

1 Depoe Bay City Council
2 Regular Meeting
3 Tuesday, April 6, 2004 - 7:00 PM
4 Depoe Bay City Hall
5

6
7 PRESENT: Mayor B. Silver, J. White, P. Taunton, A. Brown, G. Romans, J. Brown,
8 M. Lavery
9

10 STAFF: City Recorder P. Murray, City Field Superintendent T. Owings, City Planner
11 L. Lewis, City Attorney D. Gordon, Recording Secretary S. Fox
12
13

14 I. PLEDGE OF ALLEGIANCE

15 Mayor Silver called for all to stand for the Pledge of Allegiance.
16

17 II. CALL TO ORDER

18 Mayor Silver called the meeting to order and established a quorum at 7:00 PM.
19

20 III. APPROVE MINUTES: March 16, 2004 Regular

21 Mayor Silver noted that the minutes for the March 16 Executive Session were inadvertently left
22 off the agenda and needed to be voted on.
23

24 Motion 1: Alice Brown moved to approve the minutes of the March 16, 2004 Executive
25 Session and Regular Meeting as written. Lavery seconded the motion.
26

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

29 Vote: Motion 1 passed.

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

32 IV. ACCOUNTS PAYABLE
33

34 Motion 2: Romans moved to pay the accounts payable. Taunton seconded the motion.
35

36 Mayor Silver said it was moved and seconded, and called for discussion. There was none.
37

38 Vote: Motion 2 passed.

39 Ayes: White, Taunton, Alice Brown, Silver, Romans, Jack Brown, Lavery
40

41 V. PUBLIC INPUT

42 Peggy Leoni, Chamber of Commerce: 1) The annual fund-raising dinner for the Fleet of
43 Flowers is scheduled for Tuesday, April 20 at the Spouting Horn. Serving will begin at 4 PM,
44 and tickets are \$9 per person. 2) The crab feed/boat show/ducky derby will be on April 24-25.
45 A shuttle bus will run on Saturday, April 24.
46

1 John O'Brien 270 NE Bensell, said that the Carson Street storm drain project was done in
2 minimum time with minimum inconvenience to residents, and City Crew did a good job.

3
4 VI. NEW BUSINESS

5 A. Interview Applicants for City Commissions and Committees

6 Traffic Safety Commission applicant John O'Brien came forward to tell about himself and why
7 he is interested in participating.

8
9 B. Appointments to Fill Vacancies on City Commissions and Committees

10 Ballots were filled out, signed, and handed in. Murray tallied the votes (copy of ballot attached
11 to original of these minutes) and announced the results. All Councilors voted to appoint
12 O'Brien to Traffic Safety Commission Position #2.

13
14 Motion 3: Lavery moved to accept the canvass of votes and appoint John O'Brien to Traffic
15 Safety Commission Position #2. Taunton seconded the motion.

16
17 Mayor Silver said it was moved and seconded, and called for discussion. There was none.

18
19 Vote: Motion 3 passed.

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

21
22 C. Kid Zone Seismograph Project

23 Kay Wyatt representing Kid Zone, distributed a handout (copy attached to original of these
24 minutes) and announced that Kid Zone has been selected as one of 13 cities in the United
25 States to receive seismographic equipment. The sensitive equipment has been received, and
26 they plan to install it at the Ainslee Building and connect it to the computer network there,
27 where the data collected will be made available worldwide through the Kid Zone website,
28 which is sponsored by the National Science Foundation. Once it is determined what resources
29 are necessary to permanently install the concrete pedestal coupling the equipment to the
30 ground, Kid Zone will come back to the Council with a proposal for the installation.

31
32 D. Painter (Park) Building Lease Proposals

33 Murray reported that one proposal for leasing the Painter Building was received (copy
34 attached to original of these minutes). The proposal was from Bill Wechter, of Bay Street Crab
35 Company, who was present and described his proposal and answered questions regarding his
36 planned use of the building. There was discussion regarding the serving of coffee in the store,
37 with no customer seating provided, similar to an espresso stand operation.

38
39 Motion 4: Lavery moved to direct Staff to develop a lease agreement with Bay Street Crab
40 Company, and bring to the April 20 Council meeting. Taunton seconded the motion.

41
42 Mayor Silver said it was moved and seconded, and called for discussion. It was clarified that
43 the motion included a staff report on the viability of coffee sales as discussed, relating to the
44 retail store use.

45
46 Vote: Motion 4 passed.

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

1
2 E. TGM Intergovernmental Agreement – Hwy 101/Downtown Refinement Plan
3 Murray said this agreement with ODOT (copy attached to original of these minutes) resulted
4 from last year’s application to the TGM Program for funding for the Downtown Refinement
5 Plan.

6
7 Motion 5: Lavery moved to approve the TGM Intergovernmental Agreement – Hwy 101/
8 Downtown Refinement Plan, and authorize the mayor to sign the agreement with ODOT. Alice
9 Brown seconded the motion.

10
11 Mayor Silver said it was moved and seconded, and called for discussion.

12
13 Amendment: Lavery amended the motion to include review of the agreement by the City
14 Attorney. Alice Brown seconded the amendment.

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

17
18 Vote: Motion 5, as amended, passed.

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

20
21 F. Topics from February 26, 2004 Workshop Meeting:

22 1) Liaison Officer Assignments and Duties

23 There was discussion regarding the pros and cons of Councilors serving as liaisons to
24 Commissions vs. Commissioners reporting to the Council.

25
26 Motion 6: Romans moved that a Planning Commission liaison report to the Council.

27
28 A Councilor clarified that the discussion included all Commissions. Romans withdrew his
29 motion.

30
31 Motion 7: Romans moved that Commissions report to Council on an as-needed basis. Alice
32 Brown seconded the motion.

33
34 Mayor Silver said it was moved and seconded, and called for discussion. There was additional
35 discussion on the merits of each of the reporting methods. Bill Sachs spoke in support of
36 Councilors serving as liaisons to Commissions.

37
38 Vote: Motion 7 passed.

39 Ayes: White, Taunton, Alice Brown, Romans, Jack Brown

40 Noes: Silver, Lavery

41
42 Hearing no objection, Mayor Silver directed Staff to review ordinances establishing
43 Commissions and Committees relating to liaisons, and report to the Council on April 20 which
44 ordinances will require amendments.

45
46 2) Ordinance Enforcement – Repeat Offender Policy

1 Discussion of possible amendment of Ord. #94 focused on reducing the length of time
2 required before taking action against repeat offenders to enforce compliance (regarding
3 garbage, trash, etc.), whether the offender is a property owner or a tenant. Owings noted that
4 the City makes every effort to work with property owners to achieve compliance without fines.
5 Hearing no objection, Mayor Silver directed Staff to develop a policy that reflects Council
6 concerns on repeat offenders, with the assistance of the City Attorney. Because Ord. #94 was
7 originally adopted in 1982, Murray requested, and the Council agreed, that the ordinance
8 undergo an overall review and update, codifying amendments and revisions before reporting
9 back to the Council.

10
11 3) Policy: Waiver of Community Hall Rental Fees

12 Murray reviewed her memo dated April 5 (copy attached to original of these minutes)
13 containing usage and financial data on the Community Hall. There was discussion regarding
14 increasing the utilization, revising the list of fee-exempt organizations, reduction of rental fees,
15 and the importance of the building being available to the community at an affordable cost to
16 all, especially groups whose only source of income is donations. Peggy Leoni noted
17 contributions the Chamber of Commerce has made toward maintaining/improving the building,
18 and encouraged the City to upgrade the kitchen facilities.

19
20 Motion 8: Lavery moved to table this item to the next workshop meeting, and to direct Staff to
21 obtain more information on associated costs. Taunton seconded the motion.

22
23 Mayor Silver said it was moved and seconded, and called for discussion. A Councilor
24 expressed concern that a workshop has not presently been scheduled.

25
26 Vote: Motion 8 passed.

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

28 Noes: Jack Brown
29

30 Mayor Silver noted that until this item is discussed at the workshop, there will be no changes in
31 the processing of waiver requests or rental fees.

32
33 G. Request to Consider a "Scoop" Law

34 Motion 9: Romans moved to table this item to the next workshop meeting. Taunton seconded
35 the motion.

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

38
39 Vote: Motion 9 passed.

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

41 Noes: Jack Brown
42

43 Mayor Silver called a recess at 8:40 PM. The meeting reconvened at 8:46 PM.

44
45 VII. UNFINISHED BUSINESS

46 A. Second Reading – Proposed Ord. #256 – An Ordinance amending Ord. #24 (Zoning

1 Ordinance, as amended; amending the inventory information as amended; repealing
2 Ord. #111 (Depoe Bay partition and subdivision ordinance), as amended, incorporating
3 land division provisions into Ord. #24 as Article 14 – Land Division; repealing Ord. #132
4 (Development in Areas of Special Flood Hazard Ordinance), incorporating flood hazard
5 provisions into Ord #24 as Article 3, Section 3.370 – Flood Hazard Overlay Zone;
6 enacting provisions requested as result of review of the Depoe Bay Zoning Ordinance
7 by the City of Depoe Bay, pursuant to review by the Department of Land Conservation
8 and Development; and declaring an emergency.
9

10 Motion 10: Lavery moved to have the second reading of proposed Ord. #256 by title only, to
11 include Lewis' memo dated 2/12/04 (specifically deleting tax lot 1300), and the amendment to
12 Section 4.900.4 (a paragraph submitted by Fran Recht on 2/17/04). White seconded the
13 motion.
14

15 Mayor Silver said it was moved and seconded, and called for discussion.
16

17 Vote: Motion 10 passed.

18 Ayes: White, Taunton, Alice Brown, Silver, Romans, Jack Brown, Lavery
19

20 Murray read proposed Ord. #256 by title only, with the two additions as mentioned above
21 (copies attached to original of these minutes). Audience member Mike Metz questioned what
22 constitutes "excavation" and would that affect landscaping. Lewis responded that excavation
23 permit requirements will apply to a minimum of 5,000 square feet surface area, and added that
24 there are three other permit requirements: before felling in excess of five trees six inches or
25 more in diameter, excavation in areas of geologic hazards, and excavation within 100 feet of
26 streams.
27

28 Motion 11: Lavery moved to adopt proposed Ord. #256, including the deletion of tax lot 1300
29 and the addition of Item g. to Section 4.900.4. White seconded the motion.
30

31 Mayor Silver said it was moved and seconded, and opened deliberations. Mr. Metz' concerns
32 were addressed by Lewis in depth. Responding to a question about fees, Murray said that a
33 permit fee schedule has yet to be developed and adopted by resolution. Lewis reviewed
34 possibly substantive changes from his 3/25/04 memo regarding recommended revisions (copy
35 attached to original of these minutes). Lewis noted that there was an error on page 2 of the
36 memo: instead of appearing under Item 4.830.4(c), "*(This could be considered a substantive*
37 *change)*" should appear under Item 4.830.2(a). It was also noted that the recommended
38 revisions were not State-mandated, but would protect the property owner and neighboring
39 property owners by requiring provision of an adequate plan to ensure the property is properly
40 developed.
41

42 Amendment: Alice Brown amended the motion to include recommended revisions from Lewis'
43 memo of 3/25/04. Lavery seconded the motion.
44

45 Mayor Silver said it was moved and seconded, and called for discussion. There was none.
46

47 Vote: Amendment to Motion 11 passed.

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

2
3 Vote: Original Motion 11 passed.

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

5
6 B. Council Concern: Panhandling/Soliciting

7 Strong feelings regarding eliminating this activity were expressed. Hearing no objection, Mayor
8 Silver directed Staff to draft an ordinance prohibiting panhandling, with the assistance of the
9 City Attorney.

10
11 C. Commercial Fishing Gear/Crab Pot Storage in Residential Areas

12 A memo dated 4/5/04 from the Harbor Commission defining “commercial fishing gear” (copy
13 attached to original of these minutes) was reviewed, followed by discussion of the quickest
14 and least costly way to incorporate proposed language into City ordinances. The two main
15 options discussed were to include it in the Planning Commission’s draft ordinance revisions
16 (called the “Matrix”) after the code audit in June, or to process it as a stand-alone text
17 amendment. Notification costs are the same for a single topic text amendment or a multi-topic
18 text amendment. Planning Commission Chair Dick Johnson encouraged the Council to include
19 the commercial fishing gear language with the “Matrix”, and to either extend the period of non-
20 enforcement relating to the storage of commercial fishing gear in residential zones, or to pass
21 an interim resolution to allow enforcement using the Harbor Commission’s draft definition as a
22 temporary guideline until it becomes law.

23
24 Motion 12: Lavery moved to address commercial fishing gear storage in residential zones in
25 the “Matrix” for code audit, using the definition provided by the Harbor Commission, and
26 include in the “Matrix” adoption process. Jack Brown seconded the motion.

27
28 Mayor Silver said it was moved and seconded, and called for discussion. There was additional
29 discussion on the two options. Also discussed was a review of the time involved with the public
30 hearing process, and the cost savings of combining two or more items in one notification.
31 Gordon said that the City has the authority to use judgment in allocating resources for
32 enforcement of ordinances. Concern was expressed regarding possible delays in adoption of
33 the “Matrix” changes. Lavery withdrew his motion and Jack Brown withdrew his second.

34
35 Motion 13: Alice Brown moved to direct Staff to develop a draft ordinance regarding crab pot
36 storage using current Planning Commission standards, and definitions provided by the Harbor
37 Commission. Romans seconded the motion

38
39 Mayor Silver said it was moved and seconded, and called for discussion. Gordon asked for the
40 motioned process to be clarified; it was stated that the intent is to initiate the text amendment
41 process. Lewis reviewed the text amendment process and timelines. He also said that while
42 there is \$1,000 expended primarily for Measure 56 notification, the actual cost when Staff time
43 is added could be between \$10,000 and \$15,000. He noted that the “Matrix” and a crab pot
44 ordinance could both be noticed in the same Measure 56 mailing, but be separate processes.

45
46 Vote: Motion 13 passed.

47 Ayes: White, Taunton, Alice Brown, Romans, Jack Brown

1 Noes: Silver, Lavery
2

3 XIII. CORRESPONDENCE

4 There were two items of correspondence (copies attached to original of these minutes).

5 1) A letter of resignation from Herbert Baum addressed to Bill Spores, Parks Commission
6 Chair. 2) A letter from Matthews International Corp. increasing the cost of memorial plaques
7 by 10% due to a rise in the price of copper, with a new cost to the City of \$106 per plaque.
8 Murray said the City's policy has been to double the cost to the customer, with the proceeds
9 going toward Memorial Wall maintenance and future upgrades. Hearing no objection, Mayor
10 Silver directed Staff to establish a new customer cost of \$212.

11
12 Motion 14: Taunton moved to accept the resignation of Herbert Baum and send a letter of
13 thanks for his service, declare a vacancy on the Parks Commission, and advertise to fill it.
14 Romans seconded the motion.

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

17
18 Vote: Motion 14 passed.

19 Ayes: White, Taunton, Alice Brown, Silver, Romans, Jack Brown, Lavery
20

21 IX. LIAISON OFFICERS' REPORTS

22
23 White had no update on the franchise tax review, as the subcommittee has not yet met.

24
25 Taunton had no report.

26
27 Alice Brown reported that 1) The Law Enforcement Subcommittee should be meeting soon to
28 discuss the COPS Program. 2) The Parks Commission is seeking \$150 for plants at Whale
29 Park and \$100 to paint the rock at Whale Park. They also reviewed budget requests and
30 discussed placement of benches at City Park.

31
32 Lavery reported that the Traffic Safety Commission will meet next Tuesday at 4 PM. He also
33 reminded everyone to buckle up.

34
35 Jack Brown reported that 1) Bob Flowers is the new Harbormaster. He did a good job on his
36 first report. 2) He requested permission for the Chamber of Commerce to use the harbor
37 parking lot and dock 3 for the Wooden Boat Show, including the crab feed at the Community
38 Hall, April 24-25 (copy of handout attached to original of these minutes).

39
40 Motion 15: Jack Brown moved to authorize use of the harbor parking lot for the Wooden Boat
41 Show April 24-25. Alice Brown seconded the motion.

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

44
45 Vote: Motion 15 passed.

46 Ayes: White, Taunton, Alice Brown, Silver, Romans, Jack Brown, Lavery
47

1 Romans reported that the Economic Business Development Committee had a lively meeting
2 with discussion on the requirements for business in an enterprise zone.

3
4 Silver reported that he met with Sheriff Dotson, who is open to be invited to a Law
5 Enforcement Subcommittee meeting to discuss points of interest.

6 7 X. STAFF REPORT

8 Owings reviewed his written report (copy attached to original of these minutes), focusing on a
9 PUD project to bury electrical wires and clean up the intersection at the corner of Bay Street
10 and Hwy 101. The project is scheduled for May 11-28. He asked the Council if the City would
11 be interested in putting in an extra conduit for future use by utility companies while the
12 sidewalk is torn up for the PUD project. Hearing no objection, Mayor Silver directed Staff to
13 collect more information on the costs involved.

14
15 Murray reported that she received a request today from Cheryl Preston for waiver of fees for
16 use of the Community Hall on May 9 for a Mother's Day event with gardening information and
17 children's events. Alice Brown provided additional details.

18
19 Motion 16: Taunton moved to waive fees for the Community Hall on May 9 for the Village
20 Apprentice School. Alice Brown seconded the motion.

21
22 Mayor Silver said it was moved and seconded, and called for discussion. There was none.

23
24 Vote: Motion 16 passed.

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

26 27 XI. COUNCIL COMMENTS

28 Taunton clarified an item from the Parks liaison report, and requested an updated copy of the
29 "Matrix", which Murray will provide to him.

30
31 Romans 1) Asked the City Attorney whether the March 11 Planning Commission meeting that
32 was adjourned and reconvened was illegal. Gordon responded that an adjourned meeting can
33 be legally reconvened provided all those present for the original meeting are still present when
34 the meeting is reconvened. He also said that while it is legal to add agenda items during a
35 meeting, he suggested adding an agenda item such as "Other Items of Interest" so people are
36 aware that there may be things discussed that are not on the agenda. Other questions were
37 raised regarding the manner in which the meeting was reconvened, and the legality of
38 discussing procedures regarding the Allyn's appeal after the meeting was reconvened, since
39 the appeal has not yet been heard by the Council. Gordon was directed to review the tapes
40 and provide a written response to these concerns. 2) Brought up the subject of conduct of
41 officials and the impressions of the City that can result. He said that Planning Commissioner
42 Fran Recht recently approached businesses that advertise in the *Beacon* and threatened
43 boycott of their businesses if they continued their advertisements or didn't remove their
44 newspaper displays. He said that the *Beacon* has lost business because of Recht's actions.
45 Mayor Silver responded that, pursuant to the Council's adopted procedure, if a written
46 complaint is filed, an investigative committee will be appointed. Romans declared his intent to
47 file a complaint.

1
2 Taunton asked Gordon to further discuss the handling of unplanned agenda items.
3
4 White questioned why ordinances newer than 1978 in his reference books do not have mayor
5 signatures. Mayor Silver responded that City Hall maintains signed copies of all ordinances. A
6 Councilor offered that some ordinances originally signed many years ago have been
7 amended, and that if they were all codified, we'd have a more concise listing to work with.

8
9 XIII. ADJOURN

10 There being no further business, the meeting was adjourned at 11:06 PM.

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12
13
14

Mayor Bruce R. Silver

15
16

Silver Fox, Recording Secretary
17