties to Commercial, which will allow short-term rentals. He noted that unique historical use of the area of application indicated a concentration of short-term rentals, and that Ordinance 234 had changed the character of that group of homes. 3) Applying the LLU Overlay Zone to the 12 properties, with limited uses imposed to maintain the residential character of the area. Johnson justified the recommendation by stating that this particular situation could not be replicated anywhere else in the city, and the LLU Overlay feature would maintain the residential character of the street. He concluded by stating that this situation is an example of the Commission's ongoing practice to work with each applicant to come up with solutions agreeable to all parties. Murray reviewed the administrative procedure.

Motion 8: Silver moved to direct Staff to prepare text amendments as proposed and recommended by the Planning Commission, laid out in their September 3, 2002 report, subject to Staff confirming what amendments are put together and that the City advertise for a public hearing on October 15. Alice Brown seconded the motion.

Steen said it was moved and seconded, and called for discussion. Scorpio asked about legal counsel, and Murray said legal counsel should be involved with the drafting of the text amendments ordinances. Alice Brown recommended all Councilors listen to the tapes and read the minutes of the Planning Commission meetings where this subject was discussed.

Vote: Motion 8 passed.

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

I. Request to Waive Fees for Use of Community Hall - Lincoln County Health Dept.
Murray said the Lincoln County Health Dept. holds a flu shot clinic in Depoe Bay at least once a year, and in the past the Community Hall has been provided at no charge. They have requested the fees be waived for their one-day clinic (copy of letter attached to original of these minutes).

Motion 9: Silver moved to waive fee for the Community Hall for the flu shot clinic in October. 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

Motion 10: Silver moved to add Lincoln County Health Dept. to the list of entities fees are waived for at the Community Hall, as long as there are no substantial changes to their services. Alice Brown 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

J. Hwy 101 Sidewalk Improvements - Pirates Cove Area South to Sunset Street
Owings said the City was going to apply for a grant for Hwy 101 from Pirates Cove (near WorldMark) to Harney Street. There is no sidewalk in this area, and pedestrians must walk on the edge of the street. He said Murray spoke with Michael Rontkin, the head of ODOT's Bicycle and Pedestrian Department, who said that this project would qualify for their Quick Fix Program. Owings met with Jerry Stokes, who is ODOT's Field Manager for our area. Putting this sidewalk in would tie in sidewalks from Thundering Shores all the way through town. He would like this to be Phase 2 of the Sidewalks Improvement Project, and would like to get a price quote from the engineer doing the Bradford/Austin Streets sidewalks project.

Motion 11: Lavery moved to take advantage of the Quick Fix money, use the engineering services used on the last sidewalks improvement, and to call it Sidewalks Improvement Project Phase 2. 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

V. UNFINISHED BUSINESS

A. Spencer Creek Bridge Alternatives

Steen asked if anyone had further input on this subject. Alice Brown said the consensus from the last meeting was to hold off on making a recommendation until further information was obtained. She apologized for her comment at that meeting regarding Alternative A, saying she now realized there were other issues needing to be looked at before making a decision. Fran Recht 66 NE Williams provided a printed overview (copy attached to original of these minutes) of information regarding the various alternatives. She discussed her concerns over some of the environmental impacts, and encouraged the Council to recommend that Depoe Bay advocate Alternatives F, G, and I as favored alternatives, with Alternative I the best long-term choice. She said that for a long time, Depoe Bay has been considering a bypass for emergency situations, and she would like the City to encourage ODOT to begin working toward development of a bypass. She said the Spencer Creek Bridge would not need repair if trucks used a bypass route. A road running along the ridge would still provide an ocean view, and the existing road could be maintained as a scenic route. She was very much against using rip rap on the beach, saying it would create more problems, won't stop landslides, and is high maintenance. The alternatives she identified (F, G, and I) have no impact to the beach and minimal impact to the park. There are 12 homes that would need to be relocated; two of those

already have landslides under them and ODOT studies show there is E coli bacteria in ditches along the highway due to failing septic systems. She said although Alternatives A-D are favored by ODOT (probably due to chances for federal funding), they are the worst options. Bud Romans 405 Coast, said ODOT is very concerned about tourism in the state. He said if it weren't for tourism this town would dry up and die, because tourism is the lifeblood of our community. He said to bypass Depoe Bay would be to shoot it in the heart. He said the Council's first interest should be the City and how things will impact it. Recht clarified that she had not said to bypass Depoe Bay, and that there are many options and many paths for a bypass. Jack Brown said he didn't think that Depoe Bay would suffer from a loss of traffic, and that it might enhance more desirable traffic to get the big trucks onto a bypass. He suggested rip rapping never be done, because it's ugly and our beaches are beautiful. He said a bypass would enhance the beauty of Depoe Bay. Laverty said Lincoln City is drowning in traffic, and nobody wants to stop there because they can't get back into traffic. They had an opportunity to have a bypass, but they didn't want it. He said he's a businessman and he needs tourists, but Depoe Bay should think ahead so we don't get caught like Lincoln City did. Peggy Leoni 355 SW Hwy 101, said her perspective of ODOT's first priority was to get everyone from here to there as quickly as possible. She thought it was a good idea to have limitations on the size of trucks on Hwy 101 and Spencer Creek Bridge - the highway is a scenic byway, not a superhighway. Alice Brown said she was not opposed to a truck bypass, as long as there is signage and it's done in a way that the majority of traffic doesn't take the bypass. Her concern was totally diverting all traffic away from Hwy 101. Joel Gallob of the *News-Times*, said he has attended the Spencer Creek Bridge meetings, and that ODOT prefers the rip rap alternatives. If Depoe Bay intends to support other alternatives, we need to be prepared with backup data. Cliff Wamacks 445 Spindrift, said Cannon Beach used to have the highway through the middle of town, and now the highway bypasses the town. The town has not suffered, and its ambience has been maintained. Drawing on his extensive traveling experience, Bill Sachs of 1450 Walking Wood, said the splitting of traffic between trucks and other vehicles is common countrywide. He suggested making Depoe Bay a destination instead of a stopover, by taking away those things which keep it from becoming more of a destination point. He finds the trucks very frustrating, and suggested imposing a weight limit on the highway through Depoe Bay. Scorpio said that everyone agreed that eliminating truck traffic would be an asset; she expressed concern regarding children's safety, saying she has witnessed many near misses involving children and trucks. She said all the Spencer Creek Bridge options have catch-22 problems. She asked who would enforce the truck traffic. Silver said it doesn't make sense to put rip rap on top of sand sitting on a slip-plane. Rip rap is at best a surface erosion inhibitor, and it won't stabilize the highway. He recommended considering one of the easterly alternatives, for a long-lasting solution with minimal maintenance.

Alice Brown asked if anything was going to be done about the weed issue. Steen said new information had just been received that he hadn't had a chance to read.

VI. PUBLIC INPUT

Peggy Leoni Chamber of Commerce, said 1) There has been a problem with dirty water, and the City used to call when lines were being flushed. Some businesses have lost business because they didn't have clean laundry or their laundry got stained from dirty water. She asked

that the Chamber be notified of the geographical area affected on these occasions, and they will assemble volunteers to phone those businesses which might be adversely affected by dirty water. Owings said there are two possible scenarios: a break, or scheduled maintenance. When scheduled maintenance is performed, notification is provided by phone and postings. When there is a break, the focus is on getting the break fixed and locating gas and other utility lines. He said he appreciated the Chamber offering this service. 2) The Salmon Bake is September 21. Tickets are for sale. Meals will be delivered to those who can't get away. The hours have been expanded. 3) Anyone bringing school supplies to the next Chamber meeting (September 9) will get a free piece of Betty Taunton's pie.

Jim King SW Coast, asked the City to consider installing a metered power outlet at the docks, so they don't have to go to Dockside Charters for power during events. There is a public right-of-way with a power pole about 70' north of Dockside Charters. A metered power outlet with a lockbox, similar to the one by the basketball court in the park would take care of all their needs. Owings said it was too late to get this installed for this year's Salmon Bake. Jack Brown said King could hook into power at the Harbormaster's shed for cutting poles for the Salmon Bake. It was the consensus of the Council that Owings research this request and return to the Council with a report.

Bill Sachs 1450 Walking Wood, registered a complaint about the used cars for sale in the area on Hwy 101 across from City Hall. He questioned why the City tolerates this, saying it detracts from what residents want to see. He asked the City to act on his complaint, saying the only other option is to talk to ODOT because it's on the highway right-of-way. Owings said he has chased out 10-15 cars in the last year, but since it's ODOT's right-of-way they are the authority. City ordinance allows a car to sit in one place for 24 hours; often the owner will leave the car during the day, move it at night, and bring it back the next day.

VII. CORRESPONDENCE

Murray said there was one item of correspondence: a letter from Harry Trip (copy attached to original of these minutes) requesting an adjustment on his bill for a bad water leak. She asked if the Council wanted to appoint a subcommittee to research the request, as in the past. Silver said current ordinance has no latitude for relief. If the leak is on the customer's side of the meter, it is their responsibility. They need to take measures to prepare their house if it's being left for long periods of time. Alice Brown asked if the City hadn't recently sent out notification to customers turn off water heater and water if they're going to be gone for a long period of time. Murray said the letter has not gone out yet, but we have received input from the City Attorney on how to word it reduce liability for providing advice.

Motion 12: Silver moved to grant no relief on Harry Trip's request for relief on his water bill. Laverty 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, Jack Brown, Laverty

Noes: Alice Brown

VIII. LIAISON OFFICERS REPORTS

Scorpio reported that at the last Planning Commission meeting 1) There was a concern expressed about Planning Commission procedure for a land use application; the concern was cleared by the City Attorney. 2) An application for Jack Karnes was approved. 3) An application for Carl Schmitt was approved after discussion about whether a guest room was an accessory structure. 4) Peggy Leoni's application for a LLU Overlay Zone was discussed, and the text language for the North Coast Avenue zone was approved. 5) The discussion on Planning Commission goals was tabled to the next meeting, with instructions to Commissioners from Chairman Johnson to prioritize listed goals.

Taunton reported that the Salmon Enhancement meeting for September has been cancelled.

Silver reported that the Safety Committee met August 27. There were no reported accidents or injuries. Port facilities will be inspected in September.

Jack Brown said the Harbor Commission met last week. Discussion focused on how to expend funds remaining from the gangways project (about \$30,000). They are considering an ADA ramp allowing handicapped people to board boats more safely.

Laverty reported that 1) At the last Parks meeting, a constituent suggested fake cameras be placed at City Park to curb the problems that have been occurring there. 2) Skateboarders have been jumping off the benches at Whale Park. City ordinance states that skateboarding is not allowed on downtown streets. He suggested informing the skateboarders that they are breaking the law, and calling the sheriff. Jack Brown said it's a couple of kids who aren't in the "main" group. Owings suggested calling the sheriff anytime anyone sees them, and giving the sheriff a copy of the ordinance, with our concern that someone might get hurt. Scorpio suggested putting up a well-placed sign as a deterrent. Bill Sachs suggested taking a picture of offenders to submit to the sheriff.

IX. CITY STAFF REPORT

Murray said there are two Planners' Training Team Seminars this fall. One seminar is on basics, October 5, and an advanced seminar in November (date not yet set). Only one Planning Commissioner has responded so far, voicing interest in the advanced seminar.

Owings 1) Asked that the following streets not be parked on tomorrow due to chip sealing: Briscoe, Cliff, Oceana, Ludson, Bay View, Derrick, Davenport, and MacDonald. 2) Landscaping of the wastewater plant and lift stations has been completed. 3) Painting of the wastewater plant has been completed. 4) Landscaping of Whale Park will be discussed at the next Parks Commission meeting on September 11 at 5:30.

X. ACCOUNTS PAYABLE

Motion 13: Alice Brown moved to approve Accounts Payable as written. Laverty 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

XI. COUNCIL COMMENTS

Alice Brown said the August *Local Focus* contained an article on preserving a community's past and building a strong future. The article talks about the importance of historic preservation. She asked if the Council was interested in establishing a museum/historical society, and said she was willing to serve on a committee. Taunton said he would be interested but does not have the time right now.

Jack Brown said problem kids are often looking for a kind word. If you take their picture, say something nice and maybe invite them to do something. This may be the only kind word they get that week. They strike out because they think no one cares about them.

Scorpio said she has been fortunate that the kids she has encountered are pampered and well dressed, and noted that some of the kids look dangerous. She also clarified she is not anti-aquarium or anti-business, and said it's sometimes hard to address issues. She said she hoped the Spencer Creek Bridge alternatives are wisely chosen.

Bud Romans speaking to the idea for a historical society, said he has accumulated notes over the years. His research has discovered erroneous newspaper articles, and he uncovered much before he found the truth about what really happened in the early days. He would be willing to share the information he's gathered that he knows is accurate.

XII. ADJOURN

There being no further business, the meeting was adjourned at 9:44 PM.

Mayor John Steen

Silver Fox, Recording Secretary