

1 Depoe Bay City Council  
2 Regular Meeting  
3 Tuesday, July 19, 2016 - 7:00 PM  
4 Depoe Bay City Hall

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

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9 VACANCY: 2 vacant seats

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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.

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17 II. CALL TO ORDER

18 Mayor Mattila called the meeting to order at 7:07 PM and established a quorum.

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20 III. APPROVE MINUTES: July 5, 2016 Regular Meeting

21 Motion 1: Fisher-Brown moved to approve the minutes of the July 5 meeting. Gambino seconded the  
22 motion.

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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.

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35 Vote: Motion 2 passed.

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

37 Abstain: Mattila

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39 V. SPECIAL ORDERS

40 A. Michelle Branam, Lincoln County District Attorney's Office

41 Michelle Branam introduced herself and presented crime statistics for 2014-2015. She stated there has  
42 been an increase in DUII, auto accident, theft, and burglary filings; while there has been a decrease in  
43 domestic violence and child abuse filings. She did not have statistics on how many crimes were  
44 reported. There was discussion.

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

47 There were no reports.

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49 VII. PUBLIC COMMENTS

1 There were no public comments.

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### 3 VIII. UNFINISHED BUSINESS

#### 4 A. Legal Review – Report on Supreme Court Ruling Police Stops

5 City Attorney Pete Gintner reported that the new ruling allows police to stop people who are walking  
6 down the street doing nothing wrong and ask for ID. It was noted during discussion that a person does  
7 not have to comply unless they are being detained or arrested. Gintner said the new ruling has a chilling  
8 effect. There was discussion. Gambino questioned why the Council was discussion a Supreme Court  
9 decision.

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#### 11 B. Proposed Ord. #305 – An Ordinance Imposing a Three Percent (3%) Tax on the Sale of 12 Marijuana Items by a Marijuana Retailer, and Referring the Ordinance to the Voters at the 13 General Election to be Held on November 8, 2016 (2<sup>nd</sup> Reading)

14 Murray reviewed the proposed Ordinance for the audience, and performed the second reading by title  
15 only, then called for questions or comments from the audience. There were none. She said no written  
16 comments were received, but she had clipped a newspaper article titled *The Flower Pot Welcomes Tax*.  
17 (Copy of proposed Ord. #305 attached to original of these minutes.)

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19 Motion 3: Gambino moved to approve Ord. #305 as read at the second reading. Wiseman seconded the  
20 motion.

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22 Mayor Mattila called for the question.

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24 Vote: Motion 3 passed.

25 Ayes: Gambino, Grant, Mattila, Wiseman

26 Noes: Fisher-Brown

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28 Murray said the Ordinance passed at the second reading, and the next Agenda item, upon adoption, will  
29 put the Ordinance just adopted on the November 8 ballot.

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#### 31 C. Proposed Res. #450 – A Resolution Calling for an Election on November 8, 2016, for the 32 Purpose of Referring to the Voters of the City of Depoe Bay, Oregon, a Measure that would 33 Impose a Three Percent (3%) Tax on the Sale of Marijuana Items by a Marijuana Retailer (Ord. 34 #305)

35 Murray reviewed the proposed Resolution and its attachments (copy attached to original of these  
36 minutes).

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38 Motion 4: Wiseman moved to approve Res. #450 as written. Gambino seconded the motion.

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40 Mayor Mattila called for the question.

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42 Vote: Motion 4 passed.

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

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#### 45 D. Property Nuisances – Ord. #29 – Providing for the Abatement of Building Nuisances

46 Mayor Mattila asked Gintner to review the Ordinance (copy attached to original of these minutes) and  
47 modify it for the City's needs. Gintner said he would, and asked for and received clarification that the  
48 Council just wants the Ordinance cleaned up to modern language, and not to enhance penalties.

49 Discussion regarding potential changes to the Ordinance included a suggestion to add language to

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1) Section 1.(1)(a) regarding failure to properly maintain a property’s vegetation, and 2) Section 1.(1)(c) regarding a structure that is liable to cause injury – specifically addressing open doors or windows through which people can enter, broken glass, medical waste, human waste or other debris which could cause injury if the building was on fire. Gintner indicated he would clearly identify those suggestions in the text. There was brief discussion.

IX. NEW BUSINESS

A. Glass Recycling Bin – Relocate/Remove

Mayor Mattila said the glass recycling bin has become a nuisance, is often overfull, and takes up harbor parking. He wanted to have the recycling company remove it.

Motion 5: Gambino moved to contact North Lincoln Sanitary Service and ask them to remove the glass recycling bin. Fisher-Brown seconded the motion.

Discussion: There was discussion regarding other locations for recycling glass and cardboard, and posting a notice at the post office of where such locations are; and a Councilor’s desire that this be a temporary action lasting only until an appropriate location can be found where it doesn’t create problems. There was a question as to why the bin isn’t emptied on a regular basis; Weidner said the City provides notification when the bin is full. It was also noted that the recycle bin is a free service, and that the weight of the bin causes asphalt damage.

Vote: Motion 5 passed.

Ayes: Fisher-Brown, Gambino, Mattila

Noes: Grant, Wiseman

B. Construction Bids – Coast Avenue Infrastructure Improvements Project

Weidner reported that two bids were received, and recommended accepting the low bid of \$485,128.75 from Devils Lake Rock Company. There was brief discussion. (Copy of letter dated 7/14/16 from Century West Engineering attached to original of these minutes.)

Motion 6: Gambino moved that we adopt the recommendation by Century West Engineering to award the contract to Devils Lake Rock Company and notify both companies, and to give the second bidder seven days following the day of notice to file a written protest in accordance with this section. Fisher-Brown seconded the motion.

Mayor Mattila called for discussion; there was none.

Vote: Motion 6 passed.

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

C. Proposed Ord. #306 – An Ordinance Regulating the Placement and Maintenance of Mail Boxes in the Public Right-of-Way Within the city of Depoe Bay; Providing Penalties for Violations Thereof; and Declaring an Emergency

Murray reported the City Attorney had worked on the draft Ordinance (copy attached to original of these minutes) as discussed at the last meeting. She said two written comments were received (copies attached to original of these minutes), as well as verbal comments from Peter Roina of the U.S. Postal Service. She noted the written comments from Ms. Sovern were requested to be read into the record, and whether this is done is up to the Council. The Council did not have Ms. Sovern’s comments read into the record, noting they have a copy. Murray said the written comments from Mr. Million were mostly a complaint,

1 except the final paragraph, which addresses the proposed Ordinance. There was brief discussion  
2 regarding the contents of Mr. Million's comments; Councilors did not recall any threats being made.  
3 Bernie Lynam addressed the Council, rebutting Mr. Million's written comments. He also stated no one  
4 except a property owner has the right to put out a Locate on private property, and said the threat that was  
5 made to Mr. Million was if his wife was found on Lynam's property again, that Lynam would call the  
6 Sheriff. A Councilor commented that the frustrations expressed by Mr. Lynam were understood but  
7 beyond the purview of the Council, and were a private matter between neighbors and their attorneys.  
8 Murray asked the Council if they wished to proceed with adoption of the Ordinance, and asked for a  
9 motion to read by title only.

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11 Motion 7: Fisher-Brown moved to read Ord. #306 into the record by title only. Gambino seconded the  
12 motion.

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14 Discussion: There was brief discussion regarding reading the Ordinance by title only.

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16 Vote: Motion 7 passed.

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

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19 Murray performed the first reading of proposed Ord. #306 by title only, and called for questions or  
20 comments from the audience. There were no questions or comments. Murray provided a synopsis of  
21 Peter Roina's verbal comments from a phone call: 1) Section 3 says a mailbox cannot be closer than  
22 one foot from a curb or traveled portion of roadway; Mr. Roina said postal regulations require it be  
23 closer than six-to-eight inches from the curb face. 2) Section 6 says a receptacle for newspapers and  
24 advertisements is allowed to be installed directly under the mailbox; Mr. Roina said it's OK to be on the  
25 same post, but the newspaper receptacle must not touch the mailbox. 3) Section 7 says it is the owner's  
26 obligation to ensure access to the mailbox during construction; Mr. Roina was not sure but thought that  
27 obligation would lay with the City, and said the Domestic Mail Manual would clarify the answer to this  
28 question. Murray also touched again on the written comments from Valerie Sovern and Jeff Million.  
29 Gintner said he did not feel that amending the proposed Ordinance for the issues brought forth by Mr.  
30 Roina was necessary, else it could be amended to include all the provisions in the Domestic Mail  
31 Manual. A Councilor suggested adding language that the mailbox must be fixed and not moveable.

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33 Motion 8: Grant moved to adopt Ord. #306 on the first reading. Fisher-Brown seconded the motion.

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35 Mayor Mattila called for the question.

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37 Vote: Motion 8 passed.

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

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40 Murray performed the second reading of proposed Ord. #306 by title only, and called for questions or  
41 comments from the audience. There were none. Comments from Peter Roina, Valerie Sovern, and Jeff  
42 Million were discussed at the first reading. She asked if the Council was ready to move to adopt at the  
43 second reading.

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45 Motion 9: Grant said Amen. Murray asked if that was a motion. Fisher-Brown said she seconded, if it  
46 was. Murray said the motion was to adopt Ord. #306 at the second reading.

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48 Mayor Mattila called for the question.

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1 Vote: Motion 9 passed.

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

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4 D. Proposed Exclusive Buyer Service Agreement – Tammy Powell, Emerald Coast Realty –  
5 Parking Land Acquisition Project

6 Murray reported that Tammy Powell could not be here tonight, and reviewed the Service Agreement  
7 provided by Ms. Powell (copy attached to original of these minutes), noting the proposed term was for  
8 one year, and Lines 46 and 52 were language provided by the City Attorney. There was discussion.

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10 Motion 10: Gambino moved that we sign the Exclusive Buyer Service Agreement with Tammy Powell  
11 from Emerald Coast Realty. Fisher-Brown seconded the motion.

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13 Discussion: There was discussion regarding shortening the term of the Agreement to six months,  
14 because a year is too long to give someone exclusive rights to represent the City, and six months is  
15 ample time.

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17 Amendment: Gambino amended his motion to reflect that. Fisher-Brown did not second the amendment.

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19 Discussion: Mayor Mattila suggested shortening the term to three months. There was additional  
20 discussion regarding the term of the Agreement. Fisher-Brown withdrew her second. Gambino withdrew  
21 his motion.

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23 Motion 11: Grant moved that we approve the Exclusive Buyer Service Agreement as proposed by  
24 OREF. He asked if Ms. Powell had written in one year or if it was just a suggestion; Murray responded  
25 that she wrote it in based on a telephone conversation with Ms. Powell. Grant said let's do six months.  
26 The motion was as written except for changing the term. Wiseman seconded the motion.

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28 Mayor Mattila called for the question.

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30 Vote: Motion 11 passed.

31 Ayes: Gambino, Grant, Mattila, Wiseman

32 Noes: Fisher-Brown

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34 Murray asked the Council how they wanted to proceed, and suggested scheduling an Executive Session  
35 where they could freely speak about property transactions; she noted the Urban Renewal Chair would  
36 like to attend if the Council chooses to do that.

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38 Motion 12: Fisher-Brown moved to schedule an Executive Session in order to address the properties the  
39 City would like to acquire for parking, and that we invite the Chair and Vice-Chair of the Urban  
40 Renewal Agency to attend the Executive Session. Grant asked if Bill Spores could also be invited to the  
41 Executive Session. Fisher-Brown said she was willing to extend the motion to invite Mr. Spores. Grant  
42 seconded the motion.

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44 Discussion: There was brief discussion about Mr. Spores' knowledge and the importance of his voice.  
45 Murray re-stated the motion for clarity: that we schedule an Executive Session with Ms. Powell and  
46 invite the Urban Renewal Chair and Bill Spores.

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48 Vote: Motion 12 passed.

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

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Murray said she would update the Agreement with the revised time frame, have Ms. Powell and the Mayor sign it, and schedule an Executive Session prior to the next meeting if Ms. Powell is available.

E. Proposed Res. #451 – 2017 Special City Allotment (SCA) Grant Application – Schoolhouse St. and Shell Ave. Intersection at Highway 101

Weidner said he is still trying to get ODOT to approve the Schoolhouse Street/Shell Avenue intersection improvement project. He requested the Council’s authorization to submit an SCA grant application for this project. (Copy of Res. #451 attached to original of these minutes.)

Motion 13: Gambino moved to approve Res. #451 as written. Wiseman seconded the motion.

Mayor Mattila called for the question.

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

F. Authorize Expenses – League of Oregon Cities (LOC) Annual Conference, Salem and Coastal Caucus, North Bend

Murray said Mayor Mattila was hoping to go to the 5<sup>th</sup> Annual Oregon Coast Economic Summit by the Oregon Coastal Caucus in Coos Bay on August 8-9. There is no registration fee. She asked for authorization for total estimated expense of \$520 for lodging and mileage.

Motion 14: Grant moved that we set aside up to \$750 for the Mayor’s trip to Coos Bay to visit the Coastal Caucus gathering. Gambino seconded the motion.

Mayor Mattila called for the question.

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

Murray continued: the LOC Annual Conference will be at the Convention Center in Salem September 29 through October 1, and both Mayor Mattila and Council President Gambino wish to attend. She asked for authorization of total estimated expenses of \$2,300 for registration, lodging, mileage, and meals.

Motion 15: Fisher-Brown moved that we approve expenses for the League of Oregon Cities Annual Conference for the Mayor and the City Council President in an amount not to exceed \$2,500. Wiseman seconded the motion.

Mayor Mattila called for the question.

Vote: Motion 15 passed.  
Ayes: Fisher-Brown, Gambino, Grant, Mattila, Wiseman

X. CORRESPONDENCE

There was one item of correspondence (copy attached to original of these minutes): a letter dated 7/15/16 from Whitlock, Reeves, Whitlock, and Lattig, regarding the property located at 900 S Hwy 101. They requested the Council look at their septic system vs. connecting to City sewer situation, and to

1 grant a letter to authorize the county to issue a permit to replace the septic tank, meeting modern codes  
2 and conditions at this time on the property. Murray clarified this request is asking the Council to waive a  
3 requirement that they connect to City sewer. Weidner added a connection is mandated if the property is  
4 300 feet or less from the sewer line. He didn't think ODOT would allow the necessary force main(s) to  
5 connect to the line on the east side of the highway and this would force the property owners to establish  
6 a connection through private property; this connection would be very expensive. He said another option  
7 would be to bore under Hwy 101 to South Point Street, about 270 feet, and explained how this might  
8 work, but more research would need to be done. His said the least expensive option would be for the  
9 property owners to replace the septic tank. He said Mr. Lattig plans to attend the August 2 Council  
10 meeting, and he will have City Crew do more research before then, and make a recommendation to the  
11 Council.

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### 13 XI. CITY STAFF REPORT

14 Murray reported 1) The City foreclosed on a boat in the harbor with unpaid moorage, and the sale of the  
15 boat took place on the steps of the City Attorney's office on July 6. There were no bids, so the City now  
16 owns the boat. When the paperwork is complete, she will be asking the Council what they want to do  
17 with the boat. There was brief discussion. 2) At the last meeting the Council considered a contract  
18 renewal with the City's Auditor, and a question was raised regarding an estimate of how many hours the  
19 audits take. The estimate provided by Ms. Grimstad is 137-148 hours, making an estimated hourly rate  
20 somewhere between \$123 and \$115 per hour. 3) She asked the Council's consideration and approval of  
21 a new benefit being offered by CIS, the City's medical insurance provider. The new benefit is Short  
22 Term Disability (STD). The premium for this benefit would be paid by the employee, should they  
23 choose to have this coverage. The benefit would cover up to 60% of an employee's weekly earnings.  
24 The cost to the City would be minimal administrative time. She said this program would be similar in its  
25 scope and cost to AFLAC, a benefit approved by the Council some years ago. There was discussion.

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27 Motion 16: Fisher-Brown moved that we allow the employees to have the option to add Short Term  
28 Disability insurance to their already-existing policy that they have through the City of Depoe Bay.  
29 Gambino seconded the motion.

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31 Discussion: There was discussion about what the STD would cover, whether the deduction would be  
32 pre-tax or post-tax, having the ability to use it as a bargaining chip the next time we have to worry about  
33 contracts, how much administrative costs might run, and how it would be paid.

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35 Vote: Motion 16 passed.

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

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38 Weidner reported 1) ODOT is making the City move water lines along Hwy 101, and he is looking into  
39 whether or not the City can receive any reimbursement. He outlined his plan for the project and said the  
40 estimated cost of materials was \$8,540, plus estimated cost of between \$1,800 and \$5,000 for a  
41 contractor to tie in the lines. There was discussion.

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43 Motion 17: Gambino moved to approve an amount of \$9,500 for materials for the ODOT project water  
44 line. Fisher-Brown seconded the motion.

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46 Mayor Mattila called for the question.

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48 Vote: Motion 17 passed.

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

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Weidner continued his Staff Report:

2) The plans for the earthen dam project have been approved, and construction can start as soon as dredging is done. We will be tearing out the old structure, building a platform, and putting a new sluice gate in. He requested the Council's authorization to go out to bid on construction. There was discussion.

Motion 18: Gambino moved to allow Weidner to put out for bid for the earthen dam project. Grant seconded the motion.

Discussion: There was brief discussion about Rocky Creek water production.

Vote: Motion 18 passed.

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

XII. COUNCIL COMMENTS

Fisher-Brown asked the Council to start moving forward with the process of finding someone to fill the position of City Recorder when Murray retires, and encouraged getting this process rolling as quickly as possible.

Wiseman suggested Murray might want to apply for the City Council.

Grant said he also has been thinking about Murray's departure, and that it should be on the next Agenda. He asked Murray for a detailed job description; she indicated one exists. Grant said the Council will have choices on how to start the replacement, based on the job description. Murray will get copies of the job description to the Council.

XIII. ADJOURN

There being no further business, the meeting was adjourned at 9:47 PM.

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A. J. Mattila, Mayor

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Emma LuMaye, Recording Secretary (transcribed from audio)