

1 Depoe Bay City Council
2 Regular Meeting
3 Tuesday, August 17, 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
9 ABSENT: M. Laverty

10
11 STAFF: City Recorder P. Murray, City Field Superintendent T. Owings
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

18 III. APPROVE MINUTES: August 3, 2004 Regular Meeting and August 12, 2004 Workshop Meeting
19 The minutes of the August 3, 2004 regular meeting and the August 12, 2004 workshop meeting stood
20 approved as written.
21

22 IV. ACCOUNTS PAYABLE

23 Motion 1: Romans moved to pay the accounts payable. Taunton seconded the motion.
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25 Mayor Silver said it was moved and seconded, and called for discussion. There was none.
26

27 Vote: Motion 1 passed.

28 Ayes: White, Taunton, Alice Brown, Silver, Romans, Jack Brown
29

30 V. SPECIAL ORDERS

31 A. Interview Applicants for City Commissions/Committees

32 Parks Commission applicant Ruth Moreland was present, and came forward to tell about herself and
33 why she is interested in participating.
34

35 VI. REPORTS OF OFFICERS, BOARDS, OR STANDING COMMITTEES

36 There were no reports.
37

38 VII. PUBLIC COMMENTS

39 Peggy Leoni, Chamber of Commerce, reported that Salmon Bake tickets are on sale. Tickets purchased
40 in advance are cheaper. Volunteers are needed; please contact the Chamber if you are interested.
41

42 VIII. UNFINISHED BUSINESS

43 A. Water Storage Improvements Project Property Acquisition

44 Mayor Silver said the City Attorney drafted a Warranty Deed (copy attached to original of these minutes)
45 for the Council's approval.
46

1 Motion 2: Taunton moved to approve the Warranty Deed document and authorize the Mayor to present
2 the document to the property owner for their approval. Jack Brown seconded the motion.

3
4 Mayor Silver said it was moved and seconded, and called for discussion. It was clarified that the amount
5 specified in the Warranty Deed was a counter offer to the City's initial offer.

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7 Vote: Motion 2 passed.

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

10 B. Draft Explanatory Statement – Law Enforcement Ballot Measure, Nov. 2, 2004 Election
11 Murray said that this document must be filed with the measure no later than September 2, 2004.

12
13 Motion 3: Alice Brown moved to approve the draft Explanatory Statement for County Voters' Pamphlet.
14 Romans seconded the motion.

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

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18 Vote: Motion 3 passed.

19 Ayes: White, Taunton, Alice Brown, Silver, Romans, Jack Brown
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21 IX. NEW BUSINESS

22 A. Appointments to Fill Vacancies on City Commissions/Committees
23 Ballots were filled out, signed, and handed in. Murray tallied the votes (copy of ballot attached to
24 original of these minutes) and announced the results. Councilors White, Taunton, Jack Brown, and
25 Mayor Silver voted to appoint Ruth Moreland to Parks Commission Position #2. Councilors Alice
26 Brown and Romans voted against the appointment.

27
28 Motion 4: Jack Brown moved to accept the canvass of votes and appoint Ruth Moreland to Parks
29 Commission Position #2. Taunton seconded the motion.

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

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33 Vote: Motion 4 passed.

34 Ayes: White, Taunton, Alice Brown, Silver, Romans, Jack Brown
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36 B. Lease Agreement – Neighbors Against Drugs/Kids Zone – Ainslee Building
37 Mayor Silver said he met with the board members of Neighbors Against Drugs and Kids Zone, and
38 recommended that the full Council meet with the Board members, to tailor a lease agreement around
39 their needs. A workshop meeting to include the City Attorney was scheduled for Thursday, August 26,
40 2004 at 7 PM in Council chambers, contingent upon the attorney's availability. The director of Kids
41 Zone was present and will relay the meeting date to Board members. A Councilor requested the addition
42 of the following agenda item for the August 26 workshop meeting: discussion of acquisition of tax lot
43 700 for the Scenic Lands Acquisition Project. The request was granted with the understanding that it
44 would be a status report rather than an in-depth discussion. Another Councilor requested a workshop
45 meeting be scheduled to discuss Res. #285.
46

1 C. Proposed Resolution #343 – A Resolution Declaring the Necessity and Intent of the City
2 Of Depoe Bay to Acquire Certain Described Real Property for Scenic View Protection
3 Purposes

4 Amendments to the proposed resolution (copy attached to original of these minutes) were suggested.
5 Murray noted that the purpose of the resolution is to fulfill a provision of the ODOT agreement to
6 authorize acquisition and condemnation, and that the City Attorney has reviewed and approved the
7 proposed resolution. There was further discussion on the land acquisition procedure. A Councilor
8 requested confirmation from the City Attorney that it is not possible to proceed with this project without
9 including language regarding condemnation, and further information on the condemnation process.
10 Hearing no objection, this item was tabled to the next regular meeting, pending a response from the City
11 Attorney.

12
13 D. Proposed Contract for Consulting Engineering Services – Water Storage Improvements
14 Project

15 Mayor Silver reported that the Water Improvement Committee met with engineering consultant Robert
16 Meyer, and discussed key issues in selecting an engineering firm for this project. A proposed Agreement
17 for Engineering Services (copy attached to original of these minutes) was presented for the Council's
18 approval. There was discussion regarding the proposed contract and how to fund the terms of the
19 contract.

20
21 Motion 5: Taunton moved to enter into agreement with Robert Meyer for engineering consultant services
22 and authorize the mayor to sign the agreement contingent on legal review, and that the money to pay for
23 the services be funded by the Water System Development Charge Capital Improvement Reserve fund.
24 Alice Brown seconded the motion.

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

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28 Vote: Motion 5 passed.

29 Ayes: White, Taunton, Alice Brown, Silver, Romans, Jack Brown
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31 E. Review Draft Revisions to City Correspondence and Complaint Procedure

32 Mayor Silver reviewed the draft revisions to the correspondence and complaint procedure (copy attached
33 to original of these minutes). He noted that this draft is part of a screening process to determine whether
34 a complaint should go before the Council, and whether a complaint is valid or frivolous. Comments and
35 concerns expressed by Councilors included: 1) Make the following changes to the first line under Other
36 Correspondence: "The following procedures do not exempt City Officials adhering to ~~law~~ laws and City
37 ~~Ordinance~~ Ordinances." 2) The statute of limitations should be four years rather than two. Mayor Silver
38 noted that the City Attorney had recommended a statute of limitations of two-three years. 3) The length
39 of the statute of limitations as related to documented patterns of behavior. 4) Violation of laws and City
40 ordinances must be included in a definition of City business. 5) In response to Betty Langdon's
41 statement below, a Councilor said that filing a complaint comes with responsibility, and action such as a
42 hearing should be taken against persons filing invalid complaints. 6) Private behaviors should be
43 separate from City-related behaviors. 7) The draft policy revision does not contain any language
44 regarding how to proceed when the complaint against a City official is valid.
45

1 Comments and concerns expressed from the audience included: 1) Rick Davilla: How a statute of
2 limitations would relate to an on-going violation. 2) Betty Langdon: The correspondence/complaint
3 policy was enacted in October 2003 to protect Councilors and other City officials from having
4 unfounded complaints aired at public meetings. Subsequent complaints filed by a Councilor against two
5 Planning Commissioners have been determined to not be City business, whether or not the complaints
6 are valid and true. She expressed concern that should the complaint policy be broadened, personal and
7 private activities undertaken by Planning Commissioners could be criminalized. She felt there should be
8 sanctions against persons who file frivolous or false complaints against City officials, and referred to
9 Oregon State Law 227.030, which outlines the only reasons a Planning Commissioner can be removed
10 from office. 3) John Woodmark: Nobody likes to pick up the newspaper every week and read
11 allegations that turn out to be unsubstantiated. The Planning Commission consists of a wide variety of
12 people who have approached every issue with education and fairness in the time he's been on the
13 Commission, but the Commission has been held up to ridicule and derogatory comments. 4) John
14 O'Brien: felt that a procedure for dealing with people filing frivolous complaints is unnecessary as City
15 Staff can determine when a complaint is frivolous, and that he felt inappropriate behavior on the part of
16 the City official would be non-performance and/or using their position to misbehave.

17
18 It was the consensus of the Council to table this item to the next regular meeting to consider the public
19 input and develop additional language for the policy. Councilors Jack Brown and White will work on the
20 language. The City Attorney will be asked to attend this meeting.

21

22 X. CORRESPONDENCE

23 There were three items of correspondence (copies attached to original of these minutes): 1) A letter
24 from Rick Beasley at the *Beacon* regarding Tradewinds. 2) A letter from the U.S. Census Bureau
25 advising of job openings. 3) A letter from Oregon Parks and Recreation Dept. regarding possible
26 nomination of the Depoe Bay bridge to the National Register of Historic Places.

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28 XI. CITY STAFF REPORT

29 Owings had no report.

30

31 Murray said there is one week remaining to file for candidacy for the position of Mayor and three
32 Council positions.

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34 XII. COUNCIL COMMENTS

35 Taunton: 1) The Griffins' response to the City's letter did not state what they planned to sell in their
36 store, should they win the lease of the Painter Bldg. Murray noted that Staff was directed to prepare a
37 letter in response to each proposal, with Councilors advising of any specific concerns prior to mailing of
38 the letters; no concerns were brought to Staff. 2) Purchase of necessary equipment for the City should
39 take precedence over spending money to develop an interpretive center at the Painter Bldg. 3)
40 Encouraged all to attend the Coast Guard's commencement ceremony to re-commission the station on
41 Friday, August 27, 2004 at 11 AM at the Coast Guard station. It was the consensus of the Council to
42 give something from the City in recognition of the event.

43

44 Alice Brown: 1) Thanked everyone and appreciated their concern after her injury, and hopes that the
45 Traffic Safety Commission (TSC) takes the incident seriously. Mayor Silver noted that the TSC is

1 currently looking into a safety device for the bridge. 2) Did not understand why the City doesn't return
2 the Painter Bldg. to the State, rather than spending thousands of dollars maintaining the restrooms.

3
4 Mayor Silver: 1) Participated in an Oregon Visitor Association (OVA) presentation in Tillamook on
5 August 12, where last year's statewide 1% increase in transient room tax was discussed. OVA will
6 receive \$300,000 from this revenue source for the Oregon coast. 2) Met with John Allen of Oregon
7 Parks and Recreation Dept. today regarding the Painter Bldg. The Parks Dept. is agreeable to taking full
8 responsibility for maintaining the restrooms, and they would like the City to be responsible for heating,
9 electricity, water, and sewer charges. Referring to Owings' memo dated 8/16/04 (copy attached to
10 original of these minutes), he noted that the restroom maintenance costs are the major portion of
11 building maintenance costs. He hoped that this information would mitigate Councilor concerns
12 regarding loss of revenue, and reminded Councilors that a purpose of an interpretive center is to get
13 people to stop and get out of their vehicles and spend time in town. Hearing no objection, Mayor Silver
14 said he would contact Mr. Allen tomorrow and ask him to prepare a draft lease agreement for
15 presentation to the Council for review at the next regular meeting.

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17 XIII. ADJOURN

18 There being no further business, the meeting was adjourned at 9:15 PM.

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23 _____
24 Mayor Bruce R. Silver

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26 _____
27 Silver Fox, Recording Secretary