

1 Depoe Bay City Council
2 Regular Meeting
3 Tuesday, October 2, 2012 - 7:00 PM
4 Depoe Bay City Hall

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8 PRESENT: Mayor C. Connors, P. Cameron, S. Hoitink, B. Leff, D. Goddard, T. Lewis,
9 D. Zimmerman

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11 STAFF: City Recorder P. Murray, City Superintendent T. Owings, Recording Secretary
12 E. LuMaye

15 I. PLEDGE OF ALLEGIANCE

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

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18 II. CALL TO ORDER

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

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21 III. APPROVE MINUTES: September 18, 2012 Regular Meeting

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23 Motion 1: Leff moved to approve the minutes from the September 18, 2012 Regular Meeting. Lewis
24 seconded the motion.

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

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Vote: Motion 1 passed.

29 Ayes: Cameron, Hoitink, Leff, Connors, Lewis, Zimmerman

30 Abstain: Goddard

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32 IV. ACCOUNTS PAYABLE

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34 Motion 2: Zimmerman moved to approve Accounts Payable as presented. Cameron seconded the
35 motion.

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

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Vote: Motion 2 passed.

40 Ayes: Cameron, Hoitink, Leff, Connors, Goddard, Lewis, Zimmerman

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42 V. SPECIAL ORDERS

43 There were no special orders.

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

46 Leff reported she reviewed cash reports for July and August and said they looked good and the City
47 remains solvent. She thanked LuMaye for the reports.

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49 Mayor Connors reported 1) She attended a League of Oregon Cities (LOC) conference, where she
50 met with ODOT director Matt Garrett to follow up on bulbouts and Collins Street drainage. He
51 supports the speed zone appeal, which is scheduled for October 31. There was discussion about
52 changing zone lines (see copy of speed zone investigation map attached to original of these
53 minutes).

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1 Motion 3: Leff moved to include contesting zone lines for Sections B, C, and D in the ODOT speed
2 zone investigation results appeal. Goddard seconded the motion.

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

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6 Vote: Motion 3 passed.

7 Ayes: Cameron, Hoitink, Leff, Connors, Goddard, Lewis, Zimmerman

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9 Mayor Connors continued her report: 2) She met with the director of State Parks regarding land
10 acquisition opportunities which she will bring to the Council for discussion at a later date. 3) The
11 LOC is putting together a tax measure to allow local levies to be outside the \$10 per \$1,000 of
12 value limit for government. 4) Last week PERS mandated a 2.7% employer contribution increase.
13 5) Counties won't be giving out population forecasting numbers any longer.

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15 VII. PUBLIC COMMENTS

16 Mayor Connors addressed the full-house audience, advising them that comments on agenda items
17 should be held until the item comes up for discussion, and noted that an application for an OLCC
18 permit had been added to New Business. There were no public comments.

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20 VIII. UNFINISHED BUSINESS

21 A. Transportation System Plan (TSP) Community Advisory Committee (CAC) Membership
22 Murray reported that Fred Robison volunteered to be the Chamber of Commerce representative for
23 the CAC.

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25 Motion 4: Leff moved to appoint Fred Robison to the TSP CAC. Goddard seconded the motion.

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

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29 Vote: Motion 4 passed.

30 Ayes: Cameron, Hoitink, Leff, Connors, Goddard, Lewis, Zimmerman

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32 B. Draft Noise Control Ordinance

33 Murray reported the draft ordinance had been prepared according to direction (copy of draft
34 ordinance attached to original of these minutes). The wording is the same as the LOC model
35 ordinance with the exception of the last page, with highlighted wording that specifically addresses
36 Depoe Bay's situation. A typo was identified in Section 8 Enforcement. Mayor Connors explained
37 that the ordinance is for noise that disturbs residents between the hours of 10 PM and 7 AM on
38 weekdays or 10 AM on weekends. She said if a complaint was to be filed, the enforcement officer
39 would write a letter to the person causing the disturbance, informing them they need to comply
40 with the ordinance. She said events at the community hall have been a problem, and that the
41 County noise ordinance is not enforceable within City limits. She called for public input.

42
43 Michael Babinsky, a Depoe Bay homeowner for five years and business owner of Things Rich &
44 Strange since 2009, urged the Council not to pass the noise ordinance at this time. He read a
45 petition into the record and submitted approximately 180 signatures of people who signed it (copy
46 attached to original of these minutes). He stated two Councilors had been quoted in the newspaper
47 as saying the ordinance would mean no noise after 10 PM, and the ordinance would be enforced at
48 businesses but not private residences. Petition signers felt this was selective enforcement that
49 would open the City up to litigation. A Councilor clarified his statement to the newspaper was
50 specific to the community hall, not the entire town. Mayor Connors said the ordinance is not meant
51 to shut down any business, and that complaints must be in writing. Mr. Babinsky wanted to ensure
52 the ordinance could not be enforced selectively to hurt businesses in town. Staff was directed to
53 look into Item M, which specifies audible noise at a distance of five feet from a residential property;
54 and Item E, which specifies plainly audible noise at a distance of 50 feet from any person.

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1 Lynn Wolff, a taxi owner, said the ordinance should be worded so a neighbor can't create a
2 vendetta, and suggested exempting licensed businesses or designating different rules for
3 commercial zones.

4
5 Brent Berry, of 1325 ? (unintelligible), distributed copies of Lincoln County's noise ordinance to the
6 Council because he said it's the sheriff that will be dealing with the problem at night, and he felt
7 the City's ordinance should follow the County's guidelines. A Councilor described her personal
8 experience of having a sheriff being unable to enforce the County's noise ordinance within City
9 limits.

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11 Joren Rushing, resident and homeowner for about 18 years and a professional musician, said he
12 was lead to believe in the newspaper that music would be shut down at 10 PM and was delighted to
13 hear that was not correct. He asked the Council to be sensible with balancing the noise ordinance
14 with live music. He said he doesn't complain about boats starting up at 6 AM.

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16 A J Mattila said it was a moot point. He passed three copies of a news clipping (copy attached to
17 original of these minutes) to the Council. He said the City relies on outside income, and we need to
18 think about the people who bring us that income. A "silly ordinance" banning their pleasure might
19 cause them to not come to Depoe Bay.

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21 Teresa Hanson, a resident for 10 years, said she would like to see an 11 PM limit because 10 PM is
22 too early.

23
24 Vance ? (unintelligible), a seven-year resident who "lives on the ocean" as a fisherman, asked the
25 Council to keep an open mind for people who are just trying to make a living in construction, which
26 often occurs evenings and weekends.

27
28 Margaret (?), of 3700 Hwy 101, asked if the noise ordinance was being considered only because of
29 the community hall. Mayor Connors responded no, there have been problems in the past and the
30 City needs an ordinance so people can be told they need to adhere to it.

31
32 Staff was directed to ensure comments provided at tonight's meeting are included when sending
33 the draft ordinance to the City Attorney for review.

34 IX. NEW BUSINESS

35 A. Harbor Lights OLCC Application

36 Bob Blessinger, new owner of Harbor Lights, was present to answer questions on his application for
37 full on-premise sales (copy attached to original of these minutes).

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39 Motion 5: Leff moved to recommend granting the license. Lewis seconded the motion.

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

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43 Vote: Motion 5 passed.

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45 Ayes: Cameron, Hoitink, Leff, Connors, Goddard, Lewis, Zimmerman

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47 Mr. Blessinger said the OLCC told him the City of Depoe Bay has always been good to work with.

48 B. Lincoln County Grant Opportunities

- 49 • Community and Economic Development Fund
- 50 • Emergency Preparedness Matching Grant Program

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52 Murray said notice was received for two grants (copies of notices attached to original of these
53 minutes). The economic development grant has a limit of \$15,000, and Murray suggested a "good
54 fit" project would be replacement of finger piers at the harbor, which has been budgeted for this
55 year. The deadline to submit an application is Friday, October 26. There was brief discussion.

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2 Motion 6: Leff moved to direct Staff to apply for the Lincoln County Community and Economic
3 Development Fund grant to help cover the cost of replacing electric pedestals at the harbor.
4 Goddard seconded the motion.

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6 Mayor Connors said it was moved and seconded, and called for discussion. There was none.

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8 Vote: Motion 6 passed.

9 Ayes: Cameron, Hoitink, Leff, Connors, Goddard, Lewis, Zimmerman

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11 Murray said the City received funding for emergency supplies last year. Applications will be
12 accepted between December 1, 2012 and March 1, 2013, so there is plenty of time to think about
13 what to apply for. This item was tabled to the next meeting for discussion.

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15 X. CORRESPONDENCE

16 There were three items of correspondence (copies attached to original of these minutes): 1) An
17 email from Andrea Klinko offering to sell her parents' house at 648 SE Painter Lane to the City for
18 \$90,000 for storage of emergency supplies. 2) A thank you letter from the Chamber of Commerce
19 for the Salmon Bake. 3) An email from City Planner Larry Lewis, forwarding updates on the
20 Department of Land Conservation's Visual Resources Inventory for the Territorial Sea Plan.

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22 XI. CITY STAFF REPORT

23 Owings reviewed his written report (copy attached to original of these minutes), providing updates
24 on smoke testing of the sewer system, replacement of the flag pole at City Hall, the outdoor
25 warning system, replacement of dock 1, and the information he was asked to obtain regarding a
26 fish grinder and the State Marine Board's definition of commercial use. Commercial use was defined
27 as:

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29 *Any regular or non-incident activity or event at an improved public boating facility that is*
30 *conducted by a business, concessionaire, or any non-public entity for the purpose of selling*
31 *products or providing goods or services for a profit or private financial gain. Examples*
32 *include permanent or portable stores, restaurants, shops, commercial fishing, ocean charter*
33 *boat, fish cleaning services, tour or excursion boats, shuttle services, ticket sales, watercraft*
34 *rentals.*

35
36 Owings also noted that Garibaldi, Newport, Winchester Bay, and Gold Beach do not allow
37 commercial or charter fish waste at their harbor facilities. He said there is a \$5,000 grant
38 possibility for a fish grinder, but the City would have to prove why a grinder is better than file
39 tables, and \$5,000 wouldn't go far toward a good grinder. Owings also summarized research done
40 by wastewater treatment plant (WWTP) operator Gary Walls who calculated fish carcass disposal
41 loads to the WWTP from the fish cleaning station (FCS) only, which were estimated to exceed plant
42 limits by 200%. There was brief discussion, during which no resolution was found to the problems
43 of fish carcasses in the dumpster and odorous mess at the FCS.

44
45 Murray requested the Council consider submitting a State Transportation Improvement Plan (STIP)
46 application for 2015-2018, as well as the Oregon Bike & Pedestrian grant the City is in the process
47 of applying for, for funding of the South of the Bridge Highway 101 Pedestrian Improvement
48 Project. The deadline for submission of the STIP application is November 27.

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50 Motion 7: Leff moved to direct Staff to submit application to the STIP 2015-18. Goddard seconded
51 the motion.

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53 Mayor Connors said it was moved and seconded, and called for discussion. There was none.

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55 Vote: Motion passed.

1 Ayes: Cameron, Hoitink, Leff, Connors, Goddard, Lewis, Zimmerman

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3 XII. COUNCIL COMMENTS

4 Leff spoke briefly about a Corps of Engineers report on the South Creek revetment, which suggests
5 the City have an emergency response plan, and asked if vegetation was going to be removed.

6 Owings replied that it would.

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8 XIII. ADJOURN

9 There being no further business, the meeting was adjourned at 8:33 PM.

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Carol Connors, Mayor

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19 Emma LuMaye, Recording Secretary