

1 Depoe Bay City Council  
2 Regular Meeting  
3 Tuesday, March 15, 2016 - 7:00 PM  
4 Depoe Bay City Hall

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

7  
8 VACANCY: 1 vacant seat

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10 STAFF: City Recorder P. Murray, Recording Secretary E. LuMaye, City Planner L. Lewis, City  
11 Attorney P. Gintner

12  
13 I. PLEDGE OF ALLEGIANCE

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

15  
16 II. CALL TO ORDER

17 Mayor Mattila called the meeting to order at 7:04 PM and established a quorum.

18  
19 III. APPROVE MINUTES: March 1, 2016 Executive Session and Regular Meeting

20 Motion 1: Gambino moved to approve the minutes of the Regular Depoe Bay City Council meeting and  
21 the Executive Session of March 1, 2016. Fisher-Brown seconded the motion.

22  
23 There was no discussion.

24  
25 Vote: Motion 1 passed.

26 Ayes: Fisher-Brown, Gambino, Grant, Mattila, Teem, Wiseman

27  
28 IV. ACCOUNTS PAYABLE

29 Motion 2: Gambino moved to approve Accounts Payable as presented. Grant seconded the motion.

30  
31 There was no discussion.

32  
33 Vote: Motion 2 passed.

34 Ayes: Fisher-Brown, Gambino, Grant, Teem

35 Abstain: Mattila

36  
37 V. SPECIAL ORDERS

38 A. Public Hearing: Proposed Amendments to Depoe Bay Zoning Ordinance Section 3.410 Planned  
39 Development Zone (P-D)

40 Lewis reviewed the proposed amendments (copy attached to original of these minutes), noting that  
41 written testimony was received from Fran Recht, Patricia Neal, Kurt Granat, and Karl Granat (copies  
42 attached to original of these minutes). There were questions from the Council regarding specifics of the  
43 proposed Ordinance. There was discussion about the procedure for public hearings.

44  
45 Testimony in Favor of the proposed Amendments:

46 Roy Hageman explained the Planning Commission's thinking behind the proposed Amendments, which  
47 were written with an intention to prevent problems for the City. He noted tourist accommodations in  
48 dwelling units always have issues with noise, trash, and parking, and said it's almost impossible to  
49 control the number of people who stay in a tourist accommodation. He said all tourist accommodation

1 units in a Planned Development would be managed by one property management company. He said it  
2 was not the intention of the Planning Commission to open up residential areas for tourist  
3 accommodations. There was Council discussion.

4  
5 Testimony in Opposition to the proposed Amendments:

6 Fran Recht, 66 NE Williams, suggested the following bold underlined text be added in Section 2.

7 General Requirements: “*Overall residential density shall be provided for in the underlying zone or*  
8 *zones. Density shall be computed based on the total gross land area of the subject property, excluding*  
9 *area devoted to commercial or other non-residential uses allowed in the underlying zone, **and resources***  
10 ***protected under Goal 5**, but including common areas.” She noted this provision would help prevent*

11 overly dense development that could compromise the health of protected streams, riparian areas, and  
12 wetlands. She stated she is very much opposed to tourist accommodations in residential zones, and  
13 asked if the City needs to do this and what the purpose is. She said there is a lot of commercial land  
14 available for development or re-development, which could become tourist accommodations. She  
15 reviewed the numbers of existing tourist accommodations, contending there is no shortage of tourist  
16 space, and doesn’t see the need to put conflicting uses together unless there’s a really great need for it.  
17 She also wanted to ensure developers wouldn’t only develop the tourist accommodations, but would  
18 develop the entire planned development. There was Council discussion.

19  
20 Patricia Neal, 1075 Walking Wood, said the wording on Page 1, Item 1.k. says: “...and ensure the  
21 developer and/or management company is responsible for all management...” and “The intent is to  
22 place all responsibility on the developer, management, HOA, or property owner...” to provide contact  
23 information on who’s managing. On Page 2, Item 2.c.1) says: “The management of these specific tourist  
24 accommodations shall be handled by a single management entity (organization, HOA, or company)...”;  
25 and this is different from what was said on Page 1. She focused on the HOA because homeowner  
26 associations are to manage the affairs of the association, not to rent houses, unless it’s in the CC&Rs;  
27 otherwise there would be a problem with State law. She cited vacation rental history in Little Whale  
28 Cove, which was discontinued in 1995. She said it’s one grand mess the City’s inviting in, and nothing  
29 addressing enforcement in the proposed Amendments.

30  
31 Testimony in Rebuttal:

32 Roy Hageman said regarding who is responsible being in the CC&Rs, the proposed Amendments state  
33 the developer has to show the CC&Rs, which have to be approved by the Planning Commission.

34  
35 Council Deliberation:

36 There was lengthy deliberation on the proposed Amendments, which included statements that the City  
37 has room for growth and is tourist-based; a concern that people who have lived here 20-30 years might  
38 be squeezed out; a lack of affordable housing, which is an issue everywhere for low-income families;  
39 and a concern over grandfathering existing Planned Developments. A Councilor suggested adding  
40 affordable housing as a requirement, and that the manager be a Depoe Bay resident. Mayor Mattila said  
41 he put a lot of confidence in the Planning Commission and the City Planner, and he would have to see  
42 something that was really detrimental to the City as a whole to change his mind on what he’s seeing in  
43 the draft.

44  
45 Motion 3: Grant moved to 1) adopt Ms. Recht’s language in italics in her testimony on Page 1: *Density*  
46 *shall be computed based on the total gross land area of the subject property, excluding area devoted to*  
47 *commercial or other non-residential uses allowed in the underlying zone, **and resources protected***  
48 ***under Goal 5**, but including common areas. And 2) On Page 2 of the draft, to exclude the entire*  
49 sentence under General Requirements 2.c.1) “The management of these specific tourist accommodations

1 shall be handled by a single management entity (organization, HOA, or company) that is solely  
2 responsible...”. That still doesn’t exclude any HOA from offering its own rules concerning vacation  
3 rentals. Gambino seconded the motion.

4  
5 Mayor Mattila called for comments. A Councilor asked Grant to restate his motion; he did. There was  
6 additional discussion. Mayor Mattila stated he wasn’t going to go against the Planning Commission or  
7 the City Planner. He called for the question. Grant clarified that the only sentence to be removed was  
8 “The management of these specific tourist accommodations shall be handled by a single management  
9 entity (organization, HOA, or company) that is solely responsible for management, enforcement,  
10 responding to complaints, ensuring the City Transient Room Tax (TRT) and the City Transient  
11 Occupancy Tax (TOT) is collected, and transferring the City TRT and TOT to the City.”

12  
13 Vote: Motion passed.

14 Ayes: Fisher-Brown, Gambino, Grant, Teem, Wiseman

15 Noes: Mattila

16  
17 B. Public Hearing: Proposed Amendment to Depoe Bay Zoning Ordinance Section 4.030 Off-Street  
18 Parking and Off-Street Loading Requirements

19 Mayor Mattila summarized the proposed Amendment (copy attached to original of these minutes):

20 1) Requires new multi-family and non-residential parking areas to have paved surfaces. 2) Adds parking  
21 space requirements for tourist accommodations in a Planned Development. 3) Adds a new subsection by  
22 which a building owner in the downtown area may permanently transfer ownership of a parking lot to  
23 the City. Lewis reviewed the proposed changes and new subsection. He explained how parking credits  
24 would work if a building owner transferred ownership of a parking lot to the City; this could  
25 alternatively be handled with a variance, as discussed with the City Attorney (copy of email received  
26 3/9/16 attached to original of these minutes). There was Council discussion.

27  
28 Testimony in Favor of the Amendment:

29 Roy Hageman spoke as a private citizen, noting there are parking lots which used to be public which are  
30 now marked for use by the owner’s customers only, which adds to the reduction of public parking spots.  
31 He also noted the proposed Amendment would allow business owners to acquire parking outside the 500  
32 foot limit. There was Council discussion.

33  
34 Testimony in Opposition of the Amendment:

35 Fran Recht, 66 NE Williams, said she was in favor of the proposed parking guidelines in Item 19.c. for  
36 tourist accommodations in a Planned Development in an R-1 through R-5 Residential zone, but felt they  
37 were insufficient. She suggested adding: *Parking spaces shall be located on the same lot as the tourist  
38 accommodation*, so as to not encourage people to have more vehicles at a unit than should be there. She  
39 said Item 21 does not solve the problem, which is to provide more parking. She said the proposed  
40 Amendment would transfer existing private parking to the City, which would then have the  
41 responsibility of maintaining spaces and lots that used to be private property. She said all parking lots  
42 should be required to be public parking lots, with the property owners maintaining them. She said people  
43 being able to park in any parking lot encourages them to get out and walk around, benefitting all  
44 businesses; where no one benefits from being threatened with a tow if they park in the wrong lot. A  
45 Councilor said she was advising quasi eminent domain. She denied this, and clarified that signage for  
46 those businesses that are required to have parking should just say *Parking*, as they used to. She said it  
47 would be transferring the obligation of a business to the City, and asked why the City would want to  
48 take on this obligation and liability for maintaining a parking lot that’s required by the business. She  
49 thought the Ordinance language should be changed back to what it was, and that in the future any

1 required new parking signs should just say *Parking*. She didn't like the idea of moving to a system with  
2 credits, and the City bearing responsibility for transferring a private business obligation to a public  
3 obligation. She said if the Council moves forward with this, she would prefer the use of a variance,  
4 which is a known entity and is easier than having a credit system. She didn't like the idea of  
5 transferrable credits because we're trying to get more parking, not just transfer existing parking.

6  
7 Roy Hageman advised the Council to be sure to reflect any changes to Item 19 in the Planned  
8 Development Ordinance.

9  
10 Council Deliberation:

11 There was brief deliberation. Mayor Mattila asked for a motion to have the Planning Commission revisit  
12 this. Mr. Hageman asked that any ideas the Council has for the Planning Commission be put in writing,  
13 and said if the Council wants to use a variance, somebody still has to keep track of what parking spaces  
14 people have and don't have.

15  
16 Motion 4: Teem moved that we provide our input and information, go back to the Planning Commission  
17 to re-draft or bring back other ideas/proposals to the Council for further consideration. There was brief  
18 discussion. Grant seconded the motion.

19  
20 Mayor Mattila called for discussion. There was none.

21  
22 Vote: Motion 4 passed.

23 Ayes: Fisher-Brown, Gambino, Grant, Mattila, Teem, Wiseman

24  
25 There was brief discussion about what Agenda item to address next, due to the late hour.

26  
27 Mayor Mattila said Councilor Gambino has indicated he would like to take on the job of Council  
28 President, and asked for a motion to nominate him.

29  
30 Motion 5: Grant moved to nominate Gambino as Council President. Teem seconded the motion.

31  
32 Mayor Mattila called for the question.

33  
34 Vote: Motion 5 passed.

35 Ayes: Fisher-Brown, Gambino, Grant, Mattila, Teem, Wiseman

## 36 37 VI. REPORTS OF OFFICERS, BOARDS, OR STANDING COMMITTEES

38 Fisher-Brown reported on the Solid Waste Consortium meeting she recently attended, saying the  
39 building that houses the recycling area is full of black mold and beyond repair. This necessitates moving  
40 the recycling to another location. She also said their reporting is expected to drop to once every two  
41 years. She noted there was no quorum at the meeting.

## 42 43 VII. PUBLIC COMMENTS

44 Justin Weis, Wave Broadband, Washington, said he has heard the complaints, which were helpful in  
45 identifying where Wave will spend money on improvements in Oregon. Some of the jobs planned for  
46 2017 have been moved up to immediately. He said they have replaced 30 of the active devices on poles,  
47 and believes most if not all the complaints have been addressed. The local system has new equipment,  
48 increased reliability, and increased signal output; and speeds of up to 500 MB will be available to home

1 users in the near future. There is a backup battery in the budget coming this year for phone systems. He  
2 asked that the outstanding franchise be renewed.

3

#### 4 VIII. UNFINISHED BUSINESS

5 A. Draft Letter to U.S. Postal Service

6 Tabled to next Agenda.

7

8 B. Identify Discussion Topics for April 6 Joint Meeting with Lincoln County Board of  
9 Commissioners

10 Murray reviewed her memo, noting a new topic request from Environment Oregon regarding solar  
11 energy in Lincoln County. There was no objection to adding this to the list.

12

#### 13 IX. NEW BUSINESS

14 A. Neighbors For Kids Request Authorization for Event in City Park – Easter Egg Hunt March 26,  
15 2016

16 Motion 6: Gambino moved to approve the application for use of the Depoe Bay City Park for NFK on  
17 March 26. Fisher-Brown seconded the motion. (Copy of application attached to original of these  
18 minutes.)

19

20 Mayor Mattila called for the question.

21

22 Vote: Motion 6 passed.

23 Ayes: Fisher-Brown, Gambino, Grant, Mattila, Teem, Wiseman

24

25 B. Councilor Assignments

26 Tabled to the next Agenda.

27

28 C. Construction Bids

29 ● Fence at Allyn Parking Lot

30 ● Retaining Walls at Winchell Street Scenic View Area and City Park Playground

31 Tabled to the next Agenda.

32

#### 33 X. CORRESPONDENCE

34 There was no correspondence.

35

#### 36 XI. CITY STAFF REPORT

37 Murray reminded Councilors that ethics reporting must be completed by April 15, and said the State is  
38 having trouble with the new online system, so if any difficulties are experienced, contact the Oregon  
39 Government Ethics Commission directly or let her know.

40

#### 41 XII. COUNCIL COMMENTS

42 Teem said he and other Councilors met with Kurt Schrader, and it was awesome. He encouraged  
43 everyone to go next time.

44

45 Gambino added that items of discussion at the meeting with Representative Schrader included mental  
46 health and emergency preparation.

47

48 Grant 1) apologized for not attending the meeting with Representative Schrader, who is a dedicated  
49 public servant who gets out and talk to people, and 2) said he would like to see President Gambino

1 address the Harbor Commission – that seven people is too much – and asked that it be put on the  
2 Agenda. Mayor Mattila said it is set for the next Agenda.

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4 XIII. ADJOURN

5 There being no further business, the meeting was adjourned at 9:51 PM.

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A. J. Mattila, Mayor

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16 Emma LuMaye, Recording Secretary