

Depoe Bay City Council
Regular Meeting
Tuesday, November 5, 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, City Attorney D. Gordon

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: October 15, 2002 Regular Meeting

Motion 1: Silver moved to approve the minutes of the October 15, 2002 Regular Meeting as written. Lavery 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. PUBLIC INPUT

Cheryl Preston P.O. Box 1538, said that PacWest Ambulance is sponsoring a community Thanksgiving dinner. She asked to use the Community Hall for this purpose on Monday evening, November 25. Murray asked Preston if she'd checked with Staff to see if that date was available, as she was aware of other interest in the Community Hall around that date. Preston said they were flexible in using either the 25th or the 26th.

Russ Harper, General Manager of PacWest Ambulance, 609 NW Coast, Newport, was present to report on the Ambulance Services Area (ASA) bid. He reviewed and submitted a press release (copy attached to original of these minutes) which stated that there will be three public meetings to discuss the applications and recommendation of the ad hoc advisory committee appointed to review the applications. The committee recommended awarding the contract to PacWest. The public meetings will be held on November 13 and 27, and December 4, 2002 in Newport. Harper stated these meetings would provide a good opportunity for the public to speak out about their preferences. The contract will be voted on December 4, 2002.

V. NEW BUSINESS

A. Proclamation - November 2002 Mediation Month - Valerie Payne, Lincoln County Community Dispute Resolution

Steen summarized the proclamation (copy attached to original of these minutes). Valerie Payne said referrals come from the sheriff's department. The Neighbor To Neighbor Program tries to help people resolve differences without law enforcement, and they work with people in Depoe Bay. They also work with people having differences of opinion on codes, and code violations and interpretations. She acknowledged board member Florence Shepard, and said she has high quality volunteers, several of which are Depoe Bay residents.

Keith Harcourt P.O. Box 836, said he is a volunteer mediator with Lincoln County Dispute Resolution. Currently he is working at a grade school in Newport, helping children peer mediate on the playground and in the classroom. He said he is glad to see children learning these skills at an early age, and hopes they are retained into adulthood.

Motion 2: Lavery moved to approve the proclamation of November 2002 Mediation Month. Silver 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

IV. PUBLIC INPUT

G.K. "Bud" Romans 405 Coast Street, told an anecdote about how he deals with brutality, deception, and injustice. He said Planning Commissioner Larry Tyler is giving Depoe Bay a black eye by operating a wallboard and painting contract business for over 12 years without a city business license. For the past six years, Tyler has been sitting on the Planning Commission in judgment of all who come before it, ensuring *they* uphold ordinances. Romans said he cannot tolerate this. He said the Council must act responsibly, and ask Tyler to resign. If Tyler refuses, Romans said the Council should hold a public hearing where legal proof and public testimony can be heard. He reminded Councilors of the last 12 words of the oath of office: "to uphold the laws and ordinances of the City of Depoe Bay". Alice Brown said an appeal has been filed against granting the business license, and this requires a public hearing. She also saw two separate issues: the business license appeal, and Tyler's performance on the Planning Commission.

Motion 3: Alice Brown moved to schedule two separate public hearings on Larry Tyler, with the appeal of the business license coming before the hearing on Planning Commission performance. Silver seconded the motion.

Steen said it was moved and seconded, and called for discussion. There was some clarification on the appeal process.

Vote: Motion 3 passed.

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

Fran Recht 66 NE Williams, said the "Welcome to Depoe Bay" sign at the south end of town had a "Write in Jenny Wedel for Mayor" sign posted on it. She asked if the City had authorized this, and if not, why it hadn't been taken down. Taunton said the property the sign is on is private property owned by Gracie Strom. Jenny Wedel said she did not request the sign, but that Strom wanted it placed there. Recht questioned whether the sign was in ODOT's Highway 101 right of way, which is 60' from the center line. She said the "write in" sign is placed inappropriately because the "welcome" sign has the appearance of an official sign. Steen said the sign would come down tonight.

Dick Johnson said late this afternoon he received an email from Salem that the \$10,000 for the parking study was approved.

V. NEW BUSINESS

B. Proclamation - Back To School Week, April 28-May 2, 2003

Murray read the proclamation (copy attached to original of these minutes) into the record.

Motion 4: Lavery moved to approve the proclamation of Back To School Week. Jack Brown 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

C. EBDC Recommendation for Pedestrian Enhancement on Bay Street

Murray said the Economic Business Development Committee (EBDC) provided the Council with a memo regarding the creation of an attractive walkway around the harbor, with an attached letter from Rich Allyn (copies attached to original of these minutes). She deferred to the City Attorney as to the best way to approach this project, should the Council want to do so. There was some discussion, with a general consensus of the Council that it was a good idea. Jack Brown suggested getting input from the Harbor Commission. Alice Brown said this plan was part of an overall plan for a promenade around the harbor. Owings asked for a specific plan for the figuring of cost estimates. He also said the two initially-proposed places are very steep and blackberries keep people away from the edge. Dick Johnson said it would be an easy walk-up from the parking lot on Bay Street, with a couple of places for people to sit and rest. He also suggested that Staff look into liability issues and insurance.

Motion 5: Alice Brown moved to approve the proposed concept, and direct Staff to develop the necessary arrangements with Tradewinds Trollers and insurance companies. 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

Fran Recht said this sounded like a good plan. She wanted to ensure that the Parks and Harbor Commissions were afforded an opportunity for input.

D. Ratify Poll Vote - Change Order for Hwy 101 Sidewalk Improvements Project
Murray noted that since the poll vote, there was correspondence received from the contractor regarding additional money and also correspondence from the engineer to the contractor (copies of all attached to original of these minutes). Owings said that he and Hightower were in agreement with the changes.

Motion 6: Silver moved to ratify the unanimous poll vote in favor of consenting to Devil's Lake Rock Company's Contract Change Order #1 for increased costs of \$3,148.50 which occurred during the construction, and a one week extension of the project, to November 1, 2002. Lavery 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

E. KidZone - Christmas Tree Sales at Ainslee Building
Jack Brown said he and Maggie plan to take orders and cut trees on two dates, providing temporary storage of the cut trees until they can be picked up. They will also be providing cut trees for businesses, as Bill Ellsworth has traditionally provided. Sales are non-profit, with proceeds going to the KidZone and the Killer Whales Rowing Club. They need a 10' x 10' space for storage, and said that Chris Chandler was agreeable and there was plenty of parking. Orders have already started to be placed. The first cut is scheduled for December 7.

Motion 7: Lavery moved to approve the KidZone Christmas tree sales at the Ainslee Building. 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

F. Review Accountability Issues/Ordinances
Steen referred to a newspaper article regarding Waldport's parental accountability ordinance, with a copy of the City of Waldport's code particular to parental accountability (copies attached to original of these minutes). Gordon said this ordinance has not yet been adopted. He said if adoption of a parental responsibility ordinance for conduct of children is publicized, that it might have an effect. He also said that Oregon has a parental responsibility law for up to \$5,000. If the City passed a similar ordinance, Gordon said the Council would need to follow through by devoting the resources to ensuring the ordinance was enforced when there was proof of violation. Also, if minors do damage but their parents don't live in Depoe Bay, a City ordinance would not allow for prosecution, while State law affords victims the opportunity to

pursue the parents of violators, even if they live out of state. Alice Brown expressed interest in landlord accountability for renting to known offenders or drug dealers, and asked Gordon to research this.

G. Depoe Bay, ODOT Hwy 101 ROW

Murray reviewed a letter from Tim Harmon (copy attached to original of these minutes) regarding ODOT's enforcement of their directive to remove all signs, overhanging buildings, benches, etc. from ODOT property (including Depoe Bay sidewalks). Harmon's building, Tradewinds Charters, is in ODOT's right of way and he has been instructed to move or remove the building from ODOT property. Harmon asked the City to write a letter to ODOT asking them to delay action for a period of one year while the City looks at other possibilities, and Steen said he complied with this request. He said Bob Woods at ODOT agreed to a year's delay, as of October 25, 2002. Harmon asked the City to consider transferring the sidewalks from ODOT to the City. Alice Brown asked about the financial impact of transfer of the sidewalks, specifically whether it would enhance the City's ability to get financing for sidewalk improvements. Steen asked for volunteers for a committee to research and review this issue, and Lavery responded. Peggy Leoni asked what sidewalks would be affected, and Steen responded that ODOT would like the City to take over all the sidewalks on the east side of Hwy 101.

VI. UNFINISHED BUSINESS

There was no unfinished business.

VII. CORRESPONDENCE

Murray reviewed five items of correspondence (copies attached to original of these minutes):
1) A letter from the insurance company regarding Depoe Bay being a winner in the Oregon Cities Annual Safety Award Contest. Silver will be attending the conference where the awards will be given, and will attend the awards ceremony.
2) A letter from Diana Elroy regarding her experience working with Larry Tyler, and his history as it relates to the acquisition of a business license.
3) A letter faxed from Dan Arb this afternoon regarding Tyler's behavior, which was read into the record at Arb's request.
4) A copy of a statement of extreme concern about Tyler, addressed to Steen from Rick Davilla. Murray suggested Councilors hold onto all these letters until Tyler's public hearings.
5) A letter addressed to Murray from Rick Beasley, which she said was a complaint against her. She anticipated the Council would treat the letter as a complaint, determine how to deal with it, and then notify her as to what actions would be taken. Scorpio said she did not see how this letter was a complaint against Murray. Murray said her interpretation of the letter is that it implies she is derelict in her duties and is violating City ordinances, and this is misconduct. Alice Brown said she thought it was a matter of Beasley's feelings toward Tyler. She said the outcome of Tyler's hearings would affect any possible action against Murray. Gordon said Murray, with consultation, reached a conclusion on what she should do with this particular application. He felt the letter was an interpretation of how the ordinance was being applied, and this would be determined in the appeal hearing by awarding or denying the business license. Other aspects have to do with whether or not conduct by Tyler as a Planning Commissioner should have any affect in his continuing to serve in that capacity.

VIII. LIAISON OFFICERS' REPORTS

Scorpio reported: 1) The EBDC met October 17. There was no citizen input and no audience. She and Evelyne English will be summarizing the recent survey of the business community in writing. The EBDC felt that Town Hall meetings should be reinstated, and requested an invitation/notice to go in the January water bills. The survey results are at City Hall, and she encouraged all Councilors review them. 2) The Planning Commission met on October 16. A public hearing was held on an application for a partition, which was approved with six conditions. The Commission discussed planning goals: inventory of wetlands, long-range goals for the South 40 area, long-range goals for the commercial zone east of Hwy 101 and north of Lane, improvement of land use enforcement, and parks and open spaces. The Commission requested Scorpio to ask the Council to improve inspection, condition, and compliance costs, since the Council is researching fees.

Taunton reported that the Salmon Enhancement Commission meets on November 7.

Jack Brown reported that the Harbor Commission met. The Marine Board in Salem will be fining all boats without an updated decal. There are three improvements going on in the harbor with the extra money from Jeld-Wen: improved flotation for docks that are starting to list to the starboard, a wheelchair loading ramp, and a harbor wall hoist. The Commission welcomed new member Frank Button. One of our boats coming into the harbor ran into the rocks, but did get to moorage in time.

IX. CITY STAFF REPORT

Murray reported that 1) DLCD has verbally confirmed that the City has been awarded a grant for \$26,000 to conduct the wetlands inventory study. The time frame to conduct this work is very tight because federal government funding is to be spent by June 30, but that won't be possible, so there will be an automatic six-month extension. The project should be closed out by December 31 of next year. 2) She asked the Council if they wanted to waive fees for the use of the Community Center for the Thanksgiving dinner.

Motion 7: Lavery moved to waive fees for use of the Community Center by PacWest for Thanksgiving dinner. Alice Brown seconded the motion.

Steen said it was moved and seconded, and called for discussion. He said that it was actually the Kiwanis Club that was sponsoring the dinner.

Amendment: Lavery amended Motion 7 to waive fees for use of the Community Center by the Kiwanis, with the assistance of PacWest, for a community Thanksgiving dinner. Alice Brown seconded the amendment.

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

Vote: Amended Motion 7 passed.

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

Murray said the date will be confirmed with Preston, and then continued her Staff Report:

3) Regarding the EBDC's request to enclose an invitation in the water bills, she said that when special notices are mailed out with the water bills, a great number of people "don't get their bills". Customers who always pay on time become delinquent. She said the savings in postage is minimal, and encouraged the Council to commit to doing separate mailings when they wish to send out special notices. Steen suggested printing on the envelopes, and Murray said the bills don't go out in envelopes. Alice Brown suggested a bold red stamp saying "water bill enclosed". Lavery suggested sending postcards because they cost less to produce and to mail. Scorpio volunteered to walk around and pass out notices in the community - she did not realize that special mailings with the water bills cause problems. Leoni, speaking on behalf of the Chamber of Commerce, offered to include the notice with one of their next mailings. 4) She sent a memo to Councilors (copy attached to original of these minutes) regarding the appeal filed on her determination on Tyler's business license application. Notices must be mailed out a minimum of 20 days before the hearing. If the Council sets the date tonight, the hearing could be scheduled for the December 3 Council meeting. Silver suggested scheduling each hearing on separate dates. Gordon said there is no notice necessary for the second hearing, only for the one involving land use (business license appeal). Scorpio asked Tyler if he'd prefer having the hearings separate or together, and he responded he preferred they be scheduled on separate dates. There was a consensus of the Council that December 3 was an acceptable date for the hearing on the appeal of business license determination.

Owings reported that the sidewalk project is complete, and tomorrow will be the walk through with the engineer and contractor.

X. ACCOUNTS PAYABLE

Motion 8: Alice Brown moved to approve Accounts Payable as written. Scorpio 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

XI. COUNCIL COMMENTS

Alice Brown said 1) The Chamber's Halloween party for the kids was very nice. There was no haunted house again this year. 2) Several Councilors attended a meeting at Trendwest with the sheriff and the district attorney regarding the acquisition of local police.

Jack Brown: said a lot of work has gone into the open house the KidZone is having tomorrow at 6 PM at the church. He encouraged everyone to stop by.

Lavery 1) Comment for Beasley regarding Murray's feelings about his letter: "Thank you Mr. Beasley. We disagree with your observation, and no action will be taken." He suggested the Council stand on that. He noted everyone has the right to an opinion, and the opinion can be agreed with or disagreed with. 2) The mayor set it up so that he and Alice Brown would be involved with researching the possible development of police protection in Depoe Bay. He had

not been informed of the meeting, and only happened to hear about it at the last minute. Steen said the neighborhood watch sent out the invitations.

Scorpio said the results of the EBDC's business community survey were very negative. Out of over 20 surveys, only one or two were positive. She said the Council must keep lines of communication open with business owners, because the businesses are our survival.

Taunton said 1) Devil's Lake Rock did a great job on the sidewalks and worked long hours. 2) At the last Chamber meeting, the new manager of the aquarium store said she didn't want to keep the store open past 5 PM on the night of the Christmas tree lighting, and the Chamber needs to know whose permission is needed so they can get the tree up. Owings will follow up on this tomorrow.

Silver remembered Paul Ellis, who passed away a week ago at his home. His son was with him when he died. He said if you go back to the minutes from City Council and Planning Commission meetings 23-25 years ago, his name is sprinkled all through them. He was primarily responsible for construction of the original wastewater treatment plant. Roma Powis added that Pat Petersen's father passed away this week.

XII. ADJOURN

There being no further business, the meeting was adjourned at 8:30 PM.

Mayor John Steen

Silver Fox, Recording Secretary