

1 Depoe Bay City Council
2 Regular Meeting
3 Tuesday, February 17, 2015 - 7:00 PM
4 Depoe Bay City Hall

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7 PRESENT: President S. Olsen, J. Fisher-Brown, R. Gambino, J. Grant, S. Sparks, K. Wyatt

8

9 ABSENT: Mayor A. J. Mattila

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11 STAFF: City Recorder P. Murray, City Superintendent B. Weidner, City Planner L. Lewis

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13 I. PLEDGE OF ALLEGIANCE

14 President Olsen called for all to stand for the Pledge of Allegiance.

15

16 II. CALL TO ORDER

17 President Olsen opened the meeting at 7:00 PM. He said Mayor Mattila was unable to attend tonight's
18 meeting due to having surgery, but was fine and would be at the next meeting. He asked Murray to call
19 roll, and then established a quorum.

20

21 III. APPROVE MINUTES: February 3, 2015 Regular Meeting

22 Motion 1: Grant moved to approve the minutes. Gambino seconded the motion.

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24 President Olsen said it was moved and seconded and called for the question.

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26 Vote: Motion 1 passed.

27 Ayes: Fisher-Brown, Gambino, Grant, Olsen, Sparks, Wyatt

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29 IV. ACCOUNTS PAYABLE

30 Motion 2: Gambino moved to approve Accounts Payable as presented. Wyatt seconded the motion.

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32 President Olsen said it was moved and seconded, and called for the question.

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34 Vote: Motion 2 passed.

35 Ayes: Fisher-Brown, Gambino, Grant, Olsen, Sparks, Wyatt

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37 V. SPECIAL ORDERS

38 A. Public Hearing: Receive Public Input on Regulations for Medical Marijuana Facilities

39 President Olsen said the City was taking public comment on the regulation of medical marijuana
40 facilities, and called for any public comments from the audience. An unidentified audience member
41 came to the podium. He stated the draft regulations (copy attached to original of these minutes) include
42 this statement: "A medical marijuana facility may not be located within 1,000 feet of a public or private
43 facility attended primarily by minors." He questioned the words "attended primarily", asking what that
44 means; he suggested adding "community centers" to a short list of examples including things like
45 "schools" and "parks", thereby eliminating all ambiguity for Neighbors For Kids, which has been
46 authorized by the Planning Commission to operate as a community center. President Olsen questions
47 whether a portion of the retail strip would be included in a 1,000 foot radius from the Community
48 Hall; Lewis did not think it would; President Olsen wanted to check to make sure. There was discussion
49 about the legal definition of a minor; audience member Beatrice offered: a minor is under the age of 21

1 and a juvenile is under the age of 18. President Olsen suggested Lewis take all these commentaries and
2 hard-scrabble it into language for the next meeting. There was no objection. There was discussion
3 regarding medical vs. recreational marijuana locations; President Olsen said the subject will likely need
4 to be revisited at a later date to insert new language in the Business License Ordinance.

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6 Motion 3: Grant moved to adopt the potential regulations as drafted in II.A and II.B. Wyatt seconded the
7 motion.

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9 President Olsen said it was moved and seconded, and began discussion by suggesting an amendment to
10 Grant's motion to include adding "community centers" and "children and/or minors" as discussed. Grant
11 hesitantly said it was OK, and then shared his personal opinion on legal age permissions. President
12 Olsen called for any further discussion on medical marijuana; hearing none, he closed the public
13 hearing. Fisher-Brown asked if written testimony would be accepted from people watching the
14 video; Murray said it would. Grant established this was a request by Fisher-Brown to keep the record
15 open. President Olsen said the public hearing could be continued to the next meeting and Lewis could
16 make the changes as discussed. He said the changes are going to result in an Ordinance amending the
17 Business License Ordinance. At the next meeting we can work through any more comments and start the
18 adoption process. Grant withdrew his motion out of respect for Fisher-Brown's wishes, until the next
19 meeting. Wyatt accepted the withdrawal. Gambino agreed to leave the record open; then asked
20 rhetorically if isn't common knowledge that the public can always submit written concerns and
21 comments to the City. It was the consensus of the Council to leave the public hearing open until the next
22 meeting, and to repost the public hearing notice with an added line that written comments will be
23 accepted. Lewis confirmed the changes the Council wants him to make to the draft regulations; Fisher-
24 Brown requested an additional change, to item II.E.2. No minors under the age of ~~18~~ **21** are allowed
25 within the premises during hours of operations, ~~unless accompanied by an adult.~~ There was discussion
26 about this change; the Council was in agreement that minors do not need to be on the premises of a
27 medical marijuana facility. There was additional discussion about child-resistant packaging and
28 advertising. Fisher-Brown said there's a town hall meeting in Newport on Wednesday, March 11 from
29 7-9 PM, and said she thought this subject would be one of the things being addressed; she encouraged
30 any interested persons to attend and provide their comments or concerns.

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

32 Gambino reported he and President Olsen attended a meeting where Senator Merkeley and
33 Congressman Schrader were present to hear testimony on the Newport helicopter, which has had a
34 year's stay-of-execution for termination of services. The meeting was well represented by Newport
35 Fishermen's Wives, and local city and port officials. Merkeley and Schrader, who were very well
36 briefed, will return to Washington D.C. with the testimony provided. They also attended a second
37 meeting with Merkeley, Schrader, and city officials for discussion of city issues not related to the Coast
38 Guard helicopter.

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40
41 Sparks reported on the Waste Water Advisory Committee meeting, which he said was a great meeting
42 with no disagreements on anything except language in one paragraph of the Recitals. He thought the
43 most important part of the meeting was the discussion on reserve funds for maintaining and upgrading
44 the system. President Olsen added that it was a good, productive meeting.

45 VII. PUBLIC COMMENTS

46 Jessie Caldwell 107 South 40 Lane, has owned her home for 30 years, but only recently become a full-
47 time resident. She addressed the Council regarding her concern about Allen & Sons Paving, who
48 recently sold their building and are no longer there. She said there is a large pile of chemical, oil, and
49

1 other stuff on the ground that's all been piled on top of the hill. She is concerned about contaminated
2 run-off from the property into the creek. Weidner said the creek is a secondary water source, and if some
3 chemicals have leached into the ground it could get into the creek's water table and cause some
4 problems. He suggested taking some water samples and see what the results are. There was discussion
5 about Ordinance enforcement; Weidner said he needs documentation before he can do anything. Ms.
6 Caldwell said there are also two refrigerators sitting outside with the doors still on; this should be
7 reported to Lincoln County. Grant asked if this was on private property; Weidner said yes. Wyatt
8 questioned whether this should be directed back to the previous owner of the property for
9 resolution. Fisher-Brown said the first thing is to get the refrigerators out of there. Weidner explained
10 that the intake he'd be taking samples from is down by the gazebo; President Olsen expressed a concern
11 about the presence of the toxic chemicals, and whether or not they've leached into the water. Grant
12 asked if there was a downstream location in the public right-of-way where a core sample could be
13 taken; Weidner said maybe by the basketball hoop. Grant suggested calling DEQ for guidance. President
14 Olsen directed Weidner to take pictures at the site, get water samples, and revisit this subject at the next
15 meeting. He also said the property owner should be notified because it's their problem. Sparks expressed
16 concern over this new dangerous situation, and wondered if the Council shouldn't be more proactive
17 instead of waiting for an accident to happen. President Olsen said the City's Enforcement Officer
18 happens to be the the City Superintendent; the Superintendent is in a position to go save people when
19 there's a problem on their property, but as the Enforcement Officer, there's a conflict. Weidner said the
20 public needs to come forward and submit complaints; he can enforce Ordinances as soon as there's a
21 written complaint. He said that 98% of the time it's the public that lets the City know about issues that
22 need attention. Grant said this was a matter of public health, and clean water and clean air are a basic
23 strategy. This item will be revisited at the March 3 meeting.

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25 Bert Sperling 555 Point Avenue, said he and his wife help people find nice places to live. He provided
26 some background information on himself. He asked the Council to consider that Depoe Bay has some
27 unique characteristics, and finding things that are unique and special is rare in this world. He talked
28 about advertising and promotion, and how different Depoe Bay is from the rest of the Pacific Coast, and
29 from the rest of the state. He's been thinking about this for a long time, and just wanted to share. He was
30 willing to assist the City as an advisor, and recommended the City contact business managers at KOIN,
31 KATU, and KGW and tell them we are considering putting in a webcam and asking if they'd be
32 interested in putting in hardware for lights for a period of time, to see what kind of competitive
33 atmosphere results. Grant spoke about how wonderful Depoe Bay is. Mr. Sperling said that growth for
34 growth's sake often destroys that which was appealing in the first place; but also said that the Oregon
35 Coast can use some economic vitality.

36

37 VIII. UNFINISHED BUSINESS

38 A. Vista Pump Station Wastewater Force Main Replacement/Upgrade Project

39 Weidner reported final plans from the engineer were received today, and need to be reviewed. He
40 expressed a desire to get this project going, and requested the Council's authorization to move forward
41 with an RFP (Request For Proposals) after reviewing the engineer's plans.

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43 Motion 4: Wyatt moved to authorize Staff to review the documents and go forward as they see fit.
44 Sparks seconded the motion.

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46 President Olsen said it was moved and seconded, and called for discussion. Hearing none, he called for
47 the question.

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49 Vote: Motion 4 passed.

1 Ayes: Fisher-Brown, Gambino, Grant, Olsen, Sparks, Wyatt

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3 B. Traffic Safety – Shell Avenue

4 Weidner reviewed his memo to the Council dated 2/13/15 (copy attached to original of these minutes),
5 saying that the proposed speed bumps do not meet road and highway standards for the State of Oregon,
6 as they are intended for use in places like driveways and trailer courts. He stated his desire to get
7 sidewalks, crosswalks, pedestrian ramps, and a new overlay on Shell Avenue. In the meantime, a speed
8 limit sign and/or watch for children signs can be placed. President Olsen recommended passing this item
9 to the Traffic Safety Commission (TSC) for their recommendation. Sparks said the Neighbors For Kids
10 Board talks about this every summer, and it's an emotional issue for him. He would like to see the speed
11 limit set at 15 MPH. Wyatt thought this should be taken care of now, by installing a sign, which doesn't
12 cost a lot and should solve the problem. Weidner will install a reflective watch for children
13 sign. President Olsen said Mayor Mattila was interested in seeing a stop sign installed on Shell Avenue
14 at the corner of South 40 Lane, and he would like to see this investigated, and thought the TSC should
15 look into it. There was discussion about the cost of sidewalks vs. speed humps; Weidner said there are
16 other issues involved with speed humps that can become safety issues in certain circumstances. Grant
17 agreed that speed humps were not the best solution for that road, and said to his knowledge there has
18 never been an accident on Shell Avenue. He suggested having a single yellow light and only allow
19 alternating one-way traffic. Fisher-Brown was just on Shell Avenue today, and commented on how
20 extremely narrow it is in some areas, and said she didn't think a light was a feasible solution because
21 you can't see traffic coming from around the corner. Knowing there's a potential problem from
22 anecdotal evidence, she didn't want to wait until there's an accident to take action. She wanted to look
23 into the feasibility of separating foot traffic from vehicle traffic, saying this would take care of a
24 problem before it happens. Sparks said we should do something with signage right away. Grant said the
25 existing speed limit of 25 MPH is not safe on that road, and agreed with Sparks that the speed limit
26 should be 15 MPH. Murray said that can be changed through a Council Resolution.

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28 Motion 5: Wyatt moved that we put two signs that emphasize caution: children on each side of the
29 highway, with a budget of no more than \$250. Gambino seconded the motion.

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31 President Olsen said it was moved and seconded, and called for any other comments. This matter is
32 referred to the TSC for recommendation. Gambino wanted to comment, not as part of the motion, that
33 the TSC would be meeting as soon as possible to talk about this. Wyatt commented that the flashing
34 light on South Point is an attention-getter; Murray said it costs the City about \$30 per month. Weidner
35 said there are newer versions of solar-powered lights with caution signs that cost around \$1,000, and
36 such a sign would pay for itself in a short time; he suggested discussing this at budget time. President
37 Olsen called for the question.

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39 Vote: Motion 5 passed.

40 Ayes: Fisher-Brown, Gambino, Grant, Olsen, Sparks, Wyatt

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42 There was brief discussion about sign verbiage and speed limits

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44 IX. NEW BUSINESS

45 A. Proposed State Marine Board Facility Grant Agreement - #1517 – Pump-Out/Dump Station
46 Replacement Project

47 Weidner reported the City has been awarded a grant for replacement of the pumpout/dump station at the
48 harbor. Murray said the entire grant is \$45,000. The State Marine Board will provide a project estimate.
49 At the time of the grant, there was no match required. If the project can be done for less than \$45,000,

1 we won't have to spend any of the City's money. Gambino said there wasn't a lot of time to get the
2 project done before June 30.

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4 Motion 6: Fisher-Brown moved to approve the grant and authorize Olsen to sign it. Gambino seconded
5 the motion.

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7 President Olsen called for further discussion. Grant clarified that anything over the amount of the grant
8 would be paid by the City. There was no further discussion, and President Olsen called for the question.

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10 Vote: Motion 6 passed.

11 Ayes: Fisher-Brown, Gambino, Grant, Olsen, Sparks, Wyatt

- 12
13 B. Proposed Res. #440 – A Resolution Calling for an Election on May 19, 2015 for the Purpose of
14 Referring to the Voters of the City of Depoe Bay, Oregon, a Measure Proposing an Amendment
15 to the City Charter of 1976

16 President Olsen referred to attorney correspondence which explained that “ceasing to reside in the City”
17 is enough to handle the issue. Murray said the Council assigned a committee in the 1990s to look at the
18 City Charter, and they came up with so many changes, they created a “clean” document to replace the
19 old one. This was too much for the voters, and it was not approved. She said it's important that it's very
20 clear what will be changed. President Olsen asked if everyone had a chance to read the attorney's
21 correspondence and whether there were any questions on it; there were no questions.

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23 Motion 7: Fisher-Brown moved to accept the changes as they're outlined in the confidential document
24 that was provided to the Council members, and amend the City Charter to reflect these changes.
25 Gambino seconded the motion.

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27 President Olsen said it was moved and seconded to accept the lawyer's recommendations, and he took it
28 that the motion also gives City Staff authorization to move forward with the Resolution process in order
29 for us to place it on the May 19 ballot. Murray said the proposed Resolution was drafted by the City
30 Attorney, and the only difference in what the attorney drafted was in Exhibit A, Section B, Item 2. There
31 was brief discussion about the language. Grant asked for a clear reading for the record. Murray noted
32 that what she read from Exhibit A was what would go on the ballot for approval by voters to change the
33 City Charter: “A *Ballot Measure for a City Council Referral to the voters of the City of Depoe Bay. Be it*
34 *enacted by the people of Depoe Bay, Lincoln County, Oregon, as follows. Section 32 of the City of*
35 *Depoe Bay City Charter of 1976 is replaced in its entirety with the following:*”

36 ***Section 32. Vacancies.***

- 37 ***A. The office of Mayor or Councilman shall be deemed vacant upon the incumbent's***

38 ***1) death***

39 ***2) adjudicated incompetence***

40 ***3) conviction of a felony, other offense pertaining to his office, or unlawful destruction of***
41 ***public records, or***

42 ***4) recall from office***

- 43 ***B. The office of Mayor or Councilman shall also be deemed vacant upon declaration by the***
44 ***Council after the incumbent's***

45 ***1) resignation***

46 ***2) ceasing to be a qualified elector of the City within the meaning of the State Constitution***

47 ***3) failure of the person elected or appointed to the office to qualify therefore within 10 days***
48 ***after the time for his term of office to commence***

49 ***4) ceasing to reside in the city***

- 1 **5) absence from the City for 30 days without the consent of the Council, or**
2 **6) absence from meetings of the Council for 60 days without the consent of the Council'**

3
4 Murray clarified this is what would be in the City Charter if the voters approve it. There was brief
5 discussion about the explanatory statement that accompanies ballot measures. Gambino didn't think the
6 verbiage was strong enough to meet the intent of the changes. There was additional discussion. President
7 Olsen called for the question.

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9 Vote: Motion 7 passed.

10 Ayes: Fisher-Brown, Gambino, Grant, Olsen, Sparks, Wyatt

11
12 Murray said in order to start the ball rolling, the Resolution needs to be adopted, and asked for
13 clarification of whether the Council wants to stay with "*within the meaning of the State Constitution*" or
14 go back to "*under State law*" before a motion to adopt. She said upon adoption of the Resolution, with
15 or without changes, that starts the ball rolling to getting the measure onto the ballot. There was
16 discussion regarding the clarification Murray asked for.

17
18 Motion 8: Grant moved to adopt the Resolution as a Council, with this change in Exhibit A. Section B.
19 2) to change it from "~~*ceasing to be a qualified elector of the city within the meaning of the State*~~
20 *Constitution*" to "***ceasing to be a qualified elector of the city under State Law.*** Wyatt seconded the
21 motion.

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23 President Olsen said it was moved and seconded, and called for further discussion. There was none.

24
25 Vote: Motion 8 passed.

26 Ayes: Fisher-Brown, Gambino, Grant, Olsen, Sparks, Wyatt

27
28 C. Salmon Enhancement Program Grant Opportunity

29 Beanie Robison Salmon Enhancement Commissioner, addressed the Council regarding a STEP (Salmon
30 Trout Enhancement Program) grant opportunity (copy of handout attached to original of these minutes).
31 The application would be needed to be submitted within the next 30 days. He felt the best use for the
32 funds if the grant were awarded, would be for fish pen and dock replacement at the reservoir. Sparks
33 thought it was a great opportunity, and that safety comes first so get the dock fixed. President Olsen
34 noted this was an FYI item, not an action item. Sparks also noted that this is a great educational
35 opportunity for kids, and he was nothing but enthusiastic about it. President Olsen confirmed with
36 Robison that the Salmon Enhancement Commission would be meeting to further discuss this on
37 Monday, and then bring it back to the Council for action. Weidner will take Councilors on a tour of the
38 reservoir Monday morning at 10:00.

39
40 X. CORRESPONDENCE

41 President Olsen held up a reminder the Council received about SEIs (Statements of Economic Interest)
42 coming in March, noting the importance of completing the document. Murray said this is the last time
43 the notices will be mailed; starting next year, everyone will have to go online to file. She cautioned
44 Councilors not to fill out the sample if they go online this year, as it will be rejected.

45
46 Murray said there was one item of correspondence (copy attached to original of these minutes) – a letter
47 from Neighbors For Kids regarding a Family Literacy Event they are hosting on February 21 from 10:00
48 AM to 1:00 PM. There will be activities and booths.

1 XI. CITY STAFF REPORT

2 Weidner reported 1) He's getting price quotes for the emergency communications trailer supplies,
3 including first aid equipment from a local company out of Klamath Falls. He hopes to have it all
4 together by the next meeting and get the grant application finished. 2) Crew is taking advantage of the
5 good weather to get some outside projects done.

6
7 Murray reported we have the RFP for software proposals out, and it closes on March 6. We also have an
8 RFP out for a City Attorney, that one closes March 4. We haven't put out an RFP for a harbor fuel
9 supplier yet. There was brief discussion about the software RFP.

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11 XII. COUNCIL COMMENTS – Lessons Learned

12 Gambino saw the vacuum trailer in action, and it is awesome. It'll be worth every penny we spent.

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14 Grant entreated the President to look at getting an item back on the agenda – a credit card surcharge for
15 fuel purchases at the harbor. He asked Staff to supply how much is being paid in credit card fees at the
16 harbor for quantitative fact, and wants to be able to pass that surcharge along to the purchasers of
17 fuel. President Olsen asked Murray if there wasn't something saying we couldn't do that, but we could
18 offer a discount for cash; Murray responded that there were a lot of details in the attorney
19 correspondence on that issue and she didn't know the answer to that particular question. She said this
20 item hasn't re-appeared on the agenda because the Mayor indicated he wants the subject of a harbor fuel
21 credit card surcharge to be passed to the Harbor Master Plan Advisory Committee. There was additional
22 discussion about credit card fuel purchases, and the attorney's recommendations. President Olsen said
23 he would talk to the Mayor about this, and asked Murray if the RFP for fuel supplier would be out
24 before the next Council meeting; she said it would. Murray said she and Weidner are working on
25 creating a list of who to request a proposal from. Murray will re-distribute the attorney's
26 recommendations when RFP results are brought to the Council.

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28 XIII. ADJOURN

29 There being no further business, the meeting was adjourned at 9:08 PM.

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Seth Olsen, President

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38 Emma LuMaye, Recording Secretary