

Depoe Bay City Council
Regular Meeting
Tuesday, August 19, 2003 - 7:00 PM
Depoe Bay City Hall

PRESENT: Mayor B. Silver, J. White, P. Taunton, A. Brown, G. Romans, J. Brown,
M. Laverty

STAFF: City Field Superintendent T. Owings, City Recorder P. Murray

I. PLEDGE OF ALLEGIANCE

Mayor Silver called for all to stand for the Pledge of Allegiance.

II. CALL TO ORDER

Mayor Silver called the meeting to order and established a quorum at 7:00 PM.

III. APPROVE MINUTES: August 5, 2003 Regular Meeting

Motion 1: Alice Brown moved to approve the minutes of the August 5, 2003 Regular Meeting, with one addition to Page 6 under Correspondence: "...Silver said this is a citizen's opinion and concern and reminded everyone to be cautious to avoid misperceptions. *Silver denied Councilor Romans the opportunity to respond to the charges.*" Romans seconded the motion.

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

Vote: Motion 1 passed.

Ayes: White, Taunton, Alice Brown, Silver, Romans, Jack Brown, Laverty

Mayor Silver noted that the minutes from the August 14, 2003 Special Meeting were not ready.

IV. ACCOUNTS PAYABLE

Motion 2: Romans moved to approve Accounts Payable as presented. Alice Brown seconded the motion.

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

Vote: Motion 2 passed.

Ayes: White, Taunton, Alice Brown, Silver, Romans, Jack Brown, Laverty

V. PUBLIC INPUT

Teresa Wisner of Toledo, Executive Director of My Sister's Place, and Cheryl Preston POB 1538, My Sister's Place Board of Directors, presented a request for use of the City Park from noon to 10 PM on Sunday, September 21, 2003 (not including set up and breakdown). "Sundaes and Sweet Jazz" is a proposed fundraising event to benefit My Sister's Place. Pre-paid seating would be available, and there would be a small variety of food and non-alcoholic beverage vendors. The Chamber of Commerce has offered use of their resources free of

charge, as they feel this event will encourage tourism over the Salmon Bake weekend. The Parks Commission has approved the request.

Motion 3: Lavery moved to authorize My Sister's Place to use City Park on Sunday, September 21, 2003, provided the request has been approved by the Parks Commission. Alice Brown seconded the motion.

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

Vote: Motion 3 passed.

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

VI. NEW BUSINESS

- A. Proposed Ord. #264 – An ordinance establishing system development charges; setting forth a procedure and methodology for imposing system development charges; providing for exemptions, credits, and challenges; repealing Ordinance #242; and declaring an emergency

Murray provided background information on this proposed ordinance. The proposed ordinance includes all existing SDC charges, and provides for the development of a Parks SDC. It includes compliance language in response to recent legislation. The City Attorney had provided verbal comments on the draft, which Murray reviewed with the Council:

On Page 1:

- Make "Systems Development Charges" consistent throughout the document.
- Reword title to include "...REPEALING, *IN PART*, ORDINANCE NO. 242..."

On Page 2:

- In Section 3.5 addition - "...pursuant to Section 6.2 of this Ordinance and *is* either..."
- Renumber second Section 3.5 to 3.6, and Section 3.6 to 3.7.

On Page 3:

- Section 5.1 correction - "...prior contributions by existing users, gifts, or grants ~~form~~ *from* federal or state government..."

On Page 5:

- Section 8.1 addition - a reference to the statute at the end of the section: "...in accordance with state law. (*ORS 223.304(4)(c)*)."
- Section 8.2 correction - "...persons which is exempt ~~form~~ *from* real property taxes..."

On Page 8:

- Section 14 addition - "provided however that Section 14.2 *thereof* shall remain in full force..."

Motion 4: Jack Brown moved to read proposed Ord. #264 by title only. Lavery seconded the motion.

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

Vote: Motion 4 passed.

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

Murray read proposed Ord. #264 by title only, and asked if there were any questions or comments from the audience. Kathryn Pyle of Berkeley, CA, asked why an emergency was

being declared, and Murray explained that that clause allows the ordinance to go into effect immediately after the adoption, and when signed by the mayor. The ordinance would otherwise not go into effect for 30 days.

Silver clarified with the Council that reading the proposed ordinance by title only would be inclusive of the comments made by the City Attorney.

Motion 5: Lavery moved to adopt proposed Ord. #264 at the first reading. Taunton seconded the motion.

Mayor Silver said it was moved and seconded, and called for discussion. A Councilor expressed a legal concern regarding material which may fall under Senate Bill 939.A. Murray noted that she had consulted with the City Attorney regarding that issue, and there was no conflict with that legislation in the proposed ordinance, but that once the legislation is finalized there may be required language changes to the ordinance. Another concern was expressed relevant to a reference to “administrative procedures” under Section 5.7 on Page 4. Murray responded that administrative procedures have not been identified, and the City Attorney recommended this be put on a “to do” list for adoption by resolution. Murray noted that a similar passage in Section 7.3 on Page 5 references arrangements for payment (of SDCs), but no guideline exists. This item will also be put on the “to do” list for adoption by resolution.

Vote: Motion 5 passed.

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

Motion 6: Lavery moved that the second reading of proposed Ord. #264 be done by title only, with amendments recommended by the City Attorney. Alice Brown seconded the motion.

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

Vote: Motion 6 passed.

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

Murray read proposed Ord. #264 by title only for the second time, and asked for questions or comments from the audience.

Motion 7: Lavery moved to adopt proposed Ord. #264 at the second reading, with amendments recommended by the City Attorney. Taunton seconded the motion.

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

Vote: Motion 7 passed.

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

- B. Proposed Res. #328 – A resolution setting forth system development charges continuing in effect upon adoption of Ord. #264 and repeal of Ord. #242; and setting forth system development charges for parks and recreation facilities; repealing Res. #254 and Res. #263.

Murray provided background information on this proposed resolution. The City Attorney recommended one change to Section 5 on Page 3: near the bottom of the paragraph, "... development charge does not substantially reflect the City's capital cost of the respective system..." Murray also noted that there was one revision to Exhibit A (Transportation SDC Fee Schedule): On Page 1, the Campground/RV Park trip rate is now the same as a motel room. In response to questions from Councilors, she explained how some of the rates were determined. Mayor Silver asked if there were questions or comments from the audience.

Peggy Leoni 355 SW Hwy 101, questioned how trip rates were counted. Murray explained that the ITE Manual was used for the original computation of SDCs, and is used nationwide for computing SDCs and transportation costs and that the pass-by volume is particular for Depoe Bay.

Motion 8: Lavery moved to adopt proposed Res. #328 with the one amendment recommended by the City Attorney. Taunton seconded the motion.

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

Vote: Motion 8 passed.

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

- C. Proposed Res. #329 – A resolution of the City of Depoe Bay, Lincoln County, Oregon, calling a special election to submit to the voters the question of contracting a general obligation bonded indebtedness in the amount of \$1,510,000 to finance improvements to the city's water system and to pay related costs; and to submit to the voters the question of a local option tax levy at a rate of thirty five cents (\$0.35) per thousand dollars assessed value to finance, in part, public safety and law enforcement services and to pay related costs.

Owings reported that the total of \$1,510,000 would need to be amended, based on information provided by the fire chief for improvements to the city's fire protection capabilities. The City will need 12 new fire hydrants at a cost of \$5,000 each. Four hydrants need to be moved, and Owings recommended replacing these due to their age. Twelve hydrants need refurbishing, at a cost of \$3,000 each. Two hydrants are located in an area without sufficient water pressure. Installation of a pressure station would cost of \$36,445. Total cost for fire protection improvements was \$152,440. Based on these additions for fire protection improvements, the total amount needed to finance improvements to the city's water system was \$1,602,000. Murray noted that the City Attorney had reviewed and had no revisions to this proposed resolution, and that the proposed resolution was drafted by a bond counsel who has worked with the City on bond measures in the past. Mayor Silver asked if there were questions or comments from the audience. There were none.

Motion 9: Lavery moved to adopt proposed Res. #329, including the change in the total amount of general obligation bonded indebtedness from \$1,510,000 to \$1,602,000. Alice Brown seconded the motion.

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

Vote: Motion 9 passed.

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

D. Commercial Crab Pot Storage in Residential Areas

Kathy Davis 257 NE Williams, spoke regarding a letter she submitted to the Council on August 12 (copy attached to original of these minutes) in response to a complaint the City received and followed up on regarding storage of crab pots on her mother-in-law's property on Spring Street (a residential zone). She stressed that enforcement should apply to everyone and encouraged the Council to revise the ordinance.

Steve Pearl a commercial crabber, questioned why commercial crab pots are not allowed on docks while sport crab pots are allowed, saying there is little difference between the two. He expressed concern over the reduction in number of commercial fishermen in Depoe Bay over the past 25 years. He requested the City consider installation of a coin-operated hoist, and proactively facilitate an increase in the commercial fishing fleet.

Marci Davis a previous resident, spoke regarding the history behind the current complaint regarding crab pot storage.

There was discussion regarding the complaint procedure, and whether or not anonymous complaints should be allowed. Councilors who visited the Spring Street site shared their observations that the crab pots were not unsightly or odorous. It was noted that this is a fishing village and more commercial fishermen would be beneficial to the economy. Suggestions were made to: 1) Not differentiate between commercial fishing vessels and charter (sport) fishing vessels, as the distinction is minor. 2) Consider crab pot storage a transparent or conditional use in residential zones. 3) Have the City take an active role in policing the streets to enforce ordinances, rather than using a complaint-driven enforcement procedure. 4) Postpone enforcement of this complaint until the Council decides on a permanent course of action. 5) Consider short-term storage (smelly pots) vs. long-term storage (clean pots) needs. Owings noted that crab pot storage is available at the harbor at reasonable cost. Silver noted that since this is a land use issue, revisiting uses in residential zones should be referred to the Planning Commission. The Council agreed. Murray noted that this would be a text amendment to the zoning ordinance, and would thus necessitate public hearings, and if the Planning Commission's decision were appealed, the Council would be the appellant body.

Motion 10: Lavery moved to take no action on the crab pot complaint, and to request the Planning Commission initiate a text amendment regarding commercial storage in a residential zone. Alice Brown seconded the motion.

Mayor Silver said it was moved and seconded, and called for discussion. There was a question regarding possible future complaints received before the Council takes action; should a complaint regarding crab pots be received, Staff will explain to the complainant that a review process has been initiated.

Vote: Motion 10 passed.

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

Comments were made regarding differentiating between storage on private property and storage on City property, stressing that action should be taken on the latter. It was also noted that because a text amendment is a public process, interested parties need to remain involved.

E. Review Ord. #58, Depoe Bay Sign Ordinance, Relating to Sign Committee
A Councilor addressed this issue by sharing sign review procedures in other local cities, where the Planning Department handles sign reviews (except Toledo, which has no sign ordinance). Mayor Silver read into the record a letter from Depoe Bay's Sign Committee (copy attached to original of these minutes), who requested that the committee continue to be allowed to do their volunteer work.

Maggie Brown 15 SE Ainslee, said she has found the Sign Committee to be very helpful.

Tray Harley 1155 Walking Wood, said committees are good for the community unless the committee is dysfunctional or doing harm to the community.

Councilors addressed the following concerns: 1) An appearance that the committee meets without a quorum. In response, Owings noted that sometimes a member will arrive late, or will come in at a different time to review an application separately from the main body of the committee. A Councilor said the committee should meet regularly and everyone should be there at the same time. 2) The ordinance requires all Sign Committee members to be Depoe Bay residents, but Owings doesn't meet this requirement. A Councilor noted that having a Staff member interface with the committee is necessary, and Owings reviewed the constituency of the committee per the ordinance, and said his attendance is at the direction of a previous Council. 3) Having two planning bodies - sign review being land use planning, with appeals going to the Planning Commission. For the City's legal protection, it was recommended to have the City Attorney review this issue, and have the Council and Planning Commission review the ordinance with codification into the planning code.

It was the consensus of the Council that the Sign Committee will be retained and will provide input on review of Ord. #58, and the City Attorney will be consulted regarding whether sign review should be part of land use planning and therefore under the jurisdiction of the City Planner or the Planning Commission.

F. Schedule Council Workshop Meeting

A workshop meeting to discuss a written policy for correspondence was scheduled for September 2, 2003 at 5:00 PM.

VIII. UNFINISHED BUSINESS

White reported the Planning Commission will meet tomorrow.

Taunton had no report.

Alice Brown reported the Parks Commission will meet tomorrow at 5:30 PM.

Jack Brown had no report.

Lavery reported that 1) Last Sunday there were counter hoses at the north and south ends of town. There were also two cameras set up by ODOT: one on Bradford Street counting tourists jaywalking, and one on Bay Street counting traffic not obeying the signal. 2) The Traffic Safety Commission has received 10 skateboard/inline skate helmets from ODOT. They have been given to Jack and Maggie Brown.

X. CITY STAFF REPORT

Owings reviewed his staff report (copy attached to original of these minutes). Subjects covered included: 1) The first phase of the Winchell Street Project is nearly complete, but unforeseen problems have arisen, resulting in a change order request (copy attached to original of these minutes) totaling \$1,986.84.

Motion 11: Lavery moved to approve Change Order #1 in the amount of \$1,986.84 for the Winchell Street Project. Alice Brown seconded the motion.

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

Vote: Motion 11 passed.

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

Owings continued his report: 2) Request for purchase of two vehicles at an approximate cost of \$28,000. He had obtained six quotes from 14 dealerships contacted.

Motion 12: Lavery moved to authorize the purchase of two vehicles from Power Ford in Sublimity, OR, at a cost of \$28,000. Taunton seconded the motion.

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

Vote: Motion 12 passed.

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

Owings continued his report: 3) A request for safety rails around the south side of the harbor bathrooms, and also on the steps in City Park.

Motion 13: Lavery moved to authorize the purchase of safety rails at the harbor and City Park, at a cost of \$851. Alice Brown seconded the motion.

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

Vote: Motion 13 passed.

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

Owings continued his report: 4) The plastic slats on the east section of the fence at Whale Park have been removed. 5) The property stakes the north end of Whale Park have been identified and steel rods installed to mark their location. 6) The large plaques for the memorial wall have been received and will be installed soon. 7) The rock for the wall has been ordered.

Installation should begin next week. 8) City Park parking lot has been paved and pole barriers removed. 9) RFPs are being sent to painting companies for pressure washing and painting the aquarium store building.

Murray had no report.

XI. COUNCIL COMMENTS

Romans drew attention to the crab pot pictures, questioning cable company vehicles being parked there day and night.

White commended Staff for quick action in cleaning up unreadable plaques at the spouting horn.

Alice Brown commented on how much everyone enjoyed the Chamber's August 11 picnic, and said it would be nice if the City were to sponsor an event and invite the Chamber.

Silver said there is a need to create a regular meeting (quarterly or monthly) to establish communication between the City's "department heads", specifically the Mayor, City Recorder, Field Superintendent, Planner, Fire Chief, and the future contract Law Enforcement Officer. He asked the Council's opinion on this issue. Councilors were supportive.

XII. ADJOURN

There being no further business, the meeting was adjourned at 9:47 PM.

Mayor Bruce R. Silver

Silver Fox, Recording Secretary