

1 Depoe Bay City Council
2 Regular Meeting
3 Tuesday, December 15, 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, S. Sparks,
7 C. Teem

8
9 STAFF: City Superintendent B. Weidner, Recording Secretary E. LuMaye, City Attorney
10 P. Gintner

11
12 I. PLEDGE OF ALLEGIANCE

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

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15 II. CALL TO ORDER

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

17
18 III. APPROVE MINUTES: December 1, 2015 Regular Meeting

19 Motion 1: Gambino recommended approval of the minutes from the Depoe Bay Urban Renewal Regular
20 meeting as well as the City Council Regular meeting of Tuesday, December 1st. Olsen seconded the
21 motion.

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23 Mayor Mattila said it was made and seconded, and called for the question.

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25 Vote: Motion 1 passed.

26 Ayes: Fisher-Brown, Gambino, J. Grant, Mattila, Olsen, Sparks, Teem

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28 IV. ACCOUNTS PAYABLE

29 Motion 2: Gambino moved to approve Accounts Payable as presented. Fisher-Brown seconded the
30 motion.

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32 Mayor Mattila called for the question.

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34 Vote: Motion 2 passed.

35 Ayes: Fisher-Brown, Gambino, J. Grant, Mattila, Olsen, Sparks, Teem

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37 V. SPECIAL ORDERS

38 A. Public Hearing: Case File #1-APPEAL-CC-15 – Appeal of Planning Commission Decision
39 Application – Request for Planned Development Amendment (Case File #1-PD-PC-15)

40 Mayor Mattila asked Gintner to read the Opening Statement for Public Hearing (copy attached to
41 original of these minutes). Gintner read the Statement, and asked Councilors for declarations of conflict
42 of interest, bias, or ex-parte contact. Olsen declared he and Gambino met with Roy Hageman (Planning
43 Commission President) to get background information. J. Grant declared he lives in Little Whale Cove,
44 which is adjacent to the property in question, so he had a potential conflict of interest, but not monetary
45 interest. Sparks made the same declaration as Grant. Gintner asked if there was any objection to any
46 Councilor hearing the case; there was no objection. Lewis reviewed the Staff Report (copy attached to
47 original of these minutes), touching on the location and R-4 zoning of the property. He said uses that are
48 accessory to the primary use of a planned development are allowed, and an RV/boat parking area would
49 be an accessory use. He said the underlying zone is R-4, and parking areas are permitted as a conditional

1 use in the R-4 zone. Testimony was received both for and against the proposed development and had
2 been provided to the Planning Commission. He said the Planning Commission determined the proposed
3 development was a storage facility, not a parking area, and was not an accessory use to the Little Whale
4 Cove Planned Development because the RV/boat parking area would be available for use by residents
5 outside the planned development. Additional written testimony had been received by the City from Fran
6 Recht, Sandra Hoyt, Byron Lewis, and Lawrence Marple (copies attached to original of these minutes).
7 He advised the Council they needed to determine 1) whether the proposed development is a parking area
8 or a storage facility, and 2) whether an accessory use in a planned development needs to be for the
9 exclusive use by the residents of the planned development. *Presentation from Appellant: Eugene Grant*
10 *of Davis Wright Tremaine LLP, 2400 SW Fifth Avenue, Portland, was present representing the*
11 *Appellant, and asked that his letter dated 12/4/15 be distributed to the Council for his presentation;*
12 *copies were made and distributed (copy attached to original of these minutes), and Mr. Grant made his*
13 *presentation on behalf of the Appellant. Testimony in Support of the Appeal: Patricia Neal, 1075*
14 *Walking Wood said she is one of four people in Little Whale Cove who have an RV parking garage and*
15 *asked the Council what is the most appropriate use of the land, noting that it isn't part of a residential*
16 *area. She said part of the reason she was in support of the proposed development was because she*
17 *doesn't feel it is a safe or good place for housing and the location is not part of Little Whale Cove unless*
18 *annexed, which it is not. Testimony in Opposition of the Appeal: Roy Hageman, 325 SW Coast and*
19 *Planning Commission President, said there was confusion between accessory use, outright use, and*
20 *conditional use. He said the applicant applied as an accessory use and as a conditional use; and the*
21 *property is zoned R-4 PD. He explained that all the surrounding property is zoned residential. He said*
22 *the Applicant's appeal letter incorrectly states there is no definition of "parking area" in the DBZO*
23 *(Depoe Bay Zoning Ordinance). He said the Planning Commission determined the application was not*
24 *an accessory use because the property is owned by a person wanting to do a commercial, for-profit*
25 *venture which is not for exclusive use by Little Whale Cove residents. He pointed out the DBZO allows*
26 *for parking of RVs in all residential areas, on lots with a residence, and the only reason it is not allowed*
27 *in Little Whale Cove is because of their CC&Rs. He said Accessory Use is defined as a use that is*
28 *subordinate and usually incidental to the main use of the property and located on the same lot as the*
29 *main use. He said things like a community center, golf course or country club, private non-commercial*
30 *recreation club (excluding commercial amusement or recreation enterprise), public park, and public*
31 *school are Conditional Uses. He said the DBZO explicitly talks about RV storage and boat storage as*
32 *separate from parking. He felt to approve the application would be corrupting the zoning ordinance and*
33 *would result in a lot of unintended consequences. There was discussion amongst the Council and*
34 *Staff. Gintner said there were several Agenda items remaining, and suggested leaving the record open*
35 *and continuing the meeting. He told the Council they have the right to interpret the code as they believe*
36 *it was intended.*

37

38 Motion 3: Olsen moved that we allow the record to remain open and that further discussion can be
39 determined at another date. Sparks seconded the motion.

40

41 E. Grant called a point of order, saying if the record is left open it is typically only for additional
42 evidence to be submitted in writing, and is not for additional testimony; and that as the Appellant, he has
43 the right to provide rebuttal testimony before testimony is closed; he suggested the motion be amended
44 to continue the hearing. Olsen and Sparks agreed to the amendment.

45

46 Amendment: Olsen amended Motion 3 to continue the hearing and the discussion at a later date. Sparks
47 seconded the amendment.

48

1 Discussion: J. Grant wanted the amendment to reflect a date certain. There was brief discussion. Olsen
2 withdrew the motion and Sparks withdrew his second.

3
4 Motion 4: Olsen moved to leave the record open to continue public discussion and that that meeting
5 shall be scheduled on the first Council meeting in January 2016. Sparks seconded the motion.

6
7 There was brief discussion.

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9 Vote: Motion 4 passed.

10 Ayes: J. Grant, Mattila, Olsen, Sparks, Teem

11 Noes: Fisher-Brown, Gambino

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13 There was brief discussion clarifying the first Council meeting in January will be on January 5.

14
15 Mayor Mattila called a recess at 8:59. The meeting reconvened at 9:07 PM.

16 17 VI. REPORTS OF OFFICERS, BOARDS, OR STANDING COMMITTEES

18 A. Harbor Master Plan Advisory Committee (HMPAC) – November 12, 2015 Meeting

19 Mat DeWitt said the HMPAC has completed its assigned task. He said the written report provided to the
20 Council (copy attached to original of these minutes) was the summation of the committee's strategic
21 analysis. He said the loss of the Washington DC trip was a major setback to this project and the City,
22 because if successful it could have potentially shaved significant time off the project because the new
23 Speaker of the House has been allowing multiple amendments to major spending bills. He strongly
24 recommended the City proceed with the RFP for engineering services to produce a formal Master Plan,
25 and said this process would provide the documentation necessary for formal grant applications. He also
26 recommended while that was being done, that the City reach out to State level resources to identify
27 potential grants and refine the report to match those application requirements. There was lengthy
28 discussion. Gambino liked DeWitt's ideas on alternative funding sources and was curious how harbor
29 advertising space might work. J. Grant questioned how rebuilding the commercial wharf would help
30 make the fish plant economically viable, saying he has hauled out three million pounds from the fish
31 plant without the use of the commercial wharf; and in his expert opinion rebuilding the commercial
32 wharf is not necessary for the success or demise of the fish plant. Fisher-Brown asked if the HMPAC is
33 finished and disbanded; DeWitt said at the last meeting on December 12, he dropped the gavel on what
34 he believed was the final meeting of that body. There was discussion about keeping DeWitt
35 involved; DeWitt said continuity is an issue, and because of that he would accept a one-year
36 appointment to the Harbor Commission to keep this going. Olsen said the Council needs to plot a course
37 forward, and the engineering RFP (Request For Proposals) for the Harbor Master Plan is critical. He said
38 he assumed the HMPAC report was going to be handed to the engineer, and he was going to insist that it
39 is handed over at the onset of the selection of a firm; also, the Harbor Commission needs to be
40 revitalized and get it up and running. He also said Councilor Teem, of his own volition, contacted Bud
41 Shoemake and Kevin Greenwood, who are the port managers in Newport and Toledo; and they have a
42 potentially philanthropic interest in helping Depoe Bay. Olsen also said he has spoken to the Mayor and
43 a couple of other Councilors about this, and would like to see a small, informal ad-hoc committee
44 developed with experts like the Mayor, himself, Councilor Sparks, Beanie Robison, and Mat DeWitt on
45 the committee to discuss how we can attract some experts, and what we should say to them, to get them
46 to come help Depoe Bay. There was discussion about Olsen's suggestion to form a committee and who
47 should be on it; the final list was Mayor Mattila, Councilors Olsen and Grant, Mat DeWitt, Beanie
48 Robison, Weidner, and new Harbor Commissioner Jeff Wiseman. The committee will meet Tuesday,

1 December 29 at 10 AM at Gracie’s Sea Hag. Olsen asked for a reminder email to be sent. Mat DeWitt
2 asked about disbanding the HMPAC; Olsen said the committee would be on permanent recess.

3
4 Lewis left the meeting at 9:40 PM.

5
6 VII. PUBLIC COMMENTS

7 There were no public comments.

8
9 VIII. UNFINISHED BUSINESS

10 A. Social Media

11 This item was tabled to the next meeting.

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13 IX. NEW BUSINESS

14 A. Coast Avenue Infrastructure Improvements Project – Engineering Services Proposals

15 Weidner reported he received three proposals, which he reviewed and compared. The low bid was from
16 Century West Engineering, at \$83,440. (Copy of Weidner’s memo dated 12/15/15 attached to original of
17 these minutes.)

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19 Motion 5: Olsen moved to hire Century West Engineering for \$83,440 as identified in Weidner’s
20 submission. Gambino seconded the motion.

21
22 There was no discussion.

23
24 Vote: Motion 5 passed.

25 Ayes: Fisher-Brown, Gambino, J. Grant, Mattila, Olsen, Sparks, Teem

26
27 B. Audit Filing Extension for Fiscal Year 2014-15

28 There was brief discussion about the extension (copy of Extension Request attached to original of these
29 minutes).

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31 Motion 6: Olsen moved to approve the extension and authorize the Mayor to sign. Fisher-Brown
32 seconded the motion.

33
34 There was no discussion.

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36 Vote: Motion 6 passed.

37 Ayes: Fisher-Brown, Gambino, J. Grant, Mattila, Olsen, Sparks, Teem

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39 X. CORRESPONDENCE

40 There was no correspondence.

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42 XI. CITY STAFF REPORT

43 Weidner reported 1) Civil West submitted Addendum #1 to the earthen dam project (copy attached to
44 original of these minutes), asking for an extension to the completion date, from December 31, 2015 to
45 February 5, 2016.

46
47 Motion 7: Olsen moved to approve the extension to Civil West on the earthen dam engineering.
48 Gambino seconded the motion.

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1 There was no discussion.

2

3 Vote: Motion 7 passed.

4 Ayes: Fisher-Brown, Gambino, J. Grant, Mattila, Olsen, Sparks, Teem

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6 Weidner continued his Staff Report:

7 2) He said the City needs to get Gintner up to date with what's happening with the Gleneden Beach
8 Wastewater Advisory Committee, which has proposed changes to the agreement on the table. Olsen
9 suggested providing Gintner with a distilled report; Weidner said he would do that. He said there is a
10 meeting scheduled for the afternoon of Monday, January 4; Gintner said he would attend. Weidner
11 asked if Mayor Mattila, Olsen, and Sparks would be able to attend; Weidner was asked to remind
12 everyone before the meeting. 3) The *Siamez* sank in the harbor over the weekend. Divers believe they
13 can get it up and possibly afloat, and get it towed to Newport. 4) Last week when water surges came
14 over the seawall, a local dog got electrocuted from a panel; the dog is OK. He said the panel's metal lid
15 has been replaced with a fiberglass lid and the breaker is working. Procedures were reviewed and
16 everything was documented. 5) He is looking into getting bids for paving Vista Street, and will have
17 something to present to the Council at the next meeting. 6) He wants to put out an RFP for 600 feet of
18 water main extension on Point Street. This will be the last piece of the South Point project that was
19 started last year. He will likely have something to present to the Council for approval at the next
20 meeting. 7) Asked if the Council could do an evaluation on him. Sparks suggested Weidner do a self-
21 evaluation and have the Council review the evaluation in Executive Session.

22

23 Motion 8: Grant moved that Brady Weidner, our Supervisor, evaluate himself and we have an Executive
24 Session to go over his evaluation and give it the thumbs up, thumbs down, or consideration. Sparks
25 seconded the motion.

26

27 There was brief discussion.

28

29 Vote: Motion 8 passed.

30 Ayes: Fisher-Brown, Gambino, J. Grant, Mattila, Olsen, Sparks, Teem

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32 Olsen suggested Murray also do a self-evaluation. Mayor Mattila said he will talk to Murray about this.

33

34 Olsen said recent storms have caused Governor Brown to declare Lincoln County a disaster zone, and
35 asked Weidner if City Crew is keeping track of their overtime; Weidner replied that he is exempt from
36 overtime but the crew is keeping track of theirs. Mayor Mattila asked Weidner to get documentation of
37 the height of the tide in relation to how much the sea wall and harbor parking lot has dropped. Weidner
38 said the Corps of Engineers monitors that, and they pay for the parking lot and the sea wall. He said he
39 would contact Kate Groth at the Corps of Engineers and ask her to get a surveyor to look at the outward
40 movement of the sea wall and the parking lot dropping. He said he thought the electrical problem was a
41 big part of that because the electrician said the wires were right up against the lid, and gapping.

42

43 XII. COUNCIL COMMENTS

44 Fisher-Brown said she spoke with a woman who moved to Depoe Bay in June and had difficulty in
45 getting a free post office box established, and chose to pay for a box. She was told by Ms. Werner that
46 that post office is happy to provide anybody within city limits with delivery, and to call ODOT to find
47 out where on Hwy 101 she would be allowed to erect a mailbox, and Ms. Werner would arrange
48 delivery to that box. Fisher-Brown expressed concern about trespassing on private property at Lillian
49 Lane. She said does not believe the problem has been resolved. She received a communication from Ms.

1 Werner saying she wasn't going to deal with it except on a case-by-case basis. Fisher-Brown believes
2 the City should investigate further and proceed with plans to contact her supervisor. She said Ms.
3 Werner claims to not have a supervisor and doesn't answer to anyone; and that requests for further
4 assistance up the chain of command are referred to the customer service website or the 800 number.
5 Fisher-Brown said would like to find out what the actual ruling is on this delivery issue. It was the
6 Council's belief the letter to the regional postmaster had not been sent because there was a notice put in
7 mailboxes saying the status quo would be maintained. Gambino added that he has also done research,
8 and met with Ms. Werner, who had copies of letters indicating this matter was still up for review by the
9 postal administration, and that any new people moving to Depoe Bay are not getting a free box but
10 everyone who already has a free box was grandfathered in before she arrived. Fisher-Brown said she
11 wants definitive answers. Olsen said he has coffee at Pirate Coffee most days and has established a
12 relationship with Ms. Werner, and will ask her about the situation.

13
14 Sparks requested a summary of the public hearing before the January 5 meeting. Mr. Hageman said he
15 will send in a copy of the notes he spoke from tonight. Gintner said the Council has the right to decide
16 according to the conscience of the community, and not to worry about being an expert.

17
18 Olsen thought tonight's meeting was the best he's seen in his three years on the Council.

19
20 Gambino thought tonight's discussion was too drawn out, and that sometimes the Council gets too
21 lengthy on issues such that we forego other issues and slow ourselves down, and he worries about that.

22
23 J. Grant said the public hearing record is still open, and heads up to the City to do its due diligence.

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25 XIII. ADJOURN

26 There being no further business, the meeting was adjourned at 10:28 PM.

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A. J. Mattila, Mayor

36 Emma LuMaye, Recording Secretary