

1 Depoe Bay City Council
2 Regular Meeting
3 Tuesday, October 6, 2015 - 7:00 PM
4 Depoe Bay City Hall

5
6 PRESENT: Mayor A.J. Mattila, J. Fisher-Brown, R. Gambino, J. Grant, S. Olsen, C. Teem

7
8 ABSENT: S. Sparks

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10 STAFF: City Recorder P. Murray, City Superintendent B. Weidner, Interim City Attorney
11 P. Gintner

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13 I. PLEDGE OF ALLEGIANCE

14 Mayor Mattila called for all to stand for the Pledge of Allegiance.

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16 II. CALL TO ORDER

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

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19 III. APPROVE MINUTES: September 15, 2015 Regular Meeting and Executive Session, and
20 September 21, 2015 Special Meeting

21 Motion 1: Olsen moved to approve the minutes of the September 15 Regular Meeting. Gambino
22 seconded the motion.

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24 Mayor Mattila called for the question.

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26 Vote: Motion 1 passed.

27 Ayes: Gambino, Grant, Mattila, Olsen, Teem

28 Abstain: Fisher-Brown

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30 Motion 2: Olsen moved to approve the Executive Session minutes from September 15. Gambino
31 seconded the motion.

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33 Mayor Mattila called for the question.

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35 Vote: Motion 2 passed.

36 Ayes: Gambino, Grant, Mattila, Olsen, Teem

37 Abstain: Fisher-Brown

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39 Motion 3: Olsen moved to approve the minutes from the September 21 Special Meeting. Gambino
40 seconded the motion.

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42 Mayor Mattila called for the question.

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44 Vote: Motion 3 passed.

45 Ayes: Fisher-Brown, Gambino, Grant, Mattila, Olsen, Teem

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47 IV. ACCOUNTS PAYABLE

48 Motion 4: Gambino moved to approve Accounts Payable as presented, with one correction to Page 2:
49 reimbursement to Fred Robison should be \$94.94 instead of \$110.09. Olsen seconded the motion.

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Mayor Mattila called for the question.

Vote: Motion 4 passed.

Ayes: Fisher-Brown, Gambino, Grant, Olsen, Sparks, Teem

V. SPECIAL ORDERS

There were no Special Orders. Mayor Mattila noted the City’s interim attorney was present and asked him to introduce himself. Pete Gintner briefly addressed the room and introduced his colleague Corey, who may be helping with some of the work over the next couple of months.

VI. REPORTS OF OFFICERS, BOARDS, OR STANDING COMMITTEES

There were no Reports.

VII. PUBLIC COMMENTS

Loren Goddard 15 SW Ellingson Street, tendered his resignation from the Harbor Commission and read his letter of resignation to the Council (copy attached to original of these minutes).

Bill Smits 1445 SW Walking Wood, addressed the Council regarding his dissatisfaction with Wave Broadband service (copy of written statement attached to original of these minutes). Mayor Mattila said the City could write a letter to Wave over Mr. Smits’ dissatisfaction. Grant asked if there’s any remedy through Ord. 230 for the City as franchisor; Murray said Ord. 230 is the Wave franchise ordinance, and typically there’s a remedy provided in franchise agreements. Olsen noted that the more complaints there are, the more power the City has to resolve the situation. Gambino said he also has been having problems with Wave service for several months, and that one of the technicians identified the problem area as somewhere around the bridge, with the exact location unknown. Fisher-Brown said she has also been having problems with her internet service recently, and she sympathizes with those experiencing issues; a technician told her the same thing as Gambino was told, and that they really want to get it fixed. An unidentified speaker in the audience said there has been no communication from Wave on the problems, but he did receive a notice of rate increase. Gintner said although he is not familiar with Ord. 230, generally with the franchises he has dealt with you can usually progressively enforce the agreement. This may start with a letter, or having a Wave representative attend a Council meeting, or giving Wave a 60-day notice. Grant said to speed the potential motivation up, we not just ask Counsel to review the Ordinance and report his opinion, but also start the process by putting a fire under Wave by checking what remedies there are, and citing numerous written complaints to the City provide Wave with the next logical step of what the City can do if the problems aren’t remedied.

Motion 5: Grant moved to direct Counsel to find who the best person is to write a letter to, and write a letter citing numerous complaints in the City, and if there’s a remedy for the City if the complaints continue, cite that also. Fisher-Brown seconded the motion.

Discussion: Olsen addressing someone in the audience, asked them to write a letter and ask their friends to write letters. Gintner said he will give them a warm and fuzzy warning, letting them know they are on our radar screen, and under the agreement, we intend to fully pursue any remedies we have available.

Vote: Motion 5 passed.

Ayes: Fisher-Brown, Gambino, Grant, Mattila, Olsen, Teem

1 Eddie Edwards 1270 SW Walking Wood, thanked the Council for the amount of time they spent on this
2 issue.

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4 Pat Dunlop 1275 Walking Wood, reported on senior activity at the Community Hall. She also discussed
5 her handout (copy attached to original of these minutes) on blue lines painted on curbs to show support
6 for police. Since submitting the handout, she has learned that these blue lines can create confusion
7 because “locates” for water are also blue; also there is a concern that the people inside might come out
8 to back the police, when the police would rather have them stay inside. She asked if she can paint her
9 curb. Weidner said she would have to ask ODOT. Ms. Dunlop felt the City was passing the buck, and
10 asked why she can’t just paint a 1½ inch stripe on the curb of her sidewalk, as she thinks it’s a nice
11 move and thinks it’s time the police got some support because they’re getting a bad rap. Mayor Mattila
12 suggested Ms. Dunlop use some blue chalk to make her lines, as it’s water soluble and won’t deface
13 public property. Grant said the sentiment behind putting the line there sends a great message to the
14 community at large. He also suggested calling a police union to find out if there’s some gesture the City
15 could do to show support for police services. Gintner said this would be ODOT’s jurisdiction. Weidner
16 offered to contact ODOT’s maintenance department in Ona Beach to ask if there would be any harm in
17 this.

18 19 VIII. UNFINISHED BUSINESS

20 A. Washington D.C. Trip

21 Mayor Mattila said this is one of the most important things we can do for our City. He referred to items
22 from a packet he’d had distributed to the Council (copy attached to original of these minutes), which he
23 felt would be most appropriate to discuss in Washington D.C., as he felt the potential for catastrophe
24 was high if the issues are not addressed. These items included upgrades to the Water and Wastewater
25 Treatment Plants and collection systems, and harbor docks and seawall. He felt very strongly that action
26 needs to be taken now. He said he’d made an appointment to meet with Senator Wyden on October 21
27 (copies of emails attached to original of these minutes). Olsen said he has been a firm believer in
28 sending the Mayor to Washington D.C., as well as in taking steps to put the harbor on a different
29 footing, and being an advocate for infrastructure repair. He referred to a meeting held in the Council
30 Chambers in May, with the Mayor, himself, Murray, and Weidner in attendance at the teleconference
31 with the Council’s lobbyist in Washington D.C. At the meeting, the possibility of going to Washington
32 D.C. was discussed, as well as a strategy advised by experts, which included first approach and go
33 through the process with State Representatives, and with the National Representatives when they were
34 in Oregon in August; and that these things should be done in advance of a trip to Washington D.C.
35 There were a lot of things going on this summer, and those visits and contacts were not made. He said
36 on September 1, the Council decided to follow the experts’ recommendations and get all the details
37 ready and to our Representatives. When that didn’t happen, it was voted to postpone the trip until
38 sometime in the spring. He referred to the emails occurring after September 1 regarding going to
39 Washington D.C. He said he firmly believes that Mayor Mattila is one of the few people that could pull
40 it off; but he wondered how the Council got to a place where it didn’t follow the experts’ advice, even
41 after voting on it. He said he spoke with our expert Mr. Buchegar on Friday, and that nothing had
42 changed – you see your local Representatives first, work with your grant writers, assemble your package
43 and have them help find out who the targets are, send the targets to Washington D.C., and then follow
44 up with a trip after all the documentation’s been vetted and followed up by the State and local people.
45 He asked the Mayor was why there was such an urgency. Mayor Mattila said he sees the gravity of what
46 is facing us and how urgent it is to reach out to the people that can get us grant monies and whatever
47 other monies might be available to us. Teem asked, as a Councilor who was not present for previous
48 discussions on this issue, what the specific goal was for this trip. Mayor Mattila said Senator Wyden not
49 only told him he’d grant him an audience, but would also direct him and our Staff to the people to talk to

1 for funding and how to go about getting it. Gambino noted that getting funding would take years. He
2 said a trip to Washington D.C. now would be likely to cost between \$5,000 and \$8,000, but that would
3 be a drop in the bucket for the possibility of a response being positive. He said the other option would be
4 to wait two-three years and see what subcommittees come up with, which is something he felt should
5 definitely be done as well. He said a quick trip to Washington D.C. now to see what we can do would be
6 relatively cheap. Fisher-Brown wanted to add for the record that her previous vote is on record, and she
7 hasn't changed her mind since then. She said she had mentioned it was a leap of faith, but it's more than
8 that – the Mayor got an invitation, and there are a lot of different ways that business is done, and old
9 school is getting things done face to face with a handshake, and in one way that's what we've already
10 got from Senator Wyden, Senator Merkley, and our Representatives. She felt it was important to make
11 this trip to freshen up their memories of who we are and what we are in Depoe Bay.

12
13 Motion 6: Gambino moved to send the Mayor to Washington D.C. on that particular date, and he would
14 estimate two days attendance at Washington D.C. and a day travel in both directions for four days total.
15 He knows it's going to be very expensive, so up to a maximum of \$8,000 for the trip. Fisher-Brown
16 seconded the motion.

17
18 Discussion: Grant stated he was of a similar mind as Olsen, and didn't think this would be the greatest
19 time to go to Washington D.C. because end of session is coming. He foresees that if the trip were made
20 and nothing came of it, we'd be back looking at another trip to Washington D.C., so if this is the one
21 shot, it may not be the best time to go. He wondered if there was any money there to ask for. Mayor
22 Mattila appreciated Grant's wisdom. He said 2016 is an election year and the people in Washington
23 D.C. are not going to be interested in people on West Coast because they'll be concerned about the votes
24 they can garner. There was additional brief discussion, then Mayor Mattila called for the question.

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26 Vote: Motion 6 failed to pass due to a tie vote.

27 Ayes: Fisher-Brown, Gambino, Mattila

28 Noes: Grant, Olsen, Teem

29
30 B. Host League of Oregon Cities Small Cities Region 1 Quarterly Meeting – November 6, 2015
31 Mayor Mattila said Depoe Bay has been asked to host the November 6 League of Oregon Cities (LOC)
32 regional meeting (copies of emails from Kristie Maracek attached to original of these minutes). He
33 would like to use our Community Hall for the meeting, with an anticipated attendance of around 20
34 people for whom we would provide lunch. He said the LOC meetings he's attended have been catered,
35 with little sandwiches and a vegetable tray brought in. He said if somebody would make a motion for
36 \$300 for the luncheon, we'll make it work.

37
38 Motion 7: Grant made that motion. Gambino seconded the motion.

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40 Mayor Mattila called for the question.

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42 Vote: Motion 7 passed.

43 Ayes: Fisher-Brown, Gambino, Grant, Mattila, Olsen, Teem

44 IX. NEW BUSINESS

45 A. Proposed Updated Natural Hazards Mitigation Plan (NHMP)

46 Murray said the plan was originally adopted by Lincoln County five years ago, and the process requires
47 a five-year review, which is before the Council tonight, with a cover memo from City Planner Larry
48 Lewis and Res. #445 (copies attached to original of these minutes), which Lewis is asking the Council to
49

1 adopt. Adoption of the Resolution accepts the Depoe Bay section of the update of Lincoln County's
2 NHMP.

3
4 Motion 8: Olsen proposed we adopt Res. #445 today, October 6. Gambino seconded the motion.

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6 There was no discussion.

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8 Vote: Motion 8 passed.

9 Ayes: Fisher-Brown, Gambino, Grant, Mattila, Olsen, Teem

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11 B. Proposed Ord. #304, An Ordinance Amending Ord. #292, the City of Depoe Bay Harbor
12 Ordinance; Revisions Sections 2.000 Harbor Commission and 3.000 Organization of the
13 Commission; and Declaring an Emergency

14 Murray said the draft Ordinance before the Council (copy attached to original of these minutes) was
15 based on Council discussion at the last meeting. She said Councilor Sparks asked via email, "Can we
16 add a section that supports the need for the Parks and Harbor Commissions to coordinate mutual
17 planning? The two Commissions have common interests on behalf of the greater good. It is time to push
18 for common community-building goals." There were attachments to the email, and Sparks asked that his
19 request be discussed. Olsen said the Parks and Harbor Commissions are different, and even though they
20 sometimes interact, he felt it important that the Harbor Commission work strictly on harbor issues and
21 not be distracted by other issues. There was brief discussion. Murray reviewed the proposed changes.

22

23 Motion 9: Gambino moved to approve Ord. #304 by having the Ordinance read by title only at this
24 juncture. Olsen seconded the motion.

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26 Discussion: Mayor Mattila said he really liked the founding fathers' version more than this verbose
27 version. He said what we did, in retrospect, was that we didn't use them ultimately in the way they were
28 designed to be. He would rather disband the Commission totally than to change the original
29 wording. Grant wasn't completely opposed to the Mayor's view, and would support vacating the entire
30 Commission and then re-appointing members at large, instead of just vacating four seats. He thinks the
31 harbor needs a voice with the Council, and it's an important voice. He hopes the Council receives
32 monthly reports, and if they ask for an action item we give them an up or down vote on it instead of
33 leaving it on the table. He said the draft Ordinance was well written. Mayor Mattila called for the
34 question.

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36 Vote: Motion 9 passed.

37 Ayes: Fisher-Brown, Gambino, Grant, Olsen, Teem

38 Noes: Mattila

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40 Murray performed the first reading of proposed Ord. #304 by title only, then called for questions or
41 comments; there were none. She said there was no written testimony received on the proposed
42 Ordinance.

43

44 Motion 10: Fisher-Brown moved to adopt on first reading. Gambino seconded the motion.

45

46 Mayor Mattila called for discussion; there was none. He called for the question.

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48 Vote: Motion 10 passed.

49 Ayes: Fisher-Brown, Gambino, Grant, Olsen, Teem

1 Noes: Mattila

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3 Murray said the motion to adopt passed, but not unanimously; therefore, the second reading will be
4 automatically set to the next Regular Council meeting. Olsen said he would like to put on the Agenda to
5 strategize how we advertise for the positions on the Harbor Commission if we adopt the Ordinance.
6

7 C. Draft Emergency Response Plan for Creek Bank and Harbor Bank

8 Weidner said he was directed by the Army Corps of Engineers (ACE) to come up with an emergency
9 response plan for creek bank and harbor bank protection (copy attached to original of these minutes). He
10 reviewed the proposed plan. On the Council's approval, he will forward the plan to ACE for their file.
11 There was brief discussion.

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13 Motion 11: Olsen moved to approve Brady Weidner's Emergency Response Plan for Creek Bank and
14 Harbor Bank. Gambino seconded the motion.

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16 There was no discussion; Mayor Mattila called for the question.

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18 Vote: Motion 11 passed.

19 Ayes: Fisher-Brown, Gambino, Grant, Mattila, Olsen, Teem

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21 X. CORRESPONDENCE

22 A. Janet and Duane Taylor – 705 Coast Avenue (one letter; copy attached to original of these
23 minutes.)

24 Murray said a letter was received from Janet and Duane Taylor, regarding water under their home (copy
25 attached to original of these minutes). Murray said the letter has been submitted to the City's insurance
26 and a claim has been filed with our insurance company. Weidner added that water under homes is pretty
27 common in Depoe Bay, and the normal protocols for finding water were followed; no chlorine residual
28 or fecal matter was found. On running a camera down the line, it was found that the nearby storm drain
29 that crosses Kent Street and Coast Avenue was in very poor condition. He replaced the culvert, two
30 catch basins, and the outfall pipe. During these repairs, City Crew uncovered a valve that fed the Kent
31 Street water line buried under the asphalt; the valve was found to be leaking. He said the insurance
32 company wanted to ensure the Council was aware of the situation; he will forward any information to
33 the Taylors as this moves on. Fisher-Brown noted that the investigation began when the Taylors noticed
34 unusually high water bills. Weidner responded that he hadn't heard that, but if they had high usage it
35 would have been their service line. There was brief discussion.

36
37 B. Sunset Street Parking (one letter; copy attached to original of these minutes)

- 38 ● Brook and Carolyn Douglas – 75 NW Sunset Street

39 Murray said an email was received from Brook and Carolyn Douglas regarding parking problems at 75
40 NW Sunset Street.

- 41
42 ● Inn at Arch Rock (three letters & two supplemental documents; copies attached to original of
43 these minutes)

44 Murray said two emails were received from Guy and Sue Elliott – one dated 9/23/15 with photos
45 attached was sent to City Planner Larry Lewis regarding a parking-related incident which took place on
46 9/20/15, and one dated 10/5/15 in response to the Brooks' letter. There was also one email from Glenn
47 Petry, the owner of Inn at Arch Rock.

1 Also distributed to the Council was a photograph of the area with a tax lot overlay, and a copy of Res.
2 #308 adopted in 2002, which identifies there are parking restrictions on a portion of Sunset Street, from
3 Hwy 101 up to Floral Avenue. Weidner said the owner of the property with the boat trailer has put up
4 *No Parking* signs and has requested the Council add additional no parking along Sunset. Olsen
5 conversed with unidentified persons in the audience, who said one parking space is provided per room,
6 plus two additional spaces; they said they would have an issue if the City put up *No Parking* signs. A
7 woman said people use their parking lot for the North Point Loop. Olsen suggested the parties involved
8 work this out between themselves. Weidner said he's applied for a grant to pave Sunset Street at a width
9 of 18 feet, and that could resolve the issue. There was lengthy discussion. Sue Elliott 70 NW Sunset
10 Street, pointed out if the Council discusses this more, they should take everybody into consideration, and
11 that it's a personal vendetta. She said when Mr. Cotton's house is rented, there can be five or six cars
12 parked, and the photos provided showed some of those cars. She said in their letter dated 10/5/15 they
13 noted there are multiple rentals west of the Inn who also park along Sunset Street. Fisher-Brown
14 concurred she has seen cars clustered around that particular home. Olsen asked whether transient room
15 taxes were being collected on Mr. Cotton's rental; Murray said she will look into that. Gambino
16 recommended waiting until the paving occurs to see what happens. No action was taken.

17

18 Correspondence, continued (copies attached to original of these minutes):

19 1) Murray said an email from Gabrielle Levesque from Beachfront Bargain Hunt was received. They
20 will be filming in Lincoln City October 16-19, and are contacting neighboring towns for filming
21 permits. The City of Depoe Bay does not have a process to issue a filming permit, but we ask that they
22 coordinate with the water department if they need to use water. Olsen said we should tell them to stay
23 and eat in Depoe Bay. Murray said we'll let her know we don't have a formal permit, but ask that they
24 stay in contact with the City. 2) An email from Kurt Granat, touching base with the City regarding the
25 Granat's proposed long-term lease / gift of a parking lot. She asked for Council direction on how to
26 respond to Mr. Granat; the answer was "politely". Gambino asked what the Council's last decision on
27 this gift was; Grant replied it was handed to the Planning Commission to devise a mechanism to receive
28 the gift. 3) Councilor Sparks, who is attending a conference in Leavenworth, provided a report on the
29 recent League of Oregon Cities (LOC) conference he attended with Mayor Mattila. In his cover letter, he
30 said he asked Councilor Grant to highlight the contents of the report since he is not at tonight's meeting.
31 He also requested an Agenda Item for the October 20 Council meeting to deliberate on the path forward
32 based on information he learned at the conference. Grant said it's a great report, and Councilor Sparks is
33 very impressed with some of the resources that are out there and basically in our face through the LOC.
34 He encouraged all Councilors to read Sparks' report.

35

36 XI. CITY STAFF REPORT

37 Murray had no report.

38

39 Weidner reported 1) The old shed at the dilapidated / commercial wharf is gone. The decking is in poor
40 shape and will probably be the next phase of that project. 2) The scenic land lot south of Tidal Raves is
41 City-owned property that was covered in invasive species. The County work crew came in to clean it up
42 and cleared out more growth than was expected, upsetting some residents. The lot has since been
43 groomed, and we will be re-planting native plants. 3) PUD is going to be replacing the main power to
44 Little Whale Cove. 4) He showed Councilor Teem around the wastewater plant; if anybody else is
45 interested in touring infrastructure, please let Weidner know. 5) The scenic park project at Bradford
46 Street is starting and needs to be complete by the end of October.

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48 Mayor Mattila asked why there was no video. Murray said it was due to technical difficulties. There was
49 brief discussion.

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XII. COUNCIL COMMENTS

Teem said he wanted to see the siren protocol completed.

Fisher-Brown expressed her surprise and sadness at Mr. Gordon’s passing.

Weidner added one more item to his report: 6) A decision on water rights needs to be made. He asked for authorization to move forward in getting Rocky Creek’s water rights certified; otherwise we will have to go to court against ODF&W who wants to put a fish ladder in, which may come back to haunt the City. There was brief discussion. (Copy of email from Adam Sussman at GSI attached to original of these minutes.)

Motion 12: Gambino moved to approve the acceptance of the water rights for Rocky Creek. Grant seconded the motion.

There was brief discussion.

Amendment: Gambino amended his motion to submit to Counsel for review so we may approve. Grant accepted the amendment.

There was brief discussion.

Amendment: Grant amended the motion to authorize Weidner to move forward on approval of Counsel. Gambino accepted the amendment.

There was no further discussion. Mayor Mattila called for the question.

Vote: Motion 12, as twice amended, passed.
Ayes: Fisher-Brown, Gambino, Grant, Mattila, Olsen, Teem

XIII. ADJOURN

There being no further business, the meeting was adjourned at 9:50 PM.

XIV. RECONVENE

Mayor Mattila called the meeting to order and re-established a quorum at 9:54 PM.

Gintner said an Executive Session counter offer was \$5,000 plus reasonable fees. Corey negotiated with the other side, whose counter offer was \$5,000 plus up to \$500 in fees and expenses; otherwise the City can come pick up their personal items. Gintner thought the counter offer was within the range of acceptability. Fisher-Brown said she knew they have a POS (Point of Sale) system at Harbor Lights that’s worth well over \$7,000; however, she agreed with Ginter that the offer should be accepted. She said she was in favor of accepting the offer and it seemed the \$500 cap on fees is reasonable, so she thinks we should be done with it.

Motion 13: Mayor Mattila said that’s a motion. Grant seconded the motion.

Mayor Mattila called for discussion; there was none. He called for the question.

1 Vote: Motion 13 passed.
2 Ayes: Fisher-Brown, Gambino, Grant, Mattila, Olsen, Teem

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4 XV. ADJOURN

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6 There being no further business, the meeting was adjourned at 9:58 PM.

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A.J. Mattila, Mayor

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16 Emma LuMaye, Recording Secretary