

1 Depoe Bay City Council  
2 Regular Meeting  
3 Tuesday, March 16, 2004 - 7:00 PM  
4 Depoe Bay City Hall  
5

6  
7 PRESENT: Mayor B. Silver, J. White, P. Taunton, A. Brown, G. Romans, M. Lavery

8  
9 STAFF: City Recorder P. Murray, City Field Superintendent T. Owings, City Attorney D.  
10 Gordon, Recording Secretary S. Fox  
11

12  
13 I. PLEDGE OF ALLEGIANCE

14 Mayor Silver called for all to stand for the Pledge of Allegiance.  
15

16 II. CALL TO ORDER

17 Mayor Silver called the meeting to order and established a quorum at 7:00 PM.  
18

19 III. APPROVE MINUTES: February 26, 2004 Workshop Meeting and March 2, 2004 Regular  
20 Meeting  
21

22 Motion 1: Alice Brown moved to approve the minutes of the February 26, 2004 Workshop  
23 Meeting and the March 2, 2004 Regular Meeting as written. Taunton seconded the motion.  
24

25 Mayor Silver said it was moved and seconded, and called for discussion.  
26

27 Vote: Motion 1 passed.

28 Ayes: Taunton, Alice Brown, Silver, Romans

29 Abstain: White, Jack Brown, Lavery  
30

31 IV. ACCOUNTS PAYABLE  
32

33 Motion 2: Romans moved to pay the accounts payable. Alice Brown seconded the motion.  
34

35 Mayor Silver said it was moved and seconded, and called for discussion. There was none.  
36

37 Vote: Motion 2 passed.

38 Ayes: Taunton, Alice Brown, Silver, Romans

39 Abstain: White, Jack Brown, Lavery  
40

41 V. PUBLIC INPUT

42 Cheryl Preston, POB 902, Lincoln City, 1) Requested use of the Community Center and  
43 waiver of fees for the Saturday, April 10, 2004 Mad Hatter's Tea Party from 9 AM to 5 PM. The  
44 Event is for local children, with proceeds going to the Kid Zone. 2) Extended an invitation for  
45 everyone to attend the first Lincoln County Meth Summit on May 23 from 1-5 PM at the  
46 Salishan Long House in Gleneden Beach (copy of flyer attached to original of these minutes).  
47 There is no charge.

1  
2 Peggy Leoni, Chamber of Commerce, 1) Said thank you for support and listed winners of the  
3 Citizen of the Year dinner and silent auction last Saturday. 2) The annual dinner to benefit the  
4 Fleet of Flowers will be held at the Spouting Horn on April 20. Tickets are on sale at the  
5 Chamber and the bank. 3) The annual Crab Feed is scheduled for the weekend of April 24.  
6

## 7 VI. NEW BUSINESS

8 A. Lincoln County District Attorney Bernice Barnett – Annual Report  
9 District Attorney Bernice Barnett, 225 W. Olive, Newport presented the annual Lincoln County  
10 District Attorney’s Office 2003 Annual Report (copy attached to original of these minutes). A  
11 brief discussion period followed.  
12

### 13 B. Public Hearing: In the Matter of Requesting that Depoe Bay be Added to the Lincoln 14 County Enterprise Zone

15 Chris Chandler-DiTorrice of the Economic Development Alliance presented a request (copies  
16 of handouts attached to original of these minutes, with a copy of proposed Res. #334), for  
17 expansion of the existing Lincoln County Enterprise Zone to include Depoe Bay. She noted  
18 the date of the Toledo public meeting should be revised to April 7, 2004, and submitted  
19 replacement pages 1-5, Exhibit A. Page 3 Exhibit A is revised to include wording to clarify that  
20 some sites are outside Newport, but in the Newport area. These sites are in the process of  
21 being added to Newport’s urban growth boundary and city limits. Also, Exhibit A page numbers  
22 have been corrected.  
23

24 Motion 3: Lavery moved to adopt proposed Res. #334, A Resolution Requesting the  
25 Expansion of the Lincoln County Enterprise Zone. Alice Brown seconded the motion.  
26

27 Mayor Silver said it was moved and seconded, and called for discussion. There was none.  
28

29 Vote: Motion 3 passed.

30 Ayes: White, Taunton, Alice Brown, Silver, Romans, Jack Brown, Lavery  
31

### 32 C. Request to Use City Park for “Church in the Park” Event – BBQ and Concert – 33 August 1, 2004

34 Jim Daniels, 225 SE Anchor, presented a request (copy attached to original of these minutes)  
35 for Bayside Community Chapel to use City Park for a barbeque, music, and kids’ activities on  
36 Sunday, August 1, 2004 from 6 AM to 7 PM. There will be no liquor served, no charge, and  
37 they will provide all set up and clean up.  
38

39 Motion 4: Lavery moved to approve the request for Bayside Chapel to use City Park on  
40 August 1, 2004. Taunton seconded the motion.  
41

42 Mayor Silver said it was moved and seconded, and called for discussion. There was none.  
43

44 Vote: Motion 4 passed.

45 Ayes: White, Taunton, Alice Brown, Silver, Romans, Jack Brown, Lavery  
46

### 47 D. Pay Request #2 – City Hall ADA Improvements Project

1 Murray reviewed the pay request from New Hope Builders (copy attached to original of these  
2 minutes). She noted that there is Davis Bacon paperwork that needs to be submitted before  
3 payment can be disbursed.

4  
5 Motion 5: Lavery moved to approve pay request #2 for New Hope Builders, in the amount of  
6 \$18,261.25, upon receiving the Davis Bacon paperwork. White seconded the motion.

7  
8 Mayor Silver said it was moved and seconded, and called for discussion. There was none.

9  
10 Vote: Motion 5 passed.

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

12  
13 E. ODOT Local Agency Agreement for Depoe Bay Harbor Overlook Land Acquisition  
14 Murray reviewed her memo dated 3/12/04 (copy attached to original of these minutes), noting  
15 a clarification and date changes that were made to the agreement, based on review by the  
16 City Attorney. A Councilor expressed concern regarding possible termination of the agreement  
17 by the State in the event of loss of funding; Gordon responded that the money is already  
18 there.

19  
20 Motion 6: Lavery moved to approve the Local Agency Agreement Scenic Byway Program –  
21 Harbor Overlook Project, taking into consideration the change in dates, and to authorize the  
22 mayor to sign the agreement. Alice Brown seconded the motion.

23  
24 Mayor Silver said it was moved and seconded, and called for discussion. There was none.

25  
26 Vote: Motion 6 passed.

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

28  
29 Mayor Silver called a recess at 8:00 PM. The meeting was reconvened at 8:05 PM.

30  
31 VII. UNFINISHED BUSINESS

32 A. Proposed Ord. 256 – An ordinance amending Ord. #24 (Zoning Ordinance) as  
33 amended; amending the inventory information as amended; repealing Ord. #111  
34 (Depoe Bay Partition and Subdivision Ordinance) as amended, incorporating land  
35 division provisions into Ord. #24 as Article 14 – Land Division; repealing Ord. #132  
36 (Development in Areas of Special Flood Hazard Ordinance), incorporating flood hazard  
37 provisions into Ord #24 as Article 3, Section 3.370 – Flood Hazard Overlay Zone;  
38 enacting provisions requested as a result of review of the Depoe Bay Zoning Ordinance  
39 by the City of Depoe Bay, pursuant to review by the Department of Land Conservation  
40 and Development; and declaring an emergency.

41 Mayor Silver reminded Councilors this item was carried over from the February 17 Regular  
42 Council meeting, where it had been tabled to this date.

43  
44 Motion 7: Alice Brown moved to adopt proposed Ord. #256 as written. Lavery seconded the  
45 motion.

1 Mayor Silver said it was moved and seconded, and called for discussion. The Council  
2 deliberated on the motion.

3  
4 Amendment: Alice Brown amended the motion to add the following "Item g." under Section  
5 4.900.4, per Fran Recht's written testimony submitted at the February 17 meeting: "*The*  
6 *applicant shall specify the tax lot and location where soil and vegetation removed from the site*  
7 *will be taken for disposal, and shall provide evidence that the owner of the site is willing to*  
8 *accept the material.*" Laverty seconded the amendment.

9  
10 Mayor Silver said it was moved and seconded, and called for discussion. There was brief  
11 discussion regarding procedure.

12  
13 Vote: Amendment to Motion 7 passed.

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

15  
16 Mayor Silver called for further discussion on the original motion. There was brief discussion  
17 regarding comments from Katherine Pyle, and a request was made for the City Planner to  
18 provide feedback regarding whether her editing suggestions are non-substantive and should  
19 be included in the ordinance.

20  
21 Amendment: Alice Brown amended the motion to make it subject to non-substantive changes.  
22 The motion was withdrawn.

23  
24 Mayor Silver called for further discussion on the original motion. There was none.

25  
26 Vote: Original Motion 7 passed.

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

28 Noes: Romans

29  
30 Staff and the City Attorney were directed to review Katherine Pyle's English-edit comments,  
31 and report back to the Council at the next regular meeting. Silver noted the second reading will  
32 occur at the next meeting, since the vote to adopt is not unanimous.

33  
34 VIII. CORRESPONDENCE

35 Murray reported there were four items of correspondence (copies attached to original of these  
36 minutes): 1) A letter from Chip Walls, resigning from the Salmon Enhancement Commission.  
37 2) A letter from Paul Davis at ODOT regarding the change in speed requested by the City. He  
38 requested a written response before April 26, 2004. 3) A letter from the Department of Human  
39 Services regarding HB 3259, which allows the State to notify neighbors when a nearby  
40 property has been determined to be an illegal drug manufacturing site. 4) A letter from Rick  
41 Beasley at *The Beacon*, requesting the Council to direct members of the Planning  
42 Commission to produce copies of correspondence relating to crab pot storage and the Allyn  
43 building permit.

44  
45 Gordon addressed the issue of what constitutes an electronic meeting, saying that it depends  
46 on the circumstances of who is discussing what, and how they are discussing it. He noted that  
47 this area of the law is new and not clearly defined, but that any electronic correspondence that

1 is sent to or from a City computer is public record. Planning Commissioners Dick Johnson and  
2 Betty Langdon reviewed recent email correspondence with Gordon.

3  
4 Motion 8: Lavery moved to direct Staff to consult with the City Attorney and draft a response  
5 to Beasley's request. Alice Brown seconded the motion.

6  
7 Mayor Silver said it was moved and seconded, and called for discussion. There was none.

8  
9 Vote: Motion 8 passed.

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

11  
12 Motion 9: Taunton moved to accept Chip Walls' resignation, send a letter of thanks, and to  
13 direct Staff to advertise for the vacancy. Lavery seconded the motion.

14  
15 Mayor Silver said it was moved and seconded, and called for discussion. There was none.

16  
17 Vote: Motion 9 passed.

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

19  
20 Motion 10: Alice Brown moved that the City respond to Paul Davis' letter regarding speed  
21 reduction sign, and ask the Traffic Safety Commission to draft a response for the Council's  
22 consideration. Jack Brown seconded the motion.

23  
24 Mayor Silver said it was moved and seconded, and called for discussion. There was none.

25  
26 Vote: Motion 10 passed.

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

## 28 29 IX. LIAISON OFFICERS' REPORTS

30 Taunton, Alice Brown, and Romans had no report.

31  
32 Lavery reported: The Traffic Safety Commission met March 9 and discussed 1) The new  
33 helmet law for children. 2) Seat Belt Overtime Enforcement Program schedule. 3) The raising  
34 of the interstate speed limit to 75 MPH for cars and 65 MPH for trucks. There will be a public  
35 hearing beginning in May. Lavery has been asked to speak about interstate speed at a  
36 meeting of the Oregon Transportation Safety Division next week. 4) Sheriff Dotson was  
37 present and discussed speeds registered by the radar trailer on Collins Street. In a 25 MPH  
38 zone, 90% of the traffic was traveling between 37.5 and 44 MPH. The sheriff indicated he will  
39 put patrols on Collins Street. The sheriff will also be asking for assistance in obtaining a speed  
40 hump near the KidZone on Collins Street. 5) Owings is in the process of getting additional  
41 information on the ACTS (Alliance for Community Traffic Safety in Oregon) grant before  
42 reporting back to the Council.

43  
44 Jack Brown reported: 1) The Harbor Commission met with the Planning Commission and  
45 developed crab pot storage language that was agreeable to both Commissions. 2) The  
46 Harbor Commission will recommend and forward definitions for commercial gear and fishing  
47 gear to Owings. 3) As approved by the Council at the February 17 meeting, he went to

1 Washington DC March 1-5 to ask for money for dredging and stabilization of the seawall. He  
2 felt his presentations to senators and representatives went very well and is hopeful the City will  
3 receive the funding.

4  
5 Mayor Silver reported: 1) The Planning Commission had a special meeting on March 11 to  
6 review the draft Natural Resources Inventory ordinances, and will hold their regular meeting  
7 tomorrow at 7 PM. 2) The Council appointed a subcommittee to draft Principals of Depoe Bay  
8 Officials. Mayor Silver distributed a draft (copy attached to original of these minutes) to  
9 Councilors for their review prior to the next joint City Council/Planning Commission meeting.  
10 He noted that the Planning Commission chairman will hand out copies to the Planning  
11 Commission tomorrow night.

#### 12 13 X. CITY STAFF REPORT

14 Owings reviewed his written report (copy attached to original of these minutes), which covered  
15 ADA parking spaces, ADA bathrooms, Carson Street improvements, the harbor fuel project,  
16 Winchell Street improvements, fencing repair at the Painter building, and paving of the water  
17 plant parking lot. He said there is money in the budget for this project. He received two quotes  
18 on the paving, and recommended the Council approve the low quote of \$6,363 from Devil's  
19 Lake Rock.

20  
21 Motion 11: Lavery moved to authorize Owings to contract with Devil's Lake Rock to pave the  
22 water plant parking lot for \$6,363, and authorize the mayor to sign the agreement. Taunton  
23 seconded the motion.

24  
25 Mayor Silver said it was moved and seconded, and called for discussion. There was none.

26  
27 Vote: Motion 11 passed.

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

29  
30 Murray 1) Asked the Council to schedule a date for the public hearing of the appeal filed  
31 regarding the Planning Commission decision on case file #1-CS-PC-04 – Allyn/Real Estate  
32 Centre/Grey Investments (copy of memo dated 3/12/04 attached to original of these minutes).  
33 The Council chose Thursday, April 29, 2004 at 7 PM. Staff was directed to contact the  
34 appellants and inform them of the hearing date. 2) Murray asked Gordon to review the appeal  
35 procedure for Councilors. There was a long question and answer period during which Gordon  
36 clarified procedure details.

37  
38 Motion 12: Alice Brown moved to waive fees for the Mad Hatter Tea Party on April 10, 2004.  
39 White seconded the motion.

40  
41 Mayor Silver said it was moved and seconded, and called for discussion. There was none.

42  
43 Vote: Motion 12 passed.

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

#### 45 46 XI. COUNCIL COMMENTS

1 White: asked the Council to add Liaison Reporting to a future agenda. It was the consensus of  
2 the Council to add this item to the April 6, 2004 Regular Meeting agenda. White also  
3 requested to be relieved from his duties as Planning Commission liaison. Mayor Silver asked  
4 him to wait until the issue is addressed before discussing this request.  
5

6 Alice Brown asked the Council to add Scoop Law to a future agenda. It was the consensus of  
7 the Council to add this item to the April 6, 2004 Regular Meeting agenda.  
8

9 Romans asked Mayor Silver to respond to a question Romans had asked at the February 17,  
10 2004 meeting regarding ownership of public park land. Silver responded that because an  
11 appeal has been filed on that case, it was inappropriate to discuss it at this time.  
12

13 Silver 1) Encouraged Councilors to attend the meth summit meeting discussed under Public  
14 Input. 2) Asked the Council to set a date for the follow-up City Council/Planning Commission  
15 joint meeting. Wednesday, May 12 and Thursday, May 13 were chosen as dates to offer the  
16 Planning Commission.  
17

18 XII. RECESS TO EXECUTIVE SESSION: Pursuant to ORS 192.660(1)(e) To conduct  
19 deliberations with persons designated by the governing body to negotiate real property  
20 transactions and (h) To consult with counsel concerning the legal rights and duties of a  
21 public body with regard to current litigation or litigation likely to be filed.

22 The meeting was recessed at 9:50 PM. The Executive Session began at 10 PM.  
23

#### 24 XIII. ADJOURN EXECUTIVE SESSION

25 Executive Session was adjourned to the Regular Meeting at 10:30 PM. There was discussion  
26 regarding ongoing problems with garbage at two locations in the city.  
27

#### 28 XIII. ADJOURN

29 There being no further business, the meeting was adjourned at 10:38 PM.  
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31  
32  
33

34 \_\_\_\_\_  
Mayor Bruce R. Silver

35  
36  
37 \_\_\_\_\_  
38 Silver Fox, Recording Secretary