

1 Depoe Bay City Council  
2 Regular Meeting  
3 Tuesday, July 5, 2016 - 7:00 PM  
4 Depoe Bay City Hall

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6

7 PRESENT: Mayor A.J. Mattila, J. Fisher-Brown, R. Gambino, J. Grant, J. Wiseman

8

9 VACANCY: 2 vacant seats

10

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

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#### 14 I. PLEDGE OF ALLEGIANCE

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

16

#### 17 II. CALL TO ORDER

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

19

#### 20 III. APPROVE MINUTES: June 21, 2016 Regular Meeting

21 Motion 1: Gambino moved to approve the regular meeting minutes of the Depoe Bay City Council  
22 meeting of June 21. Fisher-Brown seconded the motion.

23

24 Mayor Mattila called for the question.

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26 Vote: Motion 1 passed.

27 Ayes: Fisher-Brown, Gambino, Grant, Mattila, Wiseman

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#### 29 IV. ACCOUNTS PAYABLE

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

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33 Mayor Mattila called for the question.

34

35 Vote: Motion 2 passed.

36 Ayes: Gambino, Grant, Mattila, Wiseman

37 Abstain: Fisher-Brown

38

#### 39 V. SPECIAL ORDERS

40 There were no special orders.

41

#### 42 VI. REPORTS OF OFFICERS, BOARDS, OR STANDING COMMITTEES

43 Beanie Robison, Salmon Enhancement Commission Chair, 1) Announced this year's fin clipping event  
44 will take place on Saturday, July 9 at 9 AM at the reservoir. He said the fish will need to be transferred  
45 to South Depoe Bay Creek after they have been clipped. The transfer will take place Wednesday, July  
46 13 at 9 AM at the reservoir. 2) The Commission is holding a fund raiser and raffle this year, with the  
47 top prize being a fishing trip. 3) The ODFW STEP (Salmon and Trout Enhancement Program) program  
48 is under review this year, and Robison asked for a letter of support from the Council by the end of July.  
49 4) The dock construction project is unable to be completed this year because the reservoir didn't get

1 drained and there was a fiscal fumble. The grant remains open until the middle of June 2017, and the  
2 Commission anticipates completing the construction in November-December. He hopes to have more  
3 complete information to report within a month. A Councilor asked about the requested letter of support;  
4 Robison said the letter should reflect that the City will provide water for the fish and access to it, and  
5 that the program's goals are economic, social, and educational. He said the grant was approved last  
6 September and is good through June, 2017.

7  
8 Motion 3: Grant moved to direct Staff to write a letter with the spirit that Depoe Bay City Council, on  
9 behalf of the community of Depoe Bay, supports the Salmon Enhancement Program that we have here,  
10 and all the good and warm things that it does for our children and the rest of the community that gets  
11 involved in the process. Gambino seconded the motion.

12  
13 There was brief discussion.

14  
15 Vote: Motion 3 passed.

16 Ayes: Fisher-Brown, Gambino, Grant, Mattila, Wiseman  
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## 18 VII. PUBLIC COMMENTS

19 Barbara Leff & Bernie Lynam, 210 SE Hazelton Place, addressed the Council regarding a complaint  
20 they filed with the City on 6/29/16 (copy attached to original of these minutes). Leff read the complaint  
21 into the record, adding that as of today there is now a mailbox in a bucket at the locate point, which she  
22 believes is where new construction is planned. They asked the City to remove the mailbox. There was  
23 lengthy discussion of the situation. Mr. Lynam stated he thinks there is fraud going on with the post  
24 office, because they are posting bad information and telling people they can put mailboxes where the  
25 post office wants them.

## 26 27 VIII. UNFINISHED BUSINESS

28 A. Request for Waiver of Water System Development Charge (SDC) – 900 SE Hwy 101  
29 Murray referred to her memo dated 7/5/16 and attachments: the waiver request/proposal, the City's  
30 water/sewer billing policy, Ord #113, the 2011 disconnect request, and Ord. 264 (copies attached to  
31 original of these minutes). She noted Ord. 264 offers the right to appeal a determination; that  
32 determination was made by Staff when the property owners first approached the City about reconnecting  
33 service. She reviewed the proposal and the disconnect process, which includes a signed statement  
34 acknowledging SDCs will be paid in the future if the structure is reconnected to the system. A Councilor  
35 questioned whether the Council has the authority to waive the SDC, and asked if there was a  
36 precedence. Murray responded that Ord. 113 says if water and/or sewer service is requested after a  
37 disconnect, the owner would be required to obtain permits and the connection charges shall be paid, with  
38 a credit against the charges that is equal to the charges originally paid prior to the disconnect. She said  
39 the owner's original SDC payment was \$500. She said the SDC Ordinance Section 8.1 provides for an  
40 exemption credit and all the credits expired 7/1/01, adding the City has honored crediting the original  
41 amount paid. She noted that disconnects are very rare. There was discussion.

42  
43 Motion 4: Grant moved, in accordance with precedence set in the past, to give Mr. Lattig the original  
44 \$500 SDC cost that was paid in 1978 as a discount. Gambino seconded the motion.

45  
46 There was discussion.

47  
48 Vote: Motion 4 passed.

49 Ayes: Fisher-Brown, Grant, Mattila, Wiseman

1           Noes: Gambino

2  
3       B. League of Oregon Cities (LOC) – Legislative Issues Priorities 2017

4 After brief discussion, the Council decided to recommend the LOC prioritize: 1) Community  
5 Development – Needed Housing Assistance Program, 2) Energy – Green Energy Technology  
6 Requirement, 3) Telecommunications – Technology Funding, and 4) Transportation – Transportation  
7 Funding and Policy Package. (Copy of letter with attachments from LOC dated 6/6/16 attached to  
8 original of these minutes.)

9  
10 Motion 5: Grant moved that we approve as previously discussed A, E, Y, and Z. Gambino seconded the  
11 motion.

12  
13 There was no discussion.

14  
15           Vote: Motion 5 passed.

16           Ayes: Fisher-Brown, Gambino, Grant, Mattila, Wiseman

17  
18       C. Mailboxes in Public Rights-of-Way

19 Gintner said the City already has control of our right-of-way, and the draft Ordinance wording (copy  
20 attached to original of these minutes) would give the Council the opportunity to regulate mailboxes, if  
21 the Council chooses to allow them; the new Ordinance would be an accommodation if the Council wants  
22 to start allowing mailboxes in the right-of-way, and then regulate them through a permit process.

23 Barbara Leff said Weidner has a copy of the post office’s planned route, and the post office only wants  
24 boxes on the side of the road they are driving on, along the route they have developed. John O’Brien,  
25 270 Bensell Avenue, said he received a letter from the interim postmaster which stated that the majority  
26 of people in Depoe Bay receive their mail at their mailboxes vs. post office boxes, and that he found that  
27 very hard to believe and thought it was erroneous. He also noted there are very few streets in Depoe Bay  
28 which are wide enough to allow two-way traffic as well as someone pulling off to deliver or pick up  
29 mail without going on private property, citing his own property as an example.

30  
31 Motion 6: Fisher-Brown moved that we adopt this draft Ordinance relating to mailboxes in the public  
32 right-of-way, and retain ownership of where these things need to go. Wiseman seconded the motion.

33  
34 Mayor Mattila said it was made and seconded, and called for discussion. There was discussion which  
35 included a request to clarify the second and seventh paragraphs of the draft. Murray reviewed the  
36 Ordinance adoption process.

37  
38 Amendment: Fisher-Brown amended her motion to include the changes that Mr. Gintner is making.

39  
40 There was additional discussion. Murray said the Ordinance cannot be adopted before Gintner makes the  
41 changes. Gintner said the Ordinance should be finalized and be made available for public viewing before  
42 it’s adopted. Murray said her understanding was that the motion is to adopt this draft Ordinance relating  
43 to mailboxes in the public right-of-way, with the amendments that Gintner will be re-wording, and the  
44 passing of this motion tonight will direct Staff to re-word, put in Ordinance form, and bring back for  
45 adoption at the next meeting. Mr. Lynam said the Post Office is steamrolling the City and its  
46 constituents. Jeff Million, 340 Elsie Street, said the U.S. Postal Service gave him permission to put up a  
47 mailbox at that location, and the issue is between the City and the Post Office, not the individual. Until  
48 the Council has decided, with the Post Office, what direction it’s going to take, to take actions that may

1 or may not affect individuals is premature. A Councilor responded to this statement saying until such  
2 things are decided, it doesn't mean that a person can arbitrarily place something on private property.

3  
4 Vote: Motion 6 passed.

5 Ayes: Fisher-Brown, Gambino, Grant, Mattila, Wiseman

6  
7 Murray said the proposed Ordinance will appear on the July 19 Agenda.

8  
9 D. Oregon Department of Transportation (ODOT) Conflict Letter with Non-Reimbursable Work  
10 U.S. Hwy 101: Whale Cove Culverts (MP 128.8)

11 Weidner said the City has to move our water lines by August 16 unless we have an "X" permit (see copy  
12 of letter from ODOT dated 6/16/16 attached to original of these minutes). He was concerned because  
13 ODOT wants the City to move two lines, each of which is 800 feet, and one of the lines they want  
14 moved is our main raw water supply. Gintner said generally ODOT can make you move your lines at  
15 your cost, but he would have to see the conditions of the statute. Weidner has tried to negotiate an  
16 extension or to have it rescheduled. Gintner will look up the statute. There was brief discussion  
17 regarding whether the City should try to share costs with PUD and NW Natural, who also have to move  
18 their lines. Weidner was also concerned about maintaining water service to the Miroco area. There was  
19 additional discussion.

20  
21 IX. NEW BUSINESS

22 A. Proposed Ord. #305 – an Ordinance Imposing a Three Percent (3%) Tax on the Sale of  
23 Marijuana Items by a Marijuana Retailer, and Referring the Ordinance to the Voters at the  
24 General Election to be held on November 8, 2016.

25 Murray asked for a motion to read the proposed Ordinance by title.

26  
27 Motion 7: Fisher-Brown moved that we read by title only at the first and second readings. Wiseman  
28 seconded the motion.

29  
30 Mayor Mattila said it was moved and seconded, and called for discussion. There was brief discussion  
31 regarding whether the word "recreational" needed to be more prominent in the Ordinance. Gintner said  
32 the Ordinance is inclusive with whatever the State allows, and if in the future the State allows a tax on  
33 medicinal marijuana, that would also be collected.

34  
35 Vote: Motion 7 passed.

36 Ayes: Fisher-Brown, Gambino, Grant, Mattila, Wiseman

37  
38 Murray read the proposed Ordinance by title only at the first reading, and called for questions or  
39 comments from the audience; there were none. She said no written comments were received, and looked  
40 for a motion to adopt.

41  
42 Motion 8: Gambino so moved. Grant seconded the motion.

43  
44 Mayor Mattila said it was moved and seconded, and called for the question.

45  
46 Vote: Motion 8 passed.

47 Ayes: Gambino, Grant, Mattila, Wiseman

48 Noes: Fisher-Brown

1 Murray said the motion passed, but not unanimously, so the second reading would appear on the next  
2 regular meeting Agenda. The next Agenda item was also removed because the Council cannot consider  
3 putting the measure on the ballot until the Ordinance has been adopted.

- 4  
5 B. Proposed Res. #450 – A Resolution Calling for an Election on November 8, 2016, for the  
6 Purpose of Referring to the Voters of the City of Depoe Bay, Oregon, a Measure that Would  
7 Impose a Three Percent (3%) Tax on the Sale of Marijuana Items by a Marijuana Retailer (Ord.  
8 #305)

9 This item was tabled to the next Agenda.

- 10  
11 C. Auditor Services Contract Renewal Proposal – Grimstad & Associates

12 Murray said the City has been doing three-year contracts with Grimstad for a long time (see copy of  
13 letter dated 6/27/16 from Grimstad & Associates attached to original of these minutes). She noted the  
14 proposed contract is for three years, and starts with the fiscal year which just ended on June 30. She said  
15 the price is up somewhat, and that one of the reasons for the increase is due to additional reporting  
16 requirements, which seem to increase every year. There was discussion regarding how many hours it  
17 takes to prepare an audit and how much the City is paying the auditor per hour. Murray noted the City  
18 did advertise for proposals a few years ago, and she found that there are not many auditors who still  
19 audit government entities.

20  
21 Motion 9: Gambino moved that we accept the contract proposal from Grimstad & Associates. Fisher-  
22 Brown seconded the motion.

23  
24 Discussion: There was brief discussion.

25  
26 Vote: Motion 9 passed.

27 Ayes: Fisher-Brown, Gambino, Grant, Mattila, Wiseman

28  
29 Murray will contact Grimstad to find out what the estimated hours are to prepare the audit, and provide  
30 this information to the Council.

- 31  
32 D. Whale Inn Property – Possible Solutions

33 Mayor Mattila said this item was on the Agenda because the property is a black eye on the City and he  
34 wanted to discuss it.

35  
36 Betty Laughlin, 460 NW Spencer, said as a realtor she is always concerned about a property that  
37 becomes vacant and not tended to. She said she lives in Depoe Bay and wants everything to be as  
38 beautiful as possible. She talked about a program called Family Promise that works together with  
39 churches to help families with children, who have lost their homes or jobs. Mayor Mattila said this item  
40 was on the Agenda because he wanted to ask the City Attorney about the possibility of acquiring the  
41 property using Federal government money to tear down the structures and build low-income housing.  
42 Ms. Laughlin said there is a family with two boys, and the man would be willing to do the plumbing and  
43 repairs to the property, and maybe they could live there while the work is being done. Mayor Mattila  
44 asked Gintner what the City can do; Gintner replied the property would have to be cited as a nuisance  
45 and after a lengthy process it could be foreclosed on, or the City could go through the condemnation  
46 process which would involve hearings and possibly a court case. He said the initial step should be  
47 issuing a citation under City Code. Weidner noted that no written complaints have been received, and  
48 this is what usually starts the enforcement process.

1 Motion 10: Gambino moved to direct the enforcement officer to proceed with violation and citation  
2 based on already-enacted codes. Wiseman seconded the motion.

3  
4 Discussion: There was brief discussion.

5  
6 Vote: Motion 10 passed.

7 Ayes: Fisher-Brown, Gambino, Grant, Mattila, Wiseman  
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9 Mayor Mattila turned the meeting over to President Gambino, who called a 10-minute recess at  
10 9:25 PM. The meeting reconvened at 9:35 PM, with Mayor Mattila at the helm.

11  
12 E. Real Estate Broker Services Proposals – Parking Lot Acquisition Project

13 Murray reported the City received two proposals: one from Tammy Powell from Emerald Coast Realty,  
14 and one from Rick Wright from S&W Real Estate (copies attached to original of these minutes). Tammy  
15 Powell from Emerald Coast Realty at 177 NW Hwy 101, was present and came forward to answer  
16 Council questions. Ms. Powell stated that one of the three property owners of interest was willing to  
17 work with a broker and her goal was to get him to pay her 3% commission. There was brief discussion.  
18

19 Motion 11: Grant moved to engage Tammy Powell of Emerald Coast Realty to represent the City and  
20 select properties and approach the owners, and under the guidance of the Council starting with the one  
21 property we know, because he's been here saying he's interested in selling to the City, and that would be  
22 John Woodmark.

23  
24 Discussion: A Councilor said one of the property owners has not had contact with the City. When a  
25 Councilor was uncomfortable with a motion that focused on one of the properties, Grant said he could  
26 take that out of his motion. Fisher-Brown said she would second the motion if it was amended. Grant  
27 said dynamics might come up that could cause him to have a potential conflict of interest; although he  
28 saw no potential conflict of interest involving the three properties originally recommended to the  
29 Council.

30  
31 Motion 11, restated: Grant moved to engage Miss Tammy Powell, Emerald Coast Realty, to represent  
32 the City brokering some of these potential real estate buys. Fisher-Brown seconded the motion.

33  
34 Discussion: Ms. Powell said typically she's involved in helping to come up with an appropriate price to  
35 offer, and she's happy to take guidance on which properties the Council wants to look at in what order.  
36 There was brief discussion. Mayor Mattila asked Grant to amend his motion to include regular reports to  
37 the Council; Gintner said once she's hired she becomes contracted Staff.

38  
39 Vote: Motion 11 passed.

40 Ayes: Fisher-Brown, Gambino, Grant, Mattila, Wiseman  
41

42 F. North Creek Reservoir Dredging Project contract – Road & Driveway Co.

43 Murray said normally Agreements are not presented to the Council until all we have all the certificates  
44 of insurance, but we're trying to fast track this. We've worked with Road & Driveway before and are  
45 fairly certain they will be able to provide the required certificates. (Copy of Agreement attached to  
46 original of these minutes.)  
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48 Motion 12: Gambino moved we approve the Mayor to sign the Agreement between the City and Road &  
49 Driveway Company for the North Creek Reservoir Dredging Project. Wiseman seconded the motion.

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

Vote: Motion 12, as restated, passed.  
Ayes: Fisher-Brown, Gambino, Grant, Mattila, Wiseman

X. CORRESPONDENCE

There were three items of correspondence (copies attached to original of these minutes): 1) An email from Kathy Wyatt at the NewsTimes regarding the annual Coast Guard Appreciation pages, and asking if the Council would be interested in participating. Submission deadline is July 15.

Motion 13: Fisher-Brown moved that Depoe Bay participate in the Coast Guard Appreciation page in the July 20 edition of the NewsTimes, and further moved that we authorize funding in the amount of \$189 for a 3 x 5. Gambino seconded the motion.

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

Vote: Motion 13 passed.  
Ayes: Fisher-Brown, Gambino, Grant, Mattila, Wiseman

Correspondence, continued:

2) A letter to Mayor Mattila from the Confederated Tribes of Siletz Indians Tribal Council, inviting him to attend the 2016 Nesika Illahee Pow Wow on August 12-14. There is no cost involved, except mileage reimbursement. Mayor Mattila added we could throw out some cushy toys for the kids.

Motion 14: Grant moved to provide the Mayor with expenses up to \$200 to buy some candy and do whatever he needs to make it a fun time. Gambino seconded the motion.

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

Vote: Motion 14 passed.  
Ayes: Fisher-Brown, Gambino, Grant, Mattila, Wiseman

Correspondence, continued:

3) A letter from Spencer Nebel at the City of Newport regarding a workshop meeting between the County and the Cities in Lincoln County to discuss housing issues, on Tuesday, July 12 at 3:00 PM at Newport City Hall. The Mayor will be attending, and any Councilors who are interested are invited. Please let Murray know as soon as possible if you are interested.

XI. CITY STAFF REPORT

Murray 1) asked if any Councilors were interested in attending the League of Oregon Cities conference September 29 - October 1 in Salem, as discussed at the last meeting, and asked any interested parties to let her know as soon as possible. 2) Next Wednesday is the Transportation System Plan Open House at the Community Hall, and Thursday evening is the joint City Council/Planning Commission Workshop from 6-8 PM.

Weidner: 1) The owner of lot 8400 across from City Hall where there are transients living is coming up tomorrow from San Diego with his attorney. He hopes to have the Sheriff involved, and has ordered a dumpster for cleanup. Weidner said he has been working with Gintner's associate on this, and no fines

1 have been levied because the property would need to be declared a nuisance first. He said some of the  
2 people have been living there long enough to have established some rights. A Councilor asked if the  
3 property could be declared a nuisance by motion; Gintner responded that he would rather see the City  
4 proceed in a calm, incremental manner because when you declare a nuisance and start foreclosing it can  
5 end up in court and take a long time. Weidner will provide an update at the next meeting. 2) Port-a-  
6 potties have been delivered to the harbor, and he'll be working with the Harbormaster to find locations  
7 for them.

8

9 XII. COUNCIL COMMENTS

10 Fisher-Brown said a lot of people have come to her complaining about lack of Fourth of July  
11 celebrations in Depoe Bay. She understands we will probably never get the fireworks back, but thinks it  
12 would really benefit the City to organize some Fourth of July celebrations here in Depoe Bay.

13

14 Grant commented he never saw a formal letter denying the fireworks. Mayor Mattila said he spoke with  
15 two different Governors and the Parks Department, who denied the fireworks.

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17 XIII. ADJOURN

18 There being no further business, the meeting was adjourned at 10:17 PM.

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A. J. Mattila, Mayor

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31 Emma LuMaye, Recording Secretary (transcribed from audio)