

Depoe Bay City Council
Regular Meeting
Tuesday, January 6, 2003 - 7:00 PM
Depoe Bay City Hall

PRESENT: Mayor J. Steen, S. Scorpio, P. Taunton, B. Silver, A. Brown, J. Brown,
M. Lavery, G. Romans

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: December 17, 2002 Regular Meeting and December 23, 2002
Special Executive Session

Motion 1: Alice Brown moved to accept the minutes of the December 17, 2002 Regular Meeting with two corrections: 1) Page 3: "Steen said he heard Tyler use foul language more than once ~~that evening~~ *at one Council meeting...*" 2) Page 17, Council Comments by Alice Brown: "She said it appeared that the lodging industry wanted to ~~collect~~ *pre-empt* part of the room tax, and prevent *us from* raising room tax to provide for public safety." 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

Motion 2: Alice Brown moved to approve the December 23, 2002 Special 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 2 passed.

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

IV. RATIFY POLL VOTE - Re-Scheduling Public Hearing: Larry Tyler-Planning Commission
Removal

Murray reviewed her memo to the Mayor and City Council dated December 21, 2002 (copy attached to original of these minutes). The question asked was: "Should the hearing in the

matter of considering the removal of Larry Tyler from the Planning Commission be re-scheduled from the first Council meeting in January 2003 to the first Council meeting in February 2003 (the earliest Council meeting date for which Mr. Tyler would be available)? Poll results: The hearing date was rescheduled to the first Council meeting in February, 2003. Voting Aye were Taunton, Silver, Steen, Alice Brown, Jack Brown, and Laverty. Voting No was Scorpio.

Motion 3: Silver moved to accept the results of the poll vote. Scorpio 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, Laverty

V. ADMINISTRATION OF OATHS OF OFFICE TO NEW MEMBERS

Gordon administered the Oath of Office to Taunton, Silver, Jack Brown, Laverty, and Romans. Steen passed the gavel to Silver, who took control of the meeting. All Councilors took their seats.

VI. PUBLIC INPUT

Silver provided guidelines for public input: He said it is an opportunity for any member of the public to speak on any subject not on the agenda. Opportunities to speak on agenda items will be provided. Those wishing to speak should raise their hands. The Chair will recognize the speaker and invite them to the podium, where they are requested to provide their name and address for the record. He asked that comments be addressed to the Chair, that speakers avoid personalizing or directing comments to any individual, and to be succinct and avoid commentary. Council guidelines provide for five minutes of input per person. The Chair will not allow any response from Council members, except questions for clarification.

There was no public input.

VI. NEW BUSINESS

A. Elect Council President

Silver opened the floor for nominations.

Motion 4: Jack Brown moved to nominate Laverty. Motion failed for lack of a second.

Motion 5: Scorpio moved to nominate Alice Brown. Romans seconded the nomination.

Silver said it was moved and seconded, and called for discussion or other nominations. He said the City Charter states the vote can be made by ballot, but since there was only one nomination, he asked Murray to call roll.

Vote: Motion 5 passed.

Ayes: Scorpio, Taunton, Romans, Silver, Jack Brown, Laverty

Abstain: Alice Brown

Alice Brown and Romans changed seats.

B. Interview Applicants for City Commissions & Committees

He asked each applicant to come forward to tell about themselves and why they wanted to participate.

Harbor Comm. Position #1: Frank Button (not present)

Harbor Comm. Position #2: Fred Robison Sr.

Parks Comm. Position #3: Herb Baum

Parks Comm. Position #4: Bob Flowers

Parks Comm. Position #5: Bill Spores

Parks Comm. Positions #7 and 8: no application received

Planning Comm. Position #2: tabled to January 21, 2003 meeting (applicants not present)

Salmon Enhancement Comm. Position #1: Frederick Robison

Salmon Enhancement Comm. Positions #6 and 7: no application received

Traffic Safety Comm. Positions #1, 3, and 4: no application received

Traffic Safety Comm. Position #5: Bill Sachs

Sign Committee: no application received

Economic Business Development Committee (Resident): no application received. Scorpio verbally resigned from the committee, due to time constraints.

Motion 6: Lavery moved to accept Scorpio's resignation from the Economic Business Development Committee. Alice Brown seconded the motion.

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

Vote: Motion 6 passed.

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

Motion 7: Jack Brown nominated Romans as Council representative to the Economic Business Development Committee. Taunton seconded the motion. Silver asked Romans if he'd accept the assignment, and Romans agreed after questioning meeting frequency.

Vote: Motion 7 passed.

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

Abstain: Romans

Silver asked if there were any Council objections to directing Staff to re-advertise the remaining vacant positions. There were no objections. He encouraged Commission members to recruit interested parties.

C. Request for Street Lights

Owings said a petition was received (copy attached to original of these minutes) for additional street lights on Cook Ave., Davenport, Hour Ln., and Craig Pl. He noted that several property

owners who would be directly affected if these lights were installed had not signed the petition. Complaints have been received in the past, after installation of new street lights, when all property owners directly affected had not provided written consent. He asked for the Council's guidance. Silver asked if anyone in the audience wished to speak on this issue.

Jeannie Ludlum, President of SE Depoe Bay Neighborhood Watch, said several new streets have been added to the neighborhood watch since installation of the streetlights requested last year. The areas served by the lights being requested are currently very dark. She said they'd like low sodium lights, which don't block out the stars, but do deter crime. She reminded the Council that law enforcement is being cut back statewide, and asked them to keep in mind that lights serve as a deterrent.

Motion 8: Lavery moved to table this request until a subcommittee provides direction on how to proceed with handling applications for streetlights. He noted that unbudgeted street lights have already been installed this fiscal year, and this request would result in an additional annual cost of approximately \$600 per year. Taunton seconded the motion.

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

Amendment: Alice Brown amended the motion to add discussion of a Street Utility Fee during the upcoming workshop on goals and priorities. Jack Brown seconded the amendment.

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

Vote: Amendment to Motion 8 passed.

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

Silver asked Gordon to clarify how the amendment affected the original motion. Gordon responded that the following vote would be on discussing the request at the workshop.

Vote: Motion 8, as amended, passed.

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

D. Appoint City Representative to Lincoln County Consortium

Silver said at the last Council meeting he had asked Jack Brown to sit on the Solid Waste Consortium, but a motion was needed to make it official.

Motion 9: Taunton moved to appoint Jack Brown as the Council's representative to the Lincoln County Solid Waste Consortium. Lavery seconded the motion.

Vote: Motion 9 passed.

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

E. City Council Liaison Officers Appointments/Mayor

Silver said he had discussed the following assignments with Councilors prior to this meeting:

Jack Brown: Harbor Commission

Alice Brown: Parks Commission
Scorpio: Planning Commission
Taunton: Salmon Enhancement Commission, Safety Committee
Lavery: Traffic Safety Commission
Romans: Accounts Payable

Silver said that currently he and Jack Brown sit on the Gleneden Beach/Depoe Bay Wastewater Advisory Committee. He asked each Councilor to consider joining in and getting acquainted with this inter-governmental committee, and that one Councilor step forward soon and start participating in this committee.

F. Request for Waiver of Community Hall Fees - Lincoln County Cultural Coalition
Frank Geltner passed out a poster and a copy of their cultural arts visitors' guide (copies attached to original of these minutes, along with written request for waiver). In their goal to represent communities along the coast, they are conducting eight cultural summits in Lincoln County, one of which will be held at Depoe Bay's Community Center. They are looking for input from communities throughout Lincoln County. They hoped that the City would encourage participation in the cultural summit. For the record, he said he was a professional registered parliamentarian, and offered to conduct a workshop for the City at no cost.

Motion 10: Lavery moved to waive fees for the Lincoln County Cultural Coalition to use the Community Center for their January 23 cultural summit. Alice Brown seconded the motion.

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

Vote: Motion 10 passed.

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

G. Schedule Workshop Meeting - Goals, Priorities, Mission Statement

Silver said he would like to schedule the annual goals and priorities workshop to be held before the next regular Council meeting. He said he included creating a mission statement as part of the agenda because having a mission statement would help the Council to stay focused. The workshop was scheduled for Friday, January 17, 2003 at 7 PM.

VIII. UNFINISHED BUSINESS

A. Wastewater System Improvements Project - Budget/Engineering

Curt McLeod said they are approaching the end of a seven-year program to improve collection systems at the wastewater treatment plant. He said he had inventoried the remaining budget, which is due to end on June 30, 2003, and the results were in his memo dated January 6, 2003 (copy attached to original of these minutes), which he reviewed. He said Curran-McLeod had not billed the City since August, 2001 because of the budget status, but they have continued to create invoices and track their time. He proposed increasing the budget to account for the (unbilled) time spent, as well as an estimated \$6,000 in additional costs between now and the end of the project, a total increase of \$32,000. This would leave a contingency of about \$19,000, the spending of which he will discuss with the Council closer to June.

Motion 11: Scorpio moved to accept the change order increasing the engineering budget by \$32,000. Lavery seconded the motion.

Silver said it was moved and seconded, and called for discussion. Gordon asked if OECDD would be approving the change, and McLeod responded that it is always a good idea to include OECDD approval in such motions. Gordon clarified that OECDD approval was implicit in the motion.

Vote: Motion 11 passed.

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

B. Appoint Committee to Consider Prohibiting Soliciting in Depoe Bay

Romans suggested that before a committee was formed to develop an ordinance, he thought it would be a good idea to have someone in authority discuss the complaints with the owner of the establishment in question (Nautical Nook). He said they might change their aggressive marketing tactics, if it was pointed out to them that they might be hurting their business more than helping it, by turning off locals as well as tourists. Alice Brown noted enforcement issues associated with new ordinances needed to be kept in mind. Jack Brown said that arriving at a solution without imposing a new ordinance would be preferable.

John Dempsey 235 SW 11th Street, Newport, said he and several other business owners had spoken with the Nautical Nook owner, and he hadn't seen any activity in the past two weeks. He thought she would agree to stay on the west side of the highway, which was her own idea, and that restricting the soliciting to an area that didn't affect other businesses was a viable solution. Alice Brown asked if the Nautical Nook owner would cease and desist completely, and Dempsey replied that without an ordinance, she would not.

Scorpio said she had noticed a significant increase in litter last summer after they began their aggressive solicitation. Lavery noted that there was a new restaurant preparing to open on the west side of the highway, and he did not think they would want customers harassed as they start their business. He thought there should be stipulations regarding proximity of solicitation to other businesses. Alice Brown said aggression is an issue in this situation also, and she had witnessed it.

Bill Sachs 1450 Walking Wood, advised that the legal aspects regarding freedom of speech be reviewed before taking any action on this matter.

Taunton said he was in favor of an ordinance, so other new businesses don't utilize this form of advertising. He thought the City should be more strict. Romans was concerned about implementing a new ordinance, saying it would be difficult to isolate a no soliciting ordinance to one specific area, and that he was unsure whether city-wide soliciting should be prohibited. Silver asked if the Council wanted to appoint a committee to look at those types of questions, or try mediation. Scorpio said that since no one from the City had officially spoken to the Nautical Nook owners, explaining to them how what they are doing is affecting others, that would be a good place to start, and have further discussion in a workshop.

Shalene Kiser, new owner of the business that was formerly Mr. P's Ristorante, said restricting solicitation to the west side of the highway would put them near her business, and suggested soliciting be curtailed to mailers, and newspaper advertisements, rather than flyers.

Motion 12: Lavery moved to have the mayor speak with the Nautical Nook owners to come to a mutual agreement to curb aggressive solicitation tactics. Alice Brown seconded the motion.

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

Amendment: Lavery amended the motion to have Scorpio accompany the mayor. Alice Brown seconded the amendment.

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

Vote: Amended Motion 12 passed.

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

- C. Second Reading - Proposed Ord. #261 - An Ordinance Amending Ord. #69 (Depoe Bay Comprehensive Plan) Map, Changing the Designation of Twelve Properties from Residential to Commercial; Amending Ord. #24 (Depoe Bay Zoning Ordinance) Map, Changing the Zoning on Twelve Properties from R-1 (Residential) to C-1 (Commercial); Amending Ord. #24, as Amended, Establishing the North Coast Avenue (NCA) Limited Land Use Overlay Zone (LLUOZ); and Amending Ord. #24 (Depoe Bay Zoning Ordinance) Map, Identifying the Twelve Properties as C-1 NCA; and Declaring an Emergency

Murray read the proposed ordinance by title only, including amendments. She then asked if there were questions or comments from the audience. There were none.

Motion 13: Lavery moved to adopt proposed Ord. #261 with amendments as read. Alice Brown seconded the motion.

Silver said it was moved and seconded, and called for discussion. He said he had a concern with this ordinance because Rules of Council have established guidelines for Council behavior: "During public meetings, Councilors should not attempt to edit or rewrite existing ordinances because of potential impact on other issues. If changes are necessary, amendments to an ordinance shall be prepared and re-introduced." When Ord. #260 was adopted, there were specific criteria, one of which was "The reason asserted as the basis for the NCA limited land use overlay application do not arise from a violation of Depoe Bay Zoning Ordinance." He said he heard testimony that some of the properties were being rented, in violation of Ord. #234, after a four-year amortization period. Romans said violations were a separate issue from the development of an overlay zone. Gordon concurred, saying many ordinances are developed in the context of problems identified by community members, followed by the council addressing the fundamental legislative issues. He said that this wasn't a violation of the ordinance itself, but of a subsection of the overlay zone that says you cannot adopt a LLUOZ *because of* violations.

Vote: Motion 12 passed.

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

IX. CORRESPONDENCE

Murray said there were two items of correspondence: 1) A letter from West Linn Mayor David Dodds (copy attached to original of these minutes), requesting support in the form of resolutions, for three proposed changes in state law. After some discussion, there was a consensus of the Council to add this item to the agenda for the January 17, 2003 workshop. 2) A letter from Bob Ward (copy attached to original of these minutes) regarding the preservation of the Whale Cove area. He requested to be placed on the agenda for the January 21, 2003 Regular Council meeting. There was a consensus of the Council to grant this request.

X. LIAISON OFFICERS' REPORTS

Jack Brown reported 1) The Harbor Commission did not meet. 2) He is contemplating an invitation to accompany Russ Crabtree from Brookings on a possible trip to Washington DC. He said he could address the Corps of Engineers and other lobby groups to increase the probability of the Corps dredging our harbor, fixing the seawall, and perhaps the Drake campaign. He said there was money in the budget for this trip, should he decide to petition the Council to go. Lavery voiced his support for this trip, saying it would increase the City's possibility of receiving funding.

Lavery reported 1) The Parks Commission had not met. 2) During a recent windstorm the southbound 30 MPH sign blew down and ODOT fixed it within three days.

Motion 13: Alice Brown moved to approve Accounts Payable as written. Lavery seconded the motion.

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

Vote: Motion 13 passed.

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

There were no other liaison reports.

XI. CITY STAFF REPORT

Owings had no report.

Murray reported that an OLCC liquor license application (copy attached to original of these minutes) for full on-premises sales had been submitted by the new owners of the former Mr. P's Ristorante. Murray said the OLCC needed the Council's recommendation of whether to grant or deny the application. There was a brief question and answer period between Councilors and the applicant.

Motion 14: Scorpio moved to recommend granting the application. Lavery seconded the motion.

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

Vote: Motion 14 passed.

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

XII. ACCOUNTS PAYABLE

See Liaison Officers' Reports

XIII. COUNCIL COMMENTS

Silver provided guidelines for Council Comments: This agenda item is specifically for Councilors to offer topics for consideration for future Council agendas, or news items that are outside of their normal liaison activities. He asked that Councilors avoid lengthy commentaries, and to state their concern up front, with a brief explanation of why the Council may want to consider a topic for a future Council meeting. He asked Councilors to avoid personalizing or directing comments toward individuals or defined groups.

Romans said Debbie Davilla was one of the best Planning Commissioners the City has ever had, and she decided not to run again as a result of people on the Council and Planning Commission taking aggressive action to attack people in various ways. This is bad for the City, and we are having a hard time getting people to volunteer for Commissions. He suggested scheduling a workshop in February to address this issue. There was a consensus of the Council to add an agenda item for the February 4, 2003 Regular Council meeting to set a workshop date for Preservation of Volunteers.

Jack Brown said the Chamber of Commerce has a Man and Woman of the Year, and he and Maggie are promoting a Youth of the Year. He asked the Council to support this idea when speaking with Chamber people.

Scorpio said congratulations to everyone. She appreciated Silver's containment of the meeting.

Alice Brown added to Romans' comment: there were two sections in Robert's Rules of Order she wanted to highlight: one had to do with refraining from attacking a member's motives, and one had to do with avoiding the use of members' names. If the Council, Commissions, and the audience could understand these two basic sections, we could go a long way to be able to disagree without being disagreeable.

Silver said he looked forward to being mayor. He appreciates the support of the community and will do the best he is able.

XII. ADJOURN

There being no further business, the meeting was adjourned at 8:45 PM.

Mayor Bruce R. Silver

Silver Fox, Recording Secretary