

1 Depoe Bay City Council
2 Regular Meeting
3 Tuesday, August 2, 2005 - 7:00 PM
4 Depoe Bay City Hall
5

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

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

11 I. PLEDGE OF ALLEGIANCE

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

14 II. CALL TO ORDER

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

17 III. APPROVE MINUTES: July 19, 2005 Executive Session and Regular Meeting 18

19 Motion 1: Lavery moved to accept the minutes of the July 19, 2005 Executive Session and Regular
20 Meeting as written. Taunton seconded the motion.
21

22 Mayor White said it was moved and seconded, and called for discussion. There was none.
23

24 Vote: Motion 1 passed.

25 Ayes: Taunton, White, Romans, Jack Brown, Lavery

26 Abstain: Cameron, Alice Brown
27

28 IV. ACCOUNTS PAYABLE

29 Motion 2: Romans moved to pay the accounts payable. Taunton seconded the motion.
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31 Mayor White said it was moved and seconded, and called for discussion. There was none.
32

33 Vote: Motion 2 passed.

34 Ayes: Taunton, White, Romans, Jack Brown

35 Abstain: Lavery
36

37 V. SPECIAL ORDERS

38 A. Interview Applicants for City Commissions and/or Committees

39 Parks Commission applicant Cherie Ellithorpe was present and came forward to tell about herself and
40 why she is interested in participating, and answered questions from Councilors regarding her
41 qualifications and application. (Copy of application attached to original of these minutes.)
42

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

44 Beanie Robison, Salmon Enhancement Commission chairman, reported that the salmon fin clipping was
45 a success, with 19,584 out of 20,000 fish being processed for release in March or April next year.
46

1 VII. PUBLIC COMMENTS

2 Peggy Leoni, Chamber of Commerce, reminded everyone that the Salmon Bake is coming up on
3 September 17. Enough volunteers to serve between 3-5,000 people will be needed. Call the Chamber if
4 you are interested.

5
6 VIII. UNFINISHED BUSINESS

7 A. Near Shore Management

8 Jack Brown provided a list of potential members for a committee he dubbed the Near Shore Action
9 Team (copy attached to original of these minutes), and asked the Council to review it. He asked Beanie
10 Robison to comment on the importance of being proactive on this issue.

11
12 Motion 3: Lavery moved to approve Jack Brown's proposed membership of the Near Shore Action
13 Team. Taunton seconded the motion.

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

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17 Vote: Motion 3 passed.

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

19
20 Gordon advised that this committee will be a public body and therefore must adhere to public meeting
21 laws.

22
23 B. Schedule Public Hearings for Ord. #260 Review

24 Murray announced that the first public hearing on Ord. #260 review would be held on Thursday,
25 September 22, 2005 at 7:00 P.M., and the second public hearing will be held on Thursday, October 27,
26 2005 at 7:00 P.M.

27
28 IX. NEW BUSINESS

29 A. Fractional Ownership in Residential Zones

30 Gordon said the City received a complaint (copy attached to original of these minutes) regarding a South
31 Point property that is being proposed to be used as a fractional ownership. An initial investigation was
32 undertaken when he, Mayor White, City Staff, and Romans met with some of the property owners.
33 Gordon was asked to look into whether that particular type of ownership would be allowed under current
34 Depoe Bay Zoning Ordinances, and what would happen if there are no current regulations that would
35 apply to this situation. Gordon researched the owner of the property, reviewed materials from other
36 organizations engaged in fractional ownership enterprises, and researched Depoe Bay ordinances that
37 might be pertinent. He was also contacted by an attorney representing Pacific Leisure (the company that
38 is proposing to develop the property) who asked to be kept informed if this matter moves forward.
39 Gordon said he has seen the deed of a 1/7 owner, and there were no restrictions in the deed other than
40 those of record. Advertising makes it clear that use of the property will be controlled by the owners
41 through an agreement between the owners and a company like Pacific Leisure Group, who will facilitate
42 scheduling of owners' use, maintenance, and related tasks. Per Depoe Bay ordinances, timeshares are a
43 kind of ownership defined as *properties with 11 or more owners*. In an R-1 zone, the only type of
44 dwelling allowed under Depoe Bay ordinances is a single family dwelling, for use by a family – family
45 being blood relations. This excludes tourist accommodations, which are defined under Depoe Bay
46 ordinances as *a structure or building occupied or designed for occupancy by transients, for direct or*

1 *indirect compensation of the owner, lessee, or operator of the structure.* A transient is defined under
2 Depoe Bay ordinances as *any person who occupies or is entitled to occupy a structure or building for a*
3 *period of less than 30 calendar days and the person gives direct or indirect compensation to the owner,*
4 *lessee, or operator of the structure.* If fractional ownership fits the definition of tourist accommodation,
5 it would not be allowed in an R-1 zone in Depoe Bay. Gordon said advertising materials seem to indicate
6 that Pacific Leisure Group manages the operation on this property, and they would be providing services
7 in order to make money. He hasn't seen a copy of an agreement between Pacific Leisure Group and a 1/7
8 property owner but said that such an agreement could be as binding as anything of record. He also noted
9 that in order for the owners to be considered transient, they would need to occupy the property for less
10 than 30 days at a time; advertising materials indicate that owners can use the property for a week or two
11 at a time, with these time slots scheduled by Pacific Leisure Group. He said more research needs to be
12 done, and plans to pursue this tomorrow morning. Murray said two letters regarding this issue were
13 received today (copies attached to original of these minutes), one from Depoe Bay property owners Mr.
14 and Mrs. James Beck, who requested their letter be read into the record, and the other from Robert Van
15 Brocklin of Stoel Rives, who requested his comments be entered into the record. It was the consensus of
16 the Council to read both letters into the record, and Murray did so. She was also asked to read into the
17 record a letter (copy attached to original of these minutes) from Gordon McMahon of The Shores @ The
18 Ocean (a Pacific Leisure Group company). Gordon was directed to continue his research and
19 investigation into this matter and report at the next meeting. The floor was opened to public comment.
20

21 Robin Crum, 430 Pine Court, said weekly occupancy of the house is in violation of R-1 zoning
22 regulations. He referred to the letter from Mr. Van Brocklin, specifically: *Violation of any of these*
23 *restrictions would subject the offending owner or owners to default provisions in contract, including the*
24 *potential loss of use and/or ownership interest*, and said that "revocable ownership" is a strange concept.
25 He said Pacific Leisure Group is advertising other available fractional homes in a brochure box located
26 at 450 Pine Court. He stressed that Pacific Leisure Group is a commercial enterprise, and that they
27 intend to operate their business in his R-1 neighborhood. He said Pacific Leisure Group buys homes as
28 inventory and then develops the sites to meet the needs of their targeted consumer groups, making a
29 profit by re-selling and operating the properties. He also said that an internet search yielded a volume of
30 information on "fractional exchange clubs", and the market for sharing time in someone else's unit is a
31 hot new development in the vacation industry. He expressed concern with developers offering inflated
32 prices to home owners followed by further price inflation when the developers re-sell fractionally, and
33 how this will affect oceanfront neighborhoods. He also said that Mr. McMahon has contacted at least six
34 other homeowners in their neighborhood regarding selling their homes to Pacific Leisure Group.
35

36 Dave Erman, 305 SW Cliff said he is against any business purchasing a home. He was disappointed in
37 the Council and in the City Attorney for wasting time trying to make existing ordinances fit this
38 situation, and wanted the Council to pass a new ordinance to protect R-1 neighborhoods against this
39 threat. Gordon noted that it takes time to adopt ordinances, and that they are not retroactive. A Councilor
40 and the Mayor responded that they were elected to uphold the law and protect citizenry.
41

42 Brandy Johnston, 551 SW Point, said she is an ex-police officer who used to work sex crimes. She said
43 sexual predators know that kids are taught not to trust strangers, and they have a tendency to use
44 timeshares and vacation homes in order to become familiar but not known to people in a neighborhood.
45 She said she specifically bought a house in this neighborhood because there were no weekly or nightly
46 rentals.

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2 Gretchen Sperling, 555 SW Point, was impressed with the Attorney's and the Council's due diligence in
3 their efforts to explore all evidence. She said the R-1 zone is clearly for single family dwellings.
4

5 Candyce, South Point, said she is a paralegal who is concerned that Stoel Rives may have anticipated
6 and slipped through loop holes. She questioned whether they would share a contract due to privacy
7 issues. She also expressed concern that one person is already recorded as a 1/7 owner of 450 SW Pine
8 Court, and wondered how this could be reversed.
9

10 Dick Johnson, Planning Commission Chairman, asked Gordon to conduct his research for all residential
11 zones, not just R-1. Gordon said it doesn't apply in any of those zones.
12

13 Willard Freeman, SW South Point, asked if there is a way to stop someone from buying a house for this
14 purpose, or if there was a way to effect an injunction until the issue is resolved. Gordon said you'd have
15 to be able to heavily prove a case before you could get an injunction to prevent transfer of ownership,
16 and that the chance of this would be remote and the cost would be high. Mr. Freeman wondered whose
17 name is on the title of the car in the garage.
18

19 Mayor White called a recess at 8:20 P.M. The meeting reconvened at 8:26 P.M.
20

21 B. Legal Services

22 Mayor White recommended the Council postpone this item until the other attorney can attend an
23 Executive Session.
24

25 C. Appointments to Fill Vacancies on City Commissions and/or Committees

26 Ballots were filled out, signed, and handed in (copy of ballot attached to original of these minutes).
27 Murray tallied the votes and announced the results. All votes were to appoint Ellithorpe.
28

29 Motion 4: Lavery moved to accept the canvass of votes and appoint Cherie Ellithorpe to Parks
30 Commission Position #7. Taunton seconded the motion.
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32 Mayor White said it was moved and seconded, and called for discussion. There was none.
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34 Vote: Motion 4 passed.

35 Ayes: Cameron, Taunton, Alice Brown, White, Romans, Jack Brown, Lavery
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37 X. CORRESPONDENCE

38 There was no correspondence.
39

40 XI. STAFF REPORT

41 Murray reported that an OLCC application for off-premises sales was submitted by Wing Wa (copy
42 attached to original of these minutes). She noted that the Council's decision to recommend to grant or
43 deny the application would have no effect on their current OLCC license. There was brief discussion
44 regarding off-premises sales.
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1 Motion 5: Romans moved to recommend denial of the Wing Wa OLCC application for off-premises
2 sales. Cameron seconded the motion.

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4 Mayor White said it was moved and seconded, and called for discussion. There was brief discussion.

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6 Vote: Motion 5 passed.

7 Ayes: Cameron, Romans, Jack Brown, Lavery

8 Noes: Taunton, Alice Brown, White

9
10 Murray continued her report: The City's cost for memorial plaques has risen from \$106 to \$115. The
11 Council has always held a policy of doubling the City's cost to the customer.

12
13 Motion 6: Lavery moved to continue the established policy of charging the customer double the City's
14 cost for memorial plaques. Taunton seconded the motion.

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

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18 Vote: Motion 6 passed.

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

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21 Owings reviewed his written report (copy attached to original of these minutes), providing updates on
22 the Harbor Fuel Project and the Water Storage Project.

23 24 XII. COUNCIL COMMENTS

25 Lavery shared driver statistics and asked if the Fire Chief has spoken with either the Mayor or Owings
26 about tsunami warnings.

27
28 Romans suggested willow trees be cut to improve the ocean view at Whale Park. It was noted that this
29 had just been done.

30
31 Alice Brown asked about the status of the Traffic Safety Commission, and wondered if the City is
32 actively seeking applications and moving toward establishing a joint Traffic Safety Commission/Public
33 Safety Commission. Murray said a workshop meeting was to be scheduled to develop an ordinance for
34 the joint Commission. A workshop date will be set after summer.

35
36 Taunton complimented City Crew, who are always willing to go the extra mile.

37
38 White: thanked Owings and City Crew for painting the guardrail going down to the Coast Guard station
39 and cutting back the weeds. He also reported that Lincoln County Mayors and Commissioners met with
40 the Fire Chief: There is a Tsunami Review Committee, which consists of law enforcement from all
41 Lincoln County cities, all the fire districts, the Coast Guard, PacWest Ambulance, Lincoln County
42 Emergency Services, and LinComm, and they are developing ideas like standardization of resources.
43 They have asked the Mayors and Commissioners to return with what needs to be done before procedures
44 are developed. Their next meeting will be in September. John Rose asked Mayor White to bring this
45 information to the Emergency Preparedness Committee; the Mayor said he will provide Rose a copy of
46 his written materials.

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XIV. ADJOURN

There being no further business, the meeting was adjourned at 9:00 PM.

Mayor James White

Fox Dreamingtime, Recording Secretary