

1 Depoe Bay Planning Commission  
2 Regular Meeting  
3 Wednesday, January 18, 2006 - 7:00 PM  
4 Depoe Bay City Hall

5  
6 PRESENT: S. McGavock, C. Connors, J. Messina, D. Goddard, B. Bruce, B. Taunton (arr. 7:02 PM)

7  
8 ABSENT: D. Davilla

9  
10 STAFF: City Planner L. Lewis, Acting City Recorder C. McCarley, Recording Secretary C.  
11 Duering

12  
13 I. CALL MEETING TO ORDER

14 Lewis called the meeting to order and established a quorum at 7:00 PM and stated the first order of  
15 business is to elect a President and Vice-President.

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17 II. ELECTION OF PRESIDENT AND VICE-PRESIDENT

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19 Motion: Goddard moved to elect Connors as President. Messina seconded the motion.

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21 Lewis said it was moved and seconded, and called for discussion. There was none.

22  
23 Vote: Motion passed.

24 Ayes: McGavock, Messina, Goddard, Bruce

25 Abstain: Connors

26  
27 Motion: McGavock moved to elect Davilla as Vice-President. Goddard seconded the motion.

28  
29 Lewis said it was moved and seconded, and called for discussion. There was none.

30  
31 Vote: Motion passed.

32 Ayes: McGavock, Messina, Taunton, Connors, Goddard, Bruce

33  
34 Lewis explained tonight's unique situation as the newly appointed President is the Applicant for the first  
35 Public Hearing Item this evening and therefore she will need to recuse herself and the newly appointed  
36 Vice-President is absent. Lewis asked for a Commissioner to volunteer to lead the Public Hearing  
37 procedure for that portion of the meeting. McGavock offered to volunteer.

38  
39 Connors took her seat as President.

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41 III. APPROVAL OF MINUTES: December 21, 2005 Regular Meeting

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43 Motion: Taunton moved to approve the Minutes of the December 21, 2005 Regular Meeting as written.  
44 Goddard seconded the motion.

1 Connors said it was moved and seconded, and called for discussion. There was none.

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3 Vote: Motion passed.

4 Ayes: Taunton, Connors, Goddard

5 Abstain: McGavock, Messina, Bruce

6

7 IV. ITEMS FROM THE AUDIENCE

8 Mayor James White welcomed the new members to the Planning Commission and congratulated the  
9 newly appointed President. He stated that the Commission has a large job ahead – We will be moving  
10 ahead on a lot of issues in the city. He encouraged the new members to rely on the knowledge and  
11 advice of the long-term members. You have the support of the City Council. We have a Planning  
12 Commission and City Council who can work together to achieve good things for our community. He  
13 thanked all the Commissioners for their service.

14

15 Connors recused herself and McGavock took the position of chairing the Public Hearing.

16

17 V. PUBLIC HEARING ITEMS

18

19 A. Case File #4-GEO-PC-05

20 Applicant: Carol Connors

21 Application: Geologic Hazards Permit

22

23 McGavock said testimony and evidence given must be directed toward criteria described by the City  
24 Planner, or other criteria in the code that the testifier believes applies to the request. Failure to raise an  
25 issue, accompanied by statements or evidence sufficient to afford the Commission and the parties an  
26 opportunity to respond to the issue precludes appeal to the State Land Use Board of Appeals on that  
27 issue. Application materials or other evidence relied upon by the Applicant had been provided to the  
28 City and made available to the Public. McGavock asked if any Commissioner had ex-parte contact,  
29 conflict of interest, or bias to declare. There was none. McGavock then asked if anyone had objection  
30 to any Planning Commissioner hearing the case. There was no objection. Lewis summarized the Staff  
31 Report (copy attached to original of these Minutes). Lewis noted the omission of the standard  
32 Archeological Resources Condition and suggested the inclusion of that condition in the Final Order.  
33 Lewis distributed a slightly revised Site Plan (copy attached to original of these Minutes) received after  
34 the preparation of the Staff Report. McGavock asked if the Commissioners had any questions to address  
35 to the City Planner. There was none. The Applicant was given an opportunity to testify and answer  
36 questions from Commissioners. Peter Asher, Designer/Builder, 48250 Little Nestucca River Rd.,  
37 Cloverdale, asked Lewis to define the type of artifacts generally found in the vicinity of Depoe Bay.  
38 Lewis replied they are usually related to Indian artifacts (i.e. arrowheads, even some human remains).  
39 There was no additional testimony in support of the Application and no testimony in opposition. There  
40 was no request to keep the Record open. The Public Hearing was closed and deliberations began. A  
41 Commissioner asked Lewis to clarify the revised Site Plan. Lewis illustrated (using the Site Plan  
42 provided by the Applicant) the revisions. A Commissioner asked if the design change would affect any  
43 of the setbacks. Lewis replied no.

44

1 Motion: Goddard moved to approve the Geologic Hazards Permit Application for Case File #4-GEO-  
2 PC-05 with the Conditions of Approval as recommended by the City Planner with the following  
3 revision: Insert *Archeological Resources*. *Development shall be conducted in a manner so as to*  
4 *minimize site disturbance and prevent irreversible loss of archaeological resources. Before and during*  
5 *excavation any discovery of archaeological resources shall mean that the Applicant shall cease*  
6 *excavation activities, notify the State Historic Preservation Office, and meet State statutes before*  
7 *proceeding*. Taunton seconded the motion.

8  
9 McGavock said it was moved and seconded, and called for discussion. There was none.

10  
11 Vote: Motion passed.

12 Ayes: Messina, Taunton, McGavock, Goddard, Bruce

13  
14 Connors returned to her seat.

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16 C. Case File: #4-CU-PC-05 (Continued)

17 Applicant: City of Depoe Bay

18 Application: Conditional Use Permit, Geologic Hazards Permit, and Variance Request

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20 Connors said testimony and evidence given must be directed toward criteria described by the City  
21 Planner, or other criteria in the code that the testifier believes applies to the request. Failure to raise an  
22 issue, accompanied by statements or evidence sufficient to afford the Commission and the parties an  
23 opportunity to respond to the issue precludes appeal to the State Land Use Board of Appeals on that  
24 issue. Application materials or other evidence relied upon by the Applicant had been provided to the  
25 City and made available to the Public. Connors asked if any Commissioner had ex-parte contact,  
26 conflict of interest, or bias to declare. Connors declared she had spoken with members of the Public  
27 regarding their concerns; reiterated that she lives on Summit Place and intends to construct a single-  
28 family dwelling on her property on Summit Street. Lewis recapped the preceding Public Hearings  
29 (December 21, 2005 and November 16, 2005); summarized the Staff Report (copy attached to original of  
30 these Minutes); and reviewed prior Oral and Written Testimony (copy attached to original of these  
31 Minutes). Connors then asked if anyone had objection to any Planning Commissioner hearing the case.  
32 There was no objection. Connors asked if the Commissioners had any questions to address to the City  
33 Planner. A Commissioner asked if the proposed water reservoir would be a sealed structure. Lewis  
34 deferred and asked the Commissioner to address the question to the Applicant. Matt Hickey, P.E.,  
35 Murray, Smith & Associates, Inc., 121 S.W. Salmon St., Suite 900, Portland, (Consulting Engineers for  
36 the City's Reservoir Project) replied the structure would be sealed and enclosed. A Commissioner  
37 inquired what precautions are being taken to withstand the threat of terrorism. Hickey responded 8'  
38 fence with barbed wire; intrusion alarms on hatches; vent on top of the reservoir will be secured with  
39 plates that overlap; and ladder will have a shield. A Commissioner asked will the electrical utilities be  
40 above or underground. Hickey answered conduits will extend from an existing utility pole west of the  
41 reservoir - the utilities will be underground on-site and an existing on-site utility pole south of the  
42 proposed reservoir will probably be removed. A Commissioner asked for clarification on the color of  
43 the tank. Hickey described the preferred color on similar projects is forest green (blends well with  
44 Oregon's natural vegetation) and would recommend it, however it will be the City's and Planning

1 Commission's decision. A Commissioner asked if there are two sites. Hickey confirmed there is a North  
2 Reservoir Site (placement of main structure) and South Reservoir Site (minor upgrades). The Water  
3 Treatment Plant pumps water up to the North Reservoir which gravity feeds the South Reservoir. There  
4 was no testimony in support of the Application. JoAnne "Fran" Evans, 12502 S.W. 123<sup>rd</sup>, Tigard,  
5 testified that she was not opposed to the project but wanted to make the City aware of an easement (to  
6 grant access to property to the northwest) on the parcel intended to be the project site. She will provide  
7 the City a copy of the recorded document tomorrow morning. A Commissioner asked if she had a map  
8 to assist the Commissioners in understanding the referenced property location. Lewis illustrated (using  
9 the Staff Report) the location. Fran Recht, 66 N.E. Williams, requested that the Record remain open for  
10 7 days preferably 21 days considering the easement access matter needs to be resolved. She expressed  
11 her disappointment - feels that her comments and concerns have not been addressed. The Public Access  
12 issue is particularly upsetting. No effort on the part of the Applicant has been made to provide Public  
13 Access/Ocean View Area. She referenced DBZO Article 6. Conditional Uses, Section 6.020 2. h.  
14 *Designating sites for open space*. She asked what is being done to compensate for the proposed  
15 intrusive, industrial structure in this residential neighborhood. She offered several suggestions on how  
16 to accommodate her request for Public Access. She stated she intends to provide a copy of the Shideler/  
17 City of Depoe Bay Settlement Agreement and Release for the Record and gave a brief synopsis of the  
18 lawsuit and how it relates to the current project. She mentioned the e-mail (Wednesday, December 28,  
19 2005) from Dwight Harden to Matt Hickey and the lack of calculations and Engineering Stamp to  
20 support his statements. A Geologic Hazards Report needs to be submitted on the temporary tank site  
21 (greater than 20% slope) for approval. Conflicting data specified in the Geotech Report regarding the  
22 depth of footings and Mr. Pailthorp's review. She reiterated her disappointment and frustration with the  
23 City for not acknowledging her legitimate concerns relating to this critical facility and indicated she  
24 would submit her recommended additional Conditions of Approval. Terry Owings, City Superintendent,  
25 stated the City would honor a legal easement and would consider not installing a fence on that portion of  
26 the site if necessary; re-stressed the importance of protecting Depoe Bay's Water System from  
27 vandalism; project financial funding is limited; temporary tanks will be located on a bench in the  
28 topography. A Commissioner inquired about the length of time the temporary tanks would be providing  
29 our water source. Owings replied approximately 1½ years – weather will be a primary factor. Owings  
30 assured the Commission that the Landscaping Plan includes site-obscuring screening. He readdressed  
31 the necessity of securing the facility and the priority over and above Public Access. The Applicant and  
32 Commissioners ensued in a lengthy discussion with most of the discussion focusing on the location of  
33 the temporary tanks; probable easement; stability of the retaining wall; clarifying the final structural  
34 design of the footing depth and width; determination of the reservoir capacity to meet City's water  
35 demands (fire flow, population growth, emergency storage); completion of the Final Project Plans and  
36 the review procedure; and the anticipated date for the Advertisement for Bids. A Commissioner asked  
37 Recht to identify her feelings and concerns about the reservoir project. Recht acknowledged the  
38 significant need of having increased water storage capability, however the proposed site is a potentially  
39 very dangerous location. Safety, visual, and access are her primary concerns.

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41 Motion: Goddard moved to leave the Record Open for additional Public input for 7 days to receive  
42 additional information and another 7-day period to allow written response to the information received  
43 during the first 7-day period. Deliberations will occur at the February 15, 2006 Meeting. McGavock  
44 seconded the motion.

1 Connors said it was moved and seconded, and called for discussion.

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3 The City Planner clarified the deadlines (January 25, 2006 at 5:00 p.m. for additional information and  
4 February 1, 2006 at 5:00 p.m. for rebuttal and the close of the Public Hearing).

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6 Vote: Motion passed.

7 Ayes: McGavock, Messina, Taunton, Connors, Goddard, Bruce

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9 VI. NEW BUSINESS:

10 It was the consensus of the Commission to continue the City Council Liaison rotation. Goddard  
11 volunteered to attend the February 7<sup>th</sup> Meeting and Connors volunteered to attend the February 21<sup>st</sup>  
12 Meeting. Connors directed Lewis to prepare a Memo proposing a 2006 Schedule. Bruce volunteered to  
13 be the Planning Commission Member on the Depoe Bay Economic Business Development Committee.

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15 VII. CITY COUNCIL LIAISON REPORT

16 Connors reported the City Council agreed to proceed with the Ordinance Adoption Process on the  
17 Proposed Amendments to the Comprehensive Plan, Zoning Ordinance and Zoning Map Relating to Uses  
18 and Standards. The process will include two opportunities for Public comment and Commissioners may  
19 submit Testimony if they desire at that time.

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21 VIII. PLANNER'S REPORT

22 Lewis reviewed his written report (copy attached to original of these Minutes).

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24 IX. PLANNING COMMISSION CONCERNS

25 Taunton requested that the Commissioners speak-up. Goddard welcomed the new Commissioners.

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27 X. ADJOURN

28 There being no further business, the meeting was adjourned at 8:35 PM.

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Carol Connors, President

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Carla Duering, Recording Secretary