

MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL

March 2, 1999

The minutes of the proceedings of the regular meeting of the City Council of the City of Coos Bay, Coos County, Oregon, beginning at 6 p.m. with an appeal of a land use approval in the Council Chambers and proceeding to a regular session at 7:30 p.m. in the Council Chambers at City Hall, 500 Central Avenue, Coos Bay, Oregon.

Those Present

Those present were Mayor Joanne Verger, Councilors Jeff McKeown, Cindi Miller, Don Spangler, Kevin Stufflebean, and Judy Weeks. Councilor Joe Benetti was out of town. City staff present were City Manager Bill Grile, Deputy Recorder Joyce Jansen, City Attorney Randall Tosh, Community Services Director Bill Finney, Library Director Carol Ventgen, Planning Administrator Laura Barron, Fire Chief Stan Gibson, Police Chief Chuck Knight.

APPEAL OF PLANNING COMMISSION LAND USE APPROVAL

Mayor Verger opened the hearing on the appeal of the Planning Commission's land use approval on property located at 1995 Newmark Avenue. Planning Administrator Laura Barron explained the testimony and evidence must be applicable to the decision, additional evidence may be provided, and any party shall be entitled to a continuance. Ms. Barron reported Community Services Department had received the notice of appeal on December 31, 1998 by an adjacent property owner, Mr. Thomas Wilson, because he did not receive notice of the hearing before the Planning Commission. She further explained as required by City ordinance, the applicant (Staples), is required to provide a list of last known property owners adjacent to the property for notification purposes at the time of the application. Mr. Wilson did not receive a notice because the notice was sent to the Edwards Family Trust as the owner of the property per the property owners list provided by the County. Ms. Barron explained a request for an appeal must be made by a person who has "standing to appeal" as stated in Section 5.4 of the Land Development Ordinance. To have "standing" the person must have appeared before the Planning Commission orally or in writing, or was a person entitled or requested to receive mailed notice of the hearing prior to the decision or anyone requesting notice of the decision, and was a person whose interests are adversely affected by the decision. Ms. Barron commented the purpose of the hearing is to accept testimony as to Mr. Wilson's standing to appeal.

Mayor Verger commented up to this meeting, Staples has had the approval of the Planning Commission and to make a change at this time would involve a re-interpretation of the ordinance. Councilor McKeown noted that as currently interpreted, there is no standing. City Manager Grile commented the Council's objective is to determine if the appellant has standing to appeal and should have received notice of the Planning Commission's meeting regarding the site plan and architectural review, and if it is determined the appellant lacks standing, it would be appropriate to ask the applicant's attorney to draft an order to terminate the appeal. Mayor Verger asked the attorneys to introduce themselves and explained each would have ten minutes to present their case before the City Council.

Bill Kloos, 440 East Broadway, Eugene, representing Thomas Wilson. Mr. Kloos explained the issue is whether his client was entitled to receive notice of the Planning Commission's hearing. He reported the City ordinance states notice is to be given to owners within 250 feet of the property. And further, the ordinance has provisions relating to who may appeal and defines who is entitled to notice, which would

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include people like Mr. Wilson who are record owners but whose names have not been picked up by the County records. Mr. Kloos stated the Council should honor their code as written, and that his client was entitled to written notice and is entitled to appeal.

Mr. Michael Robinson, representing Read Investments, reported the Council must determine if Mr. Wilson has standing to file an appeal, and if yes, a hearing would be required. Mr. Robinson explained if the Council finds Mr. Wilson does not have standing, the Council would close the hearing and order the findings be prepared. He commented the ordinance is very well written and it is clear that both sections must be read together, and the City has interpreted the ordinance and has consistently implemented the ordinance in this way. Mr. Robinson reviewed section 2.5 requiring written notice to all property owners within 250' of the site and section 2.8 which requires the applicant supply the City with a list of last known property owners from the County. He reported Staples had submitted the application on November 10th and notices were mailed November 18th. The last adopted tax role was prepared September 25, 1998, and Mr. Wilson's deed was recorded on October 10, 1998. The earliest date that Mr. Wilson could have been on the tax role was November 25th, therefore, his sellers would have received the notice of the applicant. Mr. Robinson concluded that Mr. Wilson was not entitled to notice because he was not the property owner at the time the application was submitted, and requested the Council find that Mr. Wilson does not have standing to appeal.

Mayor Verger instructed the Council that they were to determine whether the appellant, Mr. Wilson, has standing to appeal. She reported past practice of the City has been to combine section 2.5 and 2.8 of the ordinance. Mayor Verger commented Mr. Kloos indicated Mr. Wilson had knowledge of a Planning Commission hearing but had not attended because he thought it was a preliminary hearing, and prior to that, Staples had been talking with Mr. Wilson about buying the property. Mayor Verger opened the discussion to members of the Council. Councilor Spangler agreed that sections 2.5 and 2.8 must work together. Councilor McKeown asked what procedure the appellant would go through if the Council finds he does not have standing. City Attorney Tosh reported Mr. Wilson could then appeal to LUBA. Councilors Miller, Stufflebean and Weeks agreed the City should be consistent in their interpretation of the ordinance.

Councilor Stufflebean moved to interpret sections 2.5 and 2.8 of the ordinance work in concert with each other. Councilor Miller seconded the motion which passed with the Mayor and all Councilors present voting aye. Councilor Stufflebean moved to make a tentative decision that the appellant does not have standing for appeal and the direct the applicant's attorney to prepare findings in conclusion to be reviewed by the Council at the March 16, 1999 meeting. Councilor Miller seconded the motion which passed with the Mayor and all Councilors present voting aye. Mayor Verger closed the hearing.

WORK SESSION

Mayor Verger reviewed the consent calendar. City Attorney Tosh explained the purpose for the Friends of the Coos Bay Public Library resolution was to place the Friends under the City's liability insurance policy. Mayor Verger requested Resolution 99-10 supporting the Water Board's Upper Pony Creek dam project be added to the agenda. Councilor Stufflebean requested establishment of the Youth at Risk Committee be added to the agenda and Council Rule 57 be suspended to allow the committee's appointments without the two week written notification requirement.

City Attorney Tosh reported Falcon Cable will have three other jurisdictions, Port Orford, Myrtle Point, and Coquille, on the Falcon system by the end of April and suggested they be contacted about participating the government access channel. Mayor Verger commented the Mayors Forum will be meeting at the end of March and will be discussing the government channel. Councilor Spangler commented the City of Coos Bay has been supporting the government channel and inquired if the funds coming in from other entities is sufficient to pay for the operation of the channel. Councilor McKeown noted that the invitation to

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the City of North Bend to meet and discuss operation of the channel has been turned down.

Councilor McKeown expressed safety concerns regarding F Street and inquired when the contractor is expected to have the project completed. Community Services Director Bill Finney reported the project was let in two phases due to weather considerations and the date of completion is in May. Councilor Weeks commented the Port's minutes indicate they are considering hiring an economic development person and she expressed a desire that the Port wait until the Council has finished with their economic forum meetings. She continued that it is very important that local entities work together on economic development. Mayor Verger reported Chris Claflin, State Economic Development Department, indicated the Port was hoping the City would hire a recruiter because it would save the Port money, however, the Port is mandated to do economic development. Councilor McKeown commented economic development should be a partnership with all entities participating. Miller suggested that all entities contribute funding to hire the recruiter and perhaps the Port has allotted funds towards a partnership.

COUNCIL MEETING

Flag Salute

Mayor Verger opened the meeting and led the assembly in the salute to the flag.

Consent Calendar

Mayor Verger reported the consent calendar consisted of approval of the minutes of special meetings of January 7th and 19th, 1999, approval of the minutes of the regular meeting of January 19, 1999, approval of the Viola Days proclamation, adoption of Resolution 99-8 appointing the Friends of the Coos Bay Public Library as the City's agent for certain public library activities, adoption of Resolution 99-9 authorizing expenditure of grant funds for the library expansion project, and approval of an OLCC license for The Sunset Pub. Councilor Miller moved to approve the consent calendar as presented. Councilor Stufflebean seconded the motion which passed with the Mayor and all Councilors present voting aye.

Department Head Report – Community Services Director Bill Finney

Community Services Director Bill Finney reported there are a number of City personnel the Council doesn't always see that are doing a great job for the City. He commended Karen Turner, project manager, for doing an outstanding job of managing the library project, and Mike Martin, codes enforcement officer, for addressing complaints and various issues involving the public. Mr. Finney reported an updated project status report had been distributed to the Council, the library project is on course, and the light fixtures for the Empire streetscape have been ordered. Mayor Verger asked if Mr. Finney would consider extending Front Street from Safeway to Golden to help with the traffic congestion. Councilor Weeks commented there is a sinking problem on 4th Street between Curtis and Bennett Avenues. Councilor Spangler requested a walk around downtown to review the need for yellow painted curbs and suggested the City could gain more parking if these were removed.

Report on Proposed Natural Gas Line by Tim Bishop

Tim Bishop, Chair of Friends of New and Sustainable Industry (FONSI), reported the pipeline has the support of the Oregon Economic Development Department, Representative Ken Messerle, and the Coos

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County commissioners. Mr. Bishop commented that response from the community has been positive regarding the project and meetings to educate the public on the benefits of the line are being planned. He reported they are looking at a \$40 million bond and plan to place the measure on the September ballot. Mr. Bishop explained the pipeline is one of the goals of FONSI and Northwest Natural Gas is poised to commit \$10 to \$15 million to grid the cities. He reported an estimated 1700 jobs have been lost to our area due to not having natural gas available. Mayor Verger inquired if the geography would play a part in the cost of the pipeline and Mr. Bishop said it could add to the cost and they are planning to follow the BPA power lines. The line could be in within 18 months of the start of construction. Some of the companies that could benefit from the pipeline include the hospital, county, Weyerhaeuser, the disposal site, Chambers heating and plumbing, and appliance stores. Mr. Bishop explained after the initial cost of installation the average household would save approximately \$600 annually. Councilor Weeks moved to authorize staff to prepare a letter of support for the natural gas pipeline. Councilor Miller seconded the motion which passed with the Mayor and all Councilors present voting aye.

Resolution 99-10 — Supporting the Coos Bay-North Bend Water Board’s Enhanced Water Supply Project

Councilor Stufflebean moved to adopt Resolution 99-10 supporting the Coos Bay-North Bend Water Board’s enhanced water supply project, which is attached hereto and made a part thereof. Councilor Miller seconded the motion which passed with the Mayor and all Councilors present voting aye.

Authorization for the Transportation Plan Inter-governmental Agreement and Consultant Contract – Periodic Review

City Manager Bill Grile reported as part of the periodic review the City will be developing a transportation system plan and the Oregon Department of Transportation will be awarding state planning funds in the amount of \$45,000 to do the project. The funds will be used to hire a consultant to complete the project which is expected to take eight months. The intergovernmental agreement will be between the City and ODOT and the contract will be between the City and the consultant. Councilor Miller moved to approve and authorize signing the intergovernmental agreement and the contract. Councilor Weeks seconded the motion which passed with the Mayor and all Councilors present voting aye.

Appointment of an Ad Hoc Youth at Risk Committee

Councilors Miller and Stufflebean presented a proposal to form an ad hoc Youth at Risk Committee to identify problems in the community regarding youth. Councilor Miller moved to suspend Council Rule 57 requiring a two week written notice of nominations and establishing the committee by a vote of the Council. Councilor Weeks seconded the motion which passed with the Mayor and all Councilors present voting aye. Councilor Stufflebean explained the League of Oregon Cities was prompted by the Springfield Thurston High School shooting to recommend that cities form youth at risk committees to address youth issues in their communities. Mayor Verger moved to establish the Youth at Risk Committee and appoint members to the committee. Councilor Spangler seconded the motion which passed with the Mayor and all Councilors present voting aye. Mayor Verger moved to appoint Norm Welch, Dale Helland, Susie Yeiter, Judy McMakin, Eura Washburn, Melanie Johnston, Leslie Davis, Councilor McKeown, Councilor Miller, Councilor Stufflebean, Dr. Parker, Gary Hansen, Terry Hutchens, Bob Moore, Judge Richard Barron, Officer Rob Scoville, Officer Darrell King, and Officer Scott LeFevre to the Youth at Risk Committee. Councilor Weeks seconded the motion which passed with the Mayor and all Councilors present voting aye.

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City Attorney's Report

City Attorney Randall Tosh reported having received contact from Nevada Stone regarding payment of their City lien.

Mayor and Council Comments

Councilor Weeks reported the Parks Commission will have the new planters out by April 1st and discussed the work the Bay Area Rescue Mission has been doing in Ed Lunch Park. The commission also discussed the condition of the Empire boat ramp and the need for funds to make \$6,000 in repairs to the facility. Community Services Director Bill Finney commented staff is looking for funds in the budget and Councilor Spangler suggested the marine board pay for the repairs. Councilor Weeks reported the Parks Commission will be recommending tennis court B along 10th Street be considered for additional parking for the park. The City has had difficulty in maintaining the surface of the court for a number of years due to drainage problems. She reported the Mingus Stage Committee will be meeting next week to select the blocks to be used in the first phase of the stage.

Councilor Spangler reported concerns about trees pushing up sidewalks were discussed by the Tree Board and they will be developing a list of trees to be used in sidewalk areas.

Councilor Miller reported the area wide clean up is scheduled for Saturday and encouraged everyone who is able to participate. She commented arrangements for the Governor's Tourism conference are going well. She reported attending an open house at the Marshfield High School radio station, the library steering committee, and commended Karen Turner on her performance as the project manager of the library project. Councilor Miller commented funding for the 4th of July fireworks had been discussed at the Downtown Association.

Councilor Stufflebean commented it was nice to hear good things about Community Services Department staff and he commended all City staff for their work. He reported attending the retirement dinner for Officer John Bender.

Councilor McKeown commended the Mayor for her work in presenting the Focus program and the students at the high school for providing the technical service for the program.

Mayor Verger reported the Milner Crest students performed the song they had written about the New Carissa at Rotary today. She commented the legislature will be presenting a transportation package with the intent of making ODOT accountable and would provide funding to counties and cities.

Adjournment

There being no further business to come before the Council, Mayor Verger adjourned the meeting to March 16, 1999 at 7 p.m. in the Council Chambers of City Hall.

Joanne Verger

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Mayor of the City of Coos Bay
Coos County, Oregon

ATTEST:

Joyce Jansen
Deputy Recorder of the City of Coos Bay
Coos County, Oregon