

1 Depoe Bay City Council  
2 Regular Meeting  
3 Tuesday, May 18, 2004 - 7:00 PM  
4 Depoe Bay City Hall  
5

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

9 STAFF: City Recorder P. Murray, City Attorney D. Gordon, Recording Secretary S. Fox  
10

11 I. PLEDGE OF ALLEGIANCE

12 Mayor Silver called for all to stand for the Pledge of Allegiance.  
13

14 II. CALL TO ORDER

15 Mayor Silver called the meeting to order and established a quorum at 7:00 PM.  
16

17 III. APPROVE MINUTES: April 29, 2004 Special Meeting, May 4, 2004 Regular Meeting,  
18 May 12, 2004 Joint Meeting

19 Mayor Silver announced the procedure for handling minutes would be revised according to  
20 Robert's Rules of Order (copy of 5/17/04 memo attached to original of these minutes). Hearing  
21 no corrections, the minutes of the April 29, 2004 Special Meeting and the May 4, 2004 Regular  
22 Meeting stood approved. The May 12, 2004 Joint Meeting minutes were unavailable.  
23

24 VI. ACCOUNTS PAYABLE

25 Motion 1: Romans moved to approve the Accounts Payable. Taunton 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 V. PUBLIC INPUT

33 Grace Strom, 302 NE Hwy 101, addressed the Council regarding insufficient parking during  
34 halibut season, and requested the City put a time limit on parking. She was informed that the  
35 parking issue is being addressed through the downtown refinement plan, and was invited to be  
36 involved. She also thanked the Council for the new scenic lands area, saying it is a nice  
37 improvement to that area.  
38

39 Peggy Leoni, Fleet of Flowers Committee, thanked the City for their \$1,500 donation. She said  
40 that more volunteers are needed to assemble greenery between May 25 and May 30 for the  
41 Memorial Day event. She encouraged people to make reservations if they want to go out on a  
42 boat, and to call the Chamber of Commerce to arrange for a memorial wreath at no cost.  
43 Donations are appreciated.  
44

45 VI. NEW BUSINESS

46 A. Presentation: Lincoln County Solid Waste District – Integrated Municipal Solid Waste  
47 Management Plan Update

1 Aaron Cubic summarized the Integrated Municipal Solid Waste Management Plan Update  
2 (copy attached to original of these minutes).

3  
4 B. Proposed Resolution #336, A Resolution Adopting the April 21, 2004 Updated  
5 Integrated Solid Waste Management Plan for the Lincoln County Solid Waste District  
6 Murray read proposed Res. #336 (copy attached to original of these minutes) into the record.  
7

8 Motion 2: Lavery moved to adopt proposed Res. #336, A Resolution Adopting the April 21,  
9 2004 Updated Integrated Solid Waste Management Plan for the Lincoln County Solid Waste  
10 District. A. Brown seconded the motion.

11  
12 Mayor Silver said it was moved and seconded, and called for discussion. There was none.

13  
14 Vote: Motion 2 passed.

15 Ayes: White, Taunton, Alice Brown, Silver, Romans, Jack Brown, Lavery  
16

17 Mr. Cubic said he would report on the City's action at tomorrow's County Commissioners'  
18 meeting.

19  
20 C. Interview Applicants for City Commissions and Committees  
21 Peggy Leoni, Chamber of Commerce, reported that Jaci McKim has offered to be a  
22 participating member of the Economic Business Development Committee representing the  
23 Chamber of Commerce, in addition to her duties as a scribe.  
24

25 Salmon Enhancement Commission applicant Chris Hatfield was present and came forward to  
26 tell about himself and why he is interested in participating.  
27

28 D. Appointments to Fill Vacancies on City Commissions and Committees  
29 Ballots were filled out, signed, and handed in. Murray tallied the votes (copy of ballot attached  
30 to original of these minutes) and announced the results. The vote to appoint Hatfield to the  
31 Salmon Enhancement Commission was unanimous.  
32

33 Motion 3: Taunton moved to accept the canvass of votes and appoint Chris Hatfield to Salmon  
34 Enhancement Commission Position #4 and Jaci McKim to the Economic Business  
35 Development Committee as a Chamber of Commerce member. Lavery seconded the motion.  
36

37 Mayor Silver said it was moved and seconded, and called for discussion. It was noted that  
38 there was no need to vote on Ms. McKim's application as she represents the Chamber of  
39 Commerce.  
40

41 Vote: Motion 3 passed.

42 Ayes: White, Taunton, Alice Brown, Silver, Romans, Jack Brown, Lavery  
43

44 E. Proposed Ordinance #266, An Ordinance Regulating Certain Solicitation within the City  
45 of Depoe Bay; Establishing Penalties; and Declaring an Emergency  
46 Gordon reported that while pandering and begging has been regulated by the government for  
47 a long time, Oregon has a unique concept of the meaning of "freedom of speech". Recent

1 legal developments have complicated regulation of people asking for things using their voice.  
2 He cited a recent incident in Eugene where the Court of Appeals decided that the Oregon  
3 State Constitution protected freedom of speech to protect certain forms of expression. It was  
4 noted that physical contact constitutes harassment or assault, and the sheriff's office handles  
5 those types of complaints. It was the consensus of the Council to direct Staff to cease their  
6 efforts to pursue this issue.

7  
8 F. Proposed Ordinance #267, An Ordinance Relating to Liaison Officers for City  
9 Commissions and Committees; Amending Ordinances #220, #252, #206, #259, #140,  
10 and #215; Repealing Ordinance #265; and Declaring an Emergency

11  
12 Motion 4: Taunton moved to read proposed Ord. #267 by title only. Lavery seconded the  
13 motion.

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

16  
17 Vote: Motion 4 passed.

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

19  
20 Murray read proposed Ord. #267 (copy attached to original of these minutes) by title only.  
21 There were no comments from Councilors or the audience.

22  
23 Motion 5: Alice Brown moved to adopt proposed Ord. #267 as written. Romans seconded the  
24 motion.

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

27  
28 Amendment: Lavery amended the motion to drop "Declaring an Emergency", to provide time  
29 for Commissions and Committees to select liaisons. Jack Brown seconded the amendment.

30  
31 Mayor Silver said it was moved and seconded, and called for discussion. Mayor Silver read  
32 City Charter Section 36 into the record, stating that if the amendment passed, the ordinance  
33 would be enacted on the 30<sup>th</sup> day.

34  
35 Vote: Amendment to Motion 5 passed.

36 Ayes: Taunton, Silver, Jack Brown, Lavery

37 Noes: White, Alice Brown, Romans

38  
39 Vote: Original Motion 5 passed.

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

41  
42 It was noted that a unanimous vote to adopt an ordinance at the first reading allows an  
43 immediate second reading and vote.

1 Motion 6: Lavery moved to have the second reading of proposed Ord. #267 by title only.  
2 Taunton seconded the motion.  
3  
4 Mayor Silver said it was moved and seconded, and called for discussion. There was none.  
5  
6 Vote: Motion 5 passed.  
7 Ayes: White, Taunton, Alice Brown, Silver, Romans, Jack Brown, Lavery  
8  
9 Murray read proposed Ord. #267 by title only, omitting the declaration of emergency. There  
10 were no comments from Councilors or the audience.  
11  
12 Motion 7: Lavery moved to adopt proposed Ord. #267 as read. Taunton seconded the motion.  
13  
14 Mayor Silver said it was moved and seconded, and called for discussion. There was none.  
15  
16 Vote: Motion 7 passed.  
17 Ayes: White, Taunton, Alice Brown, Silver, Romans, Jack Brown, Lavery  
18  
19 G. Proposed Resolution #337, A Resolution Declaring an Emergency and Waiving a  
20 Requirement for Competitive Bids and Performance Bond with Respect to the Depoe  
21 Bay Harbor Fuel Station Project; Identifying a Sole Source Component, and Approving  
22 Purchase Thereof  
23 Gordon reported on the status of the pending grant with the State Marine Board for  
24 construction of a harbor fuel dock, stating the urgency to complete this project due to the  
25 current unsafe refueling procedure. Bryant Fuel Systems is the sole provider of tanks uniquely  
26 used in this type of project, and the State Marine Board has utilized them in the past. As sole  
27 provider, there is no need to send out Requests for Proposals (RFPs). He clarified that all  
28 other components of the project would still require RFPs. A member of the audience  
29 questioned the wisdom of waiving the performance bond; Gordon responded that when the  
30 performance bond is waived, the contractor generally is not paid until the work is complete.  
31 (Copy of proposed Res. #337 attached to original of these minutes.)  
32  
33 Motion 8: Lavery moved to adopt proposed Res. #337. Jack Brown seconded the motion.  
34  
35 Mayor Silver said it was moved and seconded, and called for discussion.  
36  
37 Amendment: Alice Brown amended the motion that adoption be subject to State Marine Board  
38 review of the performance bond waiver. Jack Brown seconded the motion.  
39  
40 Mayor Silver said it was moved and seconded, and called for discussion. There was none.  
41  
42 Vote: Amendment to Motion 3 passed.  
43 Ayes: White, Taunton, Alice Brown, Silver, Romans, Jack Brown, Lavery  
44  
45 Vote: Original Motion 8 passed.  
46 Ayes: White, Taunton, Alice Brown, Silver, Romans, Jack Brown, Lavery  
47 H. Contract Renewal: City Planner Services

1 Motion 9: Lavery moved to accept the Agreement for City Planner Services, effective July 1,  
2 2004 through June 30, 2005. Alice Brown seconded the motion. (Copy of agreement attached  
3 to original of these minutes).

4  
5 Mayor Silver said it was moved and seconded, and called for discussion. There was none.

6  
7 Vote: Motion 9 passed.

8 Ayes: White, Taunton, Alice Brown, Silver, Romans, Jack Brown, Lavery  
9

10 I. Contract Renewal: City Attorney Services

11 Motion 10: Lavery moved to renew the Agreement for Legal Services with Macpherson,  
12 Gintner, Gordon and Diaz, effective July 1, 2004 through June 30, 2005. Jack Brown  
13 seconded the motion.

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

16  
17 Vote: Motion 10 passed.

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

20 J. Conservation Leaders Network Request for Support of An Alternative for The Biscuit  
21 Fire Recovery Project and a 30-day Public Comment Period for Forest Service FEIS

22 There was clarification of what area the Biscuit Fire Recovery Project covers. It was clarified  
23 that the request was for a 30-day extension for public comment. Mayor Silver read the letter  
24 (copy attached to original of these minutes) into the record. It was the consensus of the  
25 Council that this item did not constitute City business, and therefore no action was taken.  
26

27 VII. UNFINISHED BUSINESS

28 A. Report on Draft Repeat Offender Policy/Review & Update to Ord. #94

29 Gordon reported that he will provide a written report at the next meeting.  
30

31 B. Review of City Assets/Uses – Status

32 Mayor Silver said this item was specifically regarding City-owned buildings and open space,  
33 with a focus on the buildings to see how they are being used, and if they are being used to  
34 their best advantage. Use of the Community Hall has already been discussed, with a decision  
35 to continue the current policy regarding usage and fee waivers. The Painter building is  
36 currently being advertised for lease, with a proposal having been provided to the Chamber of  
37 Commerce Board for possible use as a Visitor's Center. The last City-owned building (other  
38 than City Hall) is the Ainslee building, which is currently being used by Kids Zone as a  
39 computer center, and the Lincoln County Economic Development Alliance. There was  
40 discussion regarding moving the Kids Zone activity center (currently located at Bayside  
41 Chapel) into the Ainslee building, asking the Economic Development Alliance to relocate. Staff  
42 was directed to send a notice to Chris diTorrice of the Economic Development Alliance, with  
43 45 days notice requesting she vacate the building, to be effective no later than mid-July.  
44

45 C. May 12, 2004 Joint City Council/Planning Commission Meeting – Reschedule

46 There was lengthy discussion about why this meeting is/is not necessary and what could/could  
47 not be accomplished. (Copy of Silver's memo dated 5/13/04 attached to original

1 of these minutes.)

2  
3 Motion 11: Alice Brown moved to postpone the joint meeting between the City Council and the  
4 Planning Commission indefinitely, for the following reasons: 1) Regulation of personalities is  
5 not City business. 2) We already have one Oath (or pledge) of Office and do not need a  
6 second one, which would surely compromise first amendment rights. 3) Any joint meeting with  
7 the City Council is effectively a City Council meeting that should uphold our City Council  
8 Rules. There should be no debate between individual members of the Council and individual  
9 members of the Planning Commission. 4) The problem has to do with spiritual issues and  
10 political partisanship between certain members of the Council and certain members of the  
11 Planning Commission. What is needed is greater tolerance of individual opinions. Sometimes  
12 it's best to just agree to disagree. 5) A topic that was brought up for discussion was the Allyn  
13 appeal, which is totally inappropriate. Taunton seconded the motion.

14  
15 Mayor Silver said it was moved and seconded, and called for discussion. There was additional  
16 discussion regarding the proposed meeting. Dick Johnson, Planning Commission Chair, said  
17 problems need to be discussed before they'll go away, and suggested a non-quorum sub-  
18 committee made of up Councilors and Commissioners to discuss key issues. A Councilor  
19 clarified that the indefinite postponement included any discussion relating to the draft  
20 "Principles of Depoe Bay Officials" document.

21  
22 Vote: Motion 11 passed.

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

24 Noes: Silver

25  
26 VIII. CORRESPONDENCE

27 Murray reported there were two items of correspondence (copies attached to original of these  
28 minutes): 1) An email from Chris diTorrice regarding approval of expansion of the Lincoln  
29 County Enterprise Zone. 2) A letter from Grace Strom regarding the parking issue presented  
30 under Public Input. There was discussion regarding Ms. Strom's request for time-limited  
31 parking. It was noted that the first Downtown Refinement Plan Advisory Committee open  
32 house will take place on June 24, 2004. Prior to the open house, there will be a walking tour  
33 and the consultant will interview residents and business owners.

34  
35 Motion 12: Jack Brown moved to direct Staff to put up signs restricting parking to four hours on  
36 the east side of Hwy 101 from the north end of the bridge to Collins Street.

37  
38 There was further discussion regarding resolution of the parking issue. A Councilor pointed out  
39 that Hwy 101 parking is in the ODOT right-of-way. Mrs. Leoni suggested writing a letter to  
40 Tradewinds letting them know about this problem and suggesting they deliver customers' fish  
41 to the parking lot, so customers will be encouraged to park there rather than using on-street  
42 parking. Mayor Silver encouraged her to have the Chamber write a letter with input from  
43 business owners, and the City's support. Jack Brown withdrew his motion.

1 IX. LIAISON OFFICERS' REPORTS

2 White had no report.

3

4 Taunton: The Salmon Enhancement Commission met and discussed the Fish Ladder Spillway  
5 Project and its status on the City's Needs and Issues Project list. The Commission determined  
6 to drop the project, possibly replacing it with a study in the future.

7

8 Alice Brown: The Parks Commission meets tomorrow.

9

10 Lavery: The City needs to get competitive bids on a radar trailer.

11

12 Romans: The Economic Business Development Committee will meet in about a week.

13

14 X. CITY STAFF REPORT

15 Murray reported in Owings' absence that Central Lincoln PUD has requested a letter from the  
16 City regarding approving the Hwy 101 & Bay Street Underground Utilities Project (see copy of  
17 Murray's memo dated 5/18/04 attached to original of these minutes). There was discussion  
18 regarding placement of a pad mount transformer, and possible isolation of businesses if Bay  
19 Street is temporarily closed.

20

21 Motion 12: Jack Brown moved to direct Staff to write letter as outlined in Murray's May 18  
22 memo, and authorize the mayor to sign. Lavery seconded the motion.

23

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

25

26 Vote: Motion 12 passed.

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

28

29 The letter will also include a statement about pedestrian safety, for clarification.

30

31 XI. COUNCIL COMMENTS

32 White apologized for missing meetings because of other obligations.

33

34 Taunton asked whether the Sign Committee has enough people for a quorum since Harte's  
35 resignation, and Murray responded that they do.

36

37 Alice Brown asked if the City advertises when positions become available, and Murray  
38 responded in the affirmative.

39

40 XII. ADJOURN

41 There being no further business, the meeting was adjourned at 9:07 PM.

42

43

44

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

45

46 \_\_\_\_\_  
Silver Fox, Recording Secretary