

1 Depoe Bay City Council
2 Regular Meeting
3 Tuesday, December 7, 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, M. Lavery

8
9 STAFF: City Recorder P. Murray, City Planner L. Lewis (departed at 8:42 PM), City Attorney
10 D. 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: November 16, 2004 Regular Meeting and November 22, 2004 Special
20 Meeting

21 The minutes of the November 16, 2004 regular meeting stood approved as written. The minutes of the
22 November 22, 2004 special meeting were approved with the following statement being moved from the
23 bottom of Page 2 to Page 2 under Motion 2: "A councilor voiced concern over the number of amending
24 motions that can be made. Discussion followed. Gordon clarified there can be more than one amending
25 motion to the main motion, there is a limit to the number of amendments that can be made to an
26 amending motion."
27

28 IV. ACCOUNTS PAYABLE

29 Motion 1: Romans moved to pay the accounts payable. White seconded the motion.
30

31 Mayor Silver said it was moved and seconded, and called for discussion. There was none.
32

33 Vote: Motion 1 passed.

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

35 Abstain: Lavery
36

37 V. SPECIAL ORDERS

38 A. Public Hearing Continued – Council Deliberations: Proposed Amendments to Zoning Ordinance
39 And Inventory Map Relating to Natural Resources Inventory
40

41 Motion 2: Romans moved to table the Proposed Amendments to Zoning Ordinance and Inventory Map
42 Relating to Natural Resources Inventory to the February 15, 2005 Council meeting. Lavery seconded
43 the motion.
44

45 Mayor Silver said it was moved and seconded, and called for discussion. A Councilor asked that the
46 Planning Commission Chairman provide input prior to February 15, and two Councilors commented on

1 the testimony provided by the Salmon Enhancement Commission. A Councilor expressed a concern over
2 property owners thinking the City is trying to take away their property. Mayor Silver asked the Council
3 to consider whether or not it was necessary to postpone the public hearing process that is currently in
4 progress, keeping in mind that the ordinance adoption procedure includes two opportunities for public
5 input. The City Planner noted that if his attendance is required for this item, he will not be available on
6 February 15.

7
8 Amendment: Romans amended his motion to a February 1, 2005 meeting date, and to invite the City
9 Planner and the Salmon Enhancement Commission to the meeting. Jack Brown seconded the motion.

10
11 Mayor Silver said it was moved and seconded, and called for discussion. There was none.

12
13 Vote: Motion 2, as amended, passed.

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

15 Noes: Laverty
16

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

18 A. Review of Scenic Lands Projects – Project Manager’s Report

19 Fran Recht reviewed her memo dated 11/7/04 (copy attached to original of these minutes. In answer to
20 several Council questions, she explained that 1) She was “scenic lands project manager” only in the
21 context of grant agreements using her services as part of the match. 2) She assisted staff with writing
22 grants (did not submit any herself) that the Council had approved for submission. 3) She and the City
23 Recorder met with ODOT to defend the Council’s prioritization of the Harbor Overlooks Project, when
24 the granting agency said they wanted tax lot 700 to take priority because they have a \$1 million
25 investment in scenic lands. 4) At the time the grant was applied for, there was no project prioritization
26 required or submitted. 5) She did not speak directly with the property owner because there is a signed
27 agreement to the effect that ODOT’s Right Of Way department would be responsible for that contact. 6)
28 She knows of no “plan” to acquire a lot of oceanfront property in Depoe Bay, but that ODOT wants to
29 acquire view lands as they become available because Highway 101 is a designated scenic byway. 7) At
30 the time of the project’s inception, the 10 lots were chosen because they were either vacant or for sale.

31
32 Melissa Mallott of ODOT explained she was present to clarify what is happening with this project and to
33 clarify her role as ODOT Right of Way project manager. She said this particular grant is for the Harbor
34 Overlooks Project, a scenic land acquisition project. The grant does not require an outright purchase of
35 tax lot 700, and making the City the property owner was not the intention. The intention was to be
36 assured that the lot will not be developed in the future, in a manner that would preclude the view as it
37 currently exists. She addressed “first right of refusal”, explaining that this would simply give the City the
38 right to purchase the property before anyone else, should the property owner decide to sell at some point
39 in the future. She said that the federal funds that pay for this are designated to maintain and preserve
40 scenic views. A Councilor expressed concern over possible maintenance costs of the existing house
41 should the City become the property owner, and Mallott said the City doesn’t need to buy the property,
42 but only the ability to enforce a height restriction, and that the grant would fund the cost of this. There
43 was some discussion regarding eminent domain, and Mallott said that while the City has the option to do
44 this, it is not required.
45

1 Ray Langston, owner of tax lot 700, said he was willing to give first right of refusal to the City, and that
2 he had communicated this to the City previously. He would also consider selling the right to a height
3 restriction. He may consider selling at fair market value in several years, and liked the idea of the
4 property becoming part of a scenic parcel.

5
6 Mayor Silver asked what options are available to the Council. Recht responded that State funds have
7 been expended, some of which have been matched by legal review, her time, and Staff time. If the
8 project were terminated, funds would have to be reimbursed – the grant would have to be repaid. She
9 said there is not a specific deadline on using grant funds, and the City Attorney concurred. Mallott added
10 that a little under \$6,000 of work has been done to date, and she is holding the files until she knows what
11 the City wants to do. It was the consensus of the Council to put this on the agenda for the January 18,
12 2005 meeting, and to invite Mallott, Roger Skoe (Federal Highway administrator), and Pat Moran
13 (Oregon Scenic Byway administrator) to attend.

14
15 The meeting was recessed at 8:42 PM, and reconvened at 8:49 PM.

16 17 VII. PUBLIC COMMENTS

18 Debbie Alexander Davilla, Chamber of Commerce, submitted a flyer with dates of 2005 Chamber events
19 (copy attached to original of these minutes), and reported that 1) People are invited to come to next
20 Tuesday's Chamber meeting at the Spouting Horn, and bring an unwrapped toy for the Toys for Tots
21 drive. The toy drive ends on December 17, and the fire department will be delivering toys on December
22 18. 2) The annual Community Potluck is scheduled for Thursday, December 16 at the Community
23 Center. Everyone in the community is invited, especially City Staff and City Council. 3) Kids Zone
24 children will be caroling on December 18. 4) Thanks to the kids, fire department, Coast Guard, and the
25 community for the great turnout at the Christmas Tree Lighting ceremony on November 27.

26
27 Kay Wyatt, 1760 Walking Wood, representing Neighbors Against Drugs (NAD) and Kids Zone, said the
28 lease for the Ainslee Building was signed on Monday. She passed out a remodel plan (copy attached to
29 original of these minutes), saying that this proposal is a fast track to get the building minimally ready for
30 the Kids Zone to occupy by January 3, 2005. Along with removing one partition, they want to add a new
31 partition, add a small serving window and countertop, and remove carpeting. Some of the carpet is good,
32 and some is not. Mayor Silver added that the City Field Superintendent inspected the building, the CIS
33 insurance agent inspected the building, asbestos testing was negative, and the inspections reports were
34 accepted by the Neighbors Against Drugs Board on Monday prior to the lease signing. Councilor Jack
35 Brown, NAD Board President, noted that remodel plans previously submitted are still valid and NAD is
36 still looking for grant money.

37
38 Motion 3: Lavery moved to approve NAD's proposed interim modifications to the Ainslee Building,
39 and to remove the carpeting, possibly saving good carpet and disposing of bad carpet. Alice Brown
40 seconded the motion.

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

43
44 Vote: Motion 3 passed.

45 Ayes: White, Alice Brown, Silver, Romans, Lavery

46 Abstain: Taunton, Jack Brown

1
2 VIII. UNFINISHED BUSINESS

3 A. Seafood Processing Lease Renewal – Ocean Brite Seafoods

4 City Attorney Gordon reviewed changes in the draft lease agreement (copy attached to original of these
5 minutes): 1) Page 1: date changed to *December __, 2004*. 2) Page 2 near the top: rent amount changed
6 to *\$1,340.00* per month. 3) Page 6 in the middle: the ice machine and hoist have been installed, so text
7 changed to *maintained* by the tenant. 4) Page 13, top of Section 33: because this is the seventh period of
8 a 10-period lease, text was changed to *three* years. 5) Page 13, bottom of Section 33: a condition has
9 been added regarding current existing arrearage – if the arrearage is paid within six months, ownership
10 of the equipment being used as collateral will be re-conveyed to the lessee. 6) Page 14, item b.: grace
11 period has been changed from 15 days to 60 days. 7) Page 14, item c.: a new item indicating that the
12 parties will review the agreement for compliance every 60 days. Frank Button, 285 SE Shell, said he had
13 reviewed the amended agreement and felt it reflects his previous discussion with the Council. It was
14 noted that a list of equipment to be used as collateral had been provided by Button to the City Recorder.
15

16 Motion 4: Lavery moved the seafood processing lease with Ocean Brite Seafoods be renewed as per the
17 draft agreement prepared by the City Attorney, including the defined equipment. Taunton seconded the
18 motion.
19

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

22 Vote: Motion 4 passed.

23 Ayes: White, Taunton, Alice Brown, Silver, Romans, Jack Brown, Lavery
24

25 IX. NEW BUSINESS

26 A. Planning Commission Recommendation: Proposed Amendments to Comprehensive Plan,
27 Zoning Ordinance, and Zoning Map relating to Uses and Standards in the City

28 Dick Johnson, Planning Commission Chairman, reported that the Planning Commission has completed
29 their work and public hearing on Article 3 of the zoning ordinance, that they recommend the Council
30 approve the recommended changes (see memo dated 11/22/04 and attachments, copy attached to original
31 of these minutes), and that they do not feel there are any Measure 37 issues involved. He suggested the
32 Council schedule a workshop with himself and the City Planner, in order that all Council questions may
33 be addressed. It was the consensus of the Council to table this item to the December 21 meeting, and
34 schedule a workshop at that time.
35

36 B. Lincoln County Community and Economic Development Grant Program

37 Murray reported for City Field Superintendent Owings that Staff reviewed projects budgeted for this
38 year, and Owings submitted a Project Update memo dated 11/29/04 (copy attached to original of these
39 minutes) recommending a harbor project for this funding. The project would replace flotation, electric
40 pedestals and remove pilings. Murray noted Councilor Alice Brown had asked Staff to find out whether
41 removal of the billboard at the south end of town would be an appropriate project; the County said it
42 could be submitted. Mallott noted that it is difficult to ascertain the value of billboards, because the
43 value comes from revenue they generate. Moving them can be negotiated. Alice Brown would like
44 additional information on this in preparation of a future grant application.
45

1 Motion 5: Lavery moved to accept the City Field Superintendent's recommendation that flotation dock
2 2 be upgraded, 24 electrical pedestals be replaced, and 16 pilings be cut off at the base, and to apply for
3 the maximum \$20,000 of the grant, and authorize the mayor to sign. Jack Brown seconded the motion.

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

6
7 Vote: Motion 5 passed.

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

9
10 C. Canvass of Votes – November 2, 2004 Election

11 Murray read the canvass of votes (copy attached to original of these minutes) into the record.

12
13 Motion 6: Alice Brown moved to accept the canvass of votes for the November 2, 2004 General Election
14 as certified by the Lincoln County Clerk. Lavery seconded the motion.

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

17
18 Vote: Motion 6 passed.

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

20
21 X. CORRESPONDENCE

22 Murray reported that there was one item of correspondence received: a letter signed by Don Lindley of
23 the Lincoln County Board of Commissioners, regarding the joint work session scheduled for March 9,
24 2005. The Commissioners would like the City to submit a list of topics for discussion, no later than
25 February 25, 2005. Ideas are to be submitted to Staff.

26
27 XI. CITY STAFF REPORT

28 Owings' report was presented by Murray: Harbor Fuel System Project engineer Crorey Mechanical
29 Engineering has submitted a \$1,500 change order for additional engineering and designing of an
30 explosion proof pump-out station (see Owings' memos dated 12/6/04 and 11/29/04, attached to original
31 of these minutes).

32
33 Motion 7: Lavery moved to accept the change order from Crorey Mechanical Engineering in the amount
34 of \$1,500 for engineering a pump-out station. Alice Brown seconded the motion.

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

37
38 Vote: Motion 7 passed.

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

40
41 Murray reported that the public restroom lease at the port is coming up for renewal, and if the Council
42 wants to renew or continue the lease, it is time to contact the property owners.

43
44 Motion 7: Taunton moved to enter into negotiations with Dockside Charters for a public use lease of the
45 port restrooms. Romans seconded the motion.

1 Mayor Silver said it was moved and seconded, and called for discussion. A Councilor suggested a
2 courtesy copy of the communication to keep the Harbor Commission informed.

3
4 Vote: Motion 7 passed.

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

6 Abstain: Silver

7
8 XII. COUNCIL COMMENTS

9 Mayor Silver recommended the Council direct Staff to prepare a draft policy regarding safety bonus
10 awards for City employees, and to tie it in to a Worker's Compensation experience modification
11 schedule. It was the consensus of the Council to accept the suggestion, and schedule the draft review for
12 the December 21, 2004 regular Council meeting.

13
14 White: said Councilor-elect Pete Cameron's wife is scheduled for major heart surgery tomorrow, and
15 asked for prayers.

16
17 Alice Brown: added to White's comment that it would be nice to send Mrs. Cameron a get well card.

18
19 XIII. ADJOURN

20 There being no further business, the meeting was adjourned at 9:44 PM.

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Silver Fox, Recording Secretary

Mayor Bruce R. Silver