

MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL

February 15, 2000

The minutes of the proceedings of the regular meeting of the City Council of the City of Coos Bay, Coos County, Oregon, beginning at 7 p.m. with a work session 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 Joe Benetti, Jeff McKeown, Cindi Miller, Don Spangler, and Kevin Stufflebean. Councilor Judy Weeks was absent due to illness. City staff present were City Manager Bill Grile, Deputy Recorder Joyce Jansen, City Attorney Randall Tosh, Community Services Director Bill Finney, Building Codes Administrator Joe McClay, Codes Inspector Mike Perkins, Library Director Carol Venten, Fire Chief Stan Gibson, and Police Chief Chuck Knight.

WORK SESSION

Mayor Verger reviewed the consent calendar and noted reports from the Downtown Association and the Library Director would be given. Community Services Director Bill Finney briefly explained the cathodic protection project and noted it is for the protection of pipes that are submerged or frequently submerged. Mr. Finney commented the engineer's estimate for the project was \$30,000 to \$40,000 and reported the low bid came in at \$78,000. The engineer feels the original estimate is valid and staff's recommendation is to rebid the project. City Manager Bill Grile reported the school district has requested a grant from the city to help in the completion of the Marshfield High School track and field project. Mr. Grile explained with an all-weather field games that have previously been held in Eugene and Corvallis would be held at Marshfield and an all-weather field would increase the regional use of the facility as well. Mr. Grile reported \$25,000 would come from the economic development line item in this year's budget and \$25,000 would be budgeted out of the room tax fund in next year's budget. Councilor Spangler noted a \$1 million donation had been made to the school and commented an article in The World said a hall of fame and lockers would be built. He expressed concern that these items would not be an appropriate use of economic development funds. Mr. Grile commented the funding would be used for the track and field improvements. Councilor McKeown commented representatives from the school board would be attending the meeting to answer questions.

Mayor Verger noted a public hearing would be held to determine if a public nuisance exists at 1432 Newmark Avenue. Mr. Tosh explained this is a quasi judicial hearing; the City will first have a presentation by Joe McClay, followed by a presentation by Mr. Olyae. There will be a time for questions and then the City Council will make a decision on the matter. Mr. Tosh noted there is some dispute over the ownership of some of the property, and explained the Council may give more or less time for the abatement, can find the buildings are not dangerous, can make findings, and can ask the city attorney for legal opinion. Councilor McKeown inquired if there was sufficient value to cover a city lien if it came to the point that city funds were expended. Mr. Tosh noted the property was purchased in 1995 for \$65,000 and there appear to be no other liens other than \$4,000 in taxes. Councilor Stufflebean inquired about the funds being taken from the building codes budget when it is a dedicated fund. Mr. Grile commented the general fund could be looked at if it became necessary.

Councilor McKeown reported the Livability Committee has made progress in filing for non-profit status, forming a corporation, and a draft inter-governmental agreement is ready for the city attorney to

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review. He further reported they are currently applying for a Tax ID number and some funds have been deposited in the Chamber account. Councilor Spangler inquired how funds were being collected and how the Livability Committee could form a corporation without being given authority. Councilor McKeown reported members of the committee have been making presentations throughout the county and the next logical step is to form the corporation; and cities/entities will still have to approve the inter-governmental agreement. Councilor McKeown noted the committee's actions have been on the advice given by Bay Area Hospital and Southwestern College attorneys. Councilor Spangler commented the Livability Committee was not given the charge to set up a corporation. Mayor Verger commented the committee has county-wide representation and is not just a City of Coos Bay committee. Mr. Tosh reported the City Council would need to ratify the formation of the corporation. Councilor Miller commented the Council gave permission for the formation at the February 1st meeting. Mr. Tosh agreed with Councilor Spangler and noted Council action should have been taken before the committee began the proceedings to form the corporation. Councilor McKeown said he would be happy to do that, but was confused as to why since it is not the City's corporation. Mayor Verger commented the Livability Committee is a public/private committee, appointed by the mayor as a result of the forums held last year. Mr. Tosh noted the committee is a government entity. Councilor McKeown suggested Mr. Tosh contact Roger Gould and Bob Thomas regarding the matter. Councilor Stufflebean suggested the Council ratify the actions taken by the committee, and commented the Livability Committee made a presentation to the Council on February 1st and none of these concerns were expressed at that time. Councilor McKeown asked that the city attorney give counsel on such matters at the time when it is needed.

COUNCIL MEETING

Flag Salute

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

Consent Calendar

Mayor Verger reviewed the consent calendar which consisted of approval of the January 18, 2000 minutes, a proclamation for Jaycee Week, and initiation of legislative ordinance amendment. 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. Mayor Verger read the proclamation to the assembly. Mayor Verger commended the Jaycees for their work with the City in past years on the Christmas program and the 4th of July event.

Introduction of Jane Cummins, League of Oregon

Mayor Verger introduced Jane Cummins, League of Oregon Cities Senior Staff Associate. Ms. Cummins reported it is the League's 75th anniversary and League staff will be visiting all the communities in Oregon this year.

Report from Downtown Association President Ken Larson

Downtown Association President Ken Larson thanked the Council for their support over the Christmas holidays and reported the Association has developed a plan for promoting the downtown business

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area. A number of activities are planned including cultural events, block parties, expanding the Blackberry Arts Festival, an open house weekend in April, and the time capsule event in May. The Association will be reviewing parking and downtown issues. Mayor Verger expressed appreciation for the partnership between the City and the Downtown Association.

Councilor Spangler asked if there is a move to make taxpayer money available to the Association. Mr. Larson explained a new board has just been elected and the matter of City funding has not been discussed. Councilor Spangler expressed concern that funding be given to the downtown area and not for the whole city; which would exempt businesses outside the downtown boundary. Mayor Verger noted the vitality of downtown area has always been of interest and importance to cities. Mr. Larson commented the Association is working to eliminate any boundaries and Councilor Miller reported members of the Association are from all parts of the city.

Report from Library Director Carol Ventgen

Library Director Carol Ventgen reported the library has been very busy with over 12,000 people coming through in January. The meeting rooms have had a lot of activity including library programs as well as community programs. Recently the library presented a program for children to learn about classical music, the Read Across America program has begun, arts and crafts activities are planned, and a mural project with the Art Museum is scheduled for March. The donor board is now on display in the lobby.

Approval of Grant to School District 9 for the Marshfield High School Track and Field Project

School Superintendent Dr. Giles Parker reported the track and field project would restore the facility and put artificial turf on the field. The School Board has committed funds to the project and donations have been received from the community. Dr. Parker commented the improvements will allow the facility to be used for many activities and will allow games that have been out of town to be played at home. He explained funds from the sale of school property is being used for capital projects, and funds from school bonds is for building maintenance. City Manager Bill Grile reported the request is for \$25,000 from economic development in this year's budget and \$25,000 from next year's budget. Mr. Grile commented on the impact to the local economy when games and other functions are held here rather than out of town. Councilor Spangler expressed concern about funds being used for a trophy room and locker rooms. Dr. Parker reported this was in the original plan and would be built with private contributions. Councilor Stufflebean commented events using the track and field bring many people into the community and the project is a good investment. Mayor Verger agreed with supporting the project and commented the benefits to the community are the same as with the swimming pool.

Councilor Stufflebean moved to commit \$25,000 before June 30th from the economic development item and to recommend the budget officer place \$25,000 in next year's budget for the project. Councilor Miller seconded the motion which passed with the Mayor and all Councilors present voting aye.

Report and Recommendations for Downtown Parking

Capt. Washburn reported enforcement in the downtown parking lots has been suspended since October with on-street parking continuing to be enforced. The Parking Control Officer has completed a survey and the current system seems to be meeting the needs of downtown employees and shoppers. The

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report and survey were distributed to members of the Parking Committee and no objections were received. Councilor Spangler inquired what duties the Parking Control Officer would have if there is no enforcement in the lots. Jim Rowe responded that although the duties have changed somewhat, he still is required to be out on the street. Councilor Benetti commented the current plan is working and the merchants like it; and suggested the City continue with enforcing on-street parking and the lot next to Rite Aid. Councilor Miller suggested enforcement be flexible and noted there has been concern expressed about the lot behind Jennies. Mr. Rowe reported the Jennies and Rite Aid lots are the only ones comments were given regarding customer parking and he recommended heavy enforcement of the on-street parking in this area so customers would have a place to park. Councilor McKeown also expressed concern about the Jennies lot being full most of the time and noted this does affect surrounding businesses. Mayor Verger suggested Mr. Rowe monitor the lot and if it continues, the Council can revisit the issue. Councilor Stufflebean moved to accept the recommendation to maintain the current level of enforcement. Councilor Spangler seconded the motion which passed with the Mayor and all Councilors present voting aye.

Mr. Grile reported the second part of the report is the Anderson Alternative which would provide for two-way traffic from Bayshore to Second Street with the intent to provide access to Central Avenue businesses. Mr. Grile noted staff has not moved ahead on the project as they are not sure downtown businesses want the change. Mr. Larson reported the Downtown Association would like some time to survey the businesses and review the Kittleson Study. Councilor Miller recommended tabling the matter until the Downtown Association reports back.

Report from Marshfield High School Representative Maliah Masiba

Maliah Masiba reported there are ten boys participating in the Mr. MHS Pageant and include Trevor Woods, Jason Enright, Mitch Wade, Chuck Woods, Matt Springsteen, Eric Olbekson, Pat Hazel, Artie George, Chris Cahill, and Jed Stroud. The pageant is used to raise money for the Sacred Heart neonatal unit and will be held April 22nd. Ms. Masiba reported a new program on campus has students acting as greeters at the doors has been successful, and a senior citizen prom was held at St. Monica's church. Councilor McKeown asked about student reaction to the stadium project and Meliah reported they are eager to have it completed.

Cathodic Protection Project Award

Community Services Director Bill Finney reported this is a high priority project and is for the protection of submerged lines. The original estimate was for \$40,000 and the low bid came in at \$78,000. The engineering firm supports the original estimate and staff's recommendation is to rebid the project. Councilor Stufflebean moved to reject all bids. Councilor Spangler seconded the motion which passed with the Mayor and all Councilors present voting aye.

Public Hearing on Determination of a Public Nuisance at 1432 Newmark Avenue

Mayor Verger opened the public hearing for the determination of a public nuisance at 1432 Newmark Avenue. City Building Official Joe McClay reported there are four manufactured dwellings that may be determined dangerous buildings and reported City staff has been working with the owner for three years to bring the buildings up to code.

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Unit #8. Mr. McClay reported a recent fire had caused severe damage to the trailer and because an arson investigation is in process, the trailer must remain as it is until the investigation has been completed. Mr. Tosh reported the trailer would need to be released by law enforcement before abatement could proceed; although the Council can it declare as a dangerous building.

Unit #6. Mr. McClay reviewed the structural survey report which included violations for vegetation under the home, footings do not meet minimum codes, deterioration of floor joists, egress door hardware not to code, electrical wiring not to code, no smoke detectors, floor deterioration in bathroom, porch not to code, rodent infestation, exterior not weather resistant, and windows not openable. Also lacking was the sticker for the State wiring/plumbing inspection. Mr. McClay explained the City issued a permit for placement, inspections were done but corrections were not completed and the final inspection was not done. Process on this unit began in 1997.

Unit #9. Mr. McClay reviewed the structural survey report which included deterioration of floor joints, exterior not weather resistant, not approved piping for water source, sanitary pipes leaking, stair and handrails not to code, not sealed to resist rodent and insect infestation, exposed electrical wiring, and the State inspection was not completed.

Unit #1. Mr. McClay reported the unit is in very poor shape and has a tip-out that has not been set up leaving the area open to weather. There is a set-back requirement which staff has spoken to Mr. Olyae about. The inspection survey includes the need for removal of vegetation, lack of a foundation, walls not closed, deterioration of floor joists, missing doors and windows, no stairs, not sealed against rodents, wiring not to code, exterior not weather resistant, and support joists for walls deteriorated. Mr. Olyae began work on the unit before acquiring the necessary permits.

The following exhibits were submitted for the record and shall be kept with the permanent record in the Community Services Department, Codes Division.

Exhibit 1: Photocopy of certification from the State of Oregon Building Codes for Joseph D. McClay.

Exhibit 2: Photocopy of certification from the State of Oregon Building Codes for Michael J. Perkins.

Exhibit 3: Photocopy of the City of Coos Bay Structural and Conditional Survey form.

Exhibit 4: Photocopy of the building permit and documentation for placement of manufactured home unit #8.

Exhibit 5: Photocopy of the City of Coos Bay structural and Conditional Survey for unit #8.

Exhibit 6: Photocopy of the building permit and documentation for placement of manufactured home unit #6.

Exhibit 7: Photocopy of the City of Coos Bay structural and Conditional Survey for unit #6.

Exhibit 8: Photocopy of the building permit and documentation for placement of manufactured home unit #9.

Exhibit 9: Photocopy of the City of Coos Bay structural and Conditional Survey for unit #9.

Exhibit 10: Photocopy of the building permit and documentation for placement of manufactured home unit #1.

Exhibit 11: Photocopy of the City of Coos Bay structural and Conditional Survey for unit #1.

Exhibit 12: Photographs of manufactured homes, unit nos. 9, 8, 1 and 6.

Exhibit 13: Photocopy of a sample insignia of compliance for the State of Oregon Manufactured Dwelling.

Exhibit 14: Photocopy of a memorandum from the Oregon Department of Consumer and Business Services dated June 28, 1999 regarding waiving code and insignia requirements.

Exhibit 15: Photocopy of a memorandum from the Oregon Department of Consumer and Business Services dated January 5, 1997 regarding Oregon manufactured dwelling standards.

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Exhibit 16: Photocopy of Consent Order, Case No. 1999-0298.OOM/S from the Director of the Department of Consumer and Business Services in the matter of the imposition of a civil penalty against Mike Olyae.

Exhibit 17: A letter from David S. Tilton, Attorney at Law, dated October 27, 1999 to C. Randall Tosh, City Attorney, regarding Mike Olyae.

Exhibit 18: A letter from David S. Tilton, Attorney at Law, dated November 2, 1999 to C. Randall Tosh, City Attorney, regarding Mike Olyae.

Exhibit 19: Photocopy of a promissary note selling a 1971 Fleetwood manufactured home to Mark A. Bryner by Mike O. Manoocher.

Manual Hernandez, attorney for Mr. Olyae, reported when the City cited Mr. Olyae the citation did not include exactly where that code requirement is found. Mr. Hernandez referred to the 1997 manufactured dwelling standards code book and commented the City may be requiring more than the State standard requires. Mr. Hernandez reported a notice of violation must be in writing and must state the violation, and this was not done. Pictures of the trailer park, apartment complex and measures of the pier blocks were submitted as Exhibit A, which shall be made a part of the permanent exhibit file. Mr. Hernandez explained a number of improvements have been made to the trailer park; the code does not require replacement of flooring under the water heater and bathroom; City inspectors are not authorized to require the property owner to hire an engineer to locate boundaries; and the city may not require more than the State building code requires. Mayor Verger inquired if Mr. Hernandez was suggesting the trailers were up to the State code. Mr. Hernandez commented there are some problems, but the units are unoccupied and there is no time limit on how long they can sit without being occupied.

Councilor Spangler reviewed a letter from Mr. Olyae's previous attorney dated November 1999 in which Mr. Olyae admits guilt, each violation is noted as well as the repairs required, and Mr. Olyae agreed to do the repairs. Mr. Hernandez commented the City cannot condemn the units as dangerous buildings because under state law that must go through the State court. He further commented there are some requirements that have not been met. Councilor Benetti commented none of the units are currently occupied, but one was previously occupied. Mr. Hernandez reported Unit No. 6 was sold after the inspection was done. Councilor Spangler commented the codes are there for the protection of citizens. Councilor Benetti noted Unit 6 had a number of violations and had been inspected by the State. Councilor McKeown recommended the buildings be determined as dangerous and a time period set for bringing them to code. Mr. Hernandez objected to condemnation through the Council, but had no objection to bringing the units up to code.

Mayor Verger inquired what Mr. Olyae would feel is an adequate amount of time to bring the units to code. Mr. Hernandez commented the City is not the only enforcement mechanism going on at this time and the State building division had indicated they will be assessing a \$1500 and a \$500 penalty. Mike Perkins, City Codes Officer, explained there are a number of code books involved and explained the requirements for the State inspection insignia. Mr. Perkins commented that rather than address the violations for Unit 6, Mr. Olyae sold it to Mark Bryner. At that time Mr. Bryner moved into the unit and was then instructed to move, and he was then cited when he moved back into the unit. Mayor Verger commented there is agreement that there are violations and a date needs to be set for abating the violations. Mr. Olyae said he would like to have six months. Mayor Verger suggested three months and continue the hearing on that date. Councilor Spangler recommended 60 days due to the amount of time already taken for the repair process. Mr. Tosh reported unit 6 would need to be addressed separately, and noted the bill of sale would have to have included a disclosure. Mr. Tosh reviewed the bill of sale to Mr. Bryner and stated it complied.

Councilor Stufflebean moved to grant 90 days for the abatement of all problems identified in the inspection reports for Units 1, 8 and 9. Councilor Miller seconded the motion which passed with the Mayor and all Councilors present voting aye.

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Mr. Perkins noted Unit 6 still has violations and even though sold, it will still need to pass the State inspection. Mr. Mark A. Bryner said he would see that the violations are taken care of and he would not be living in the unit at this time. Mayor Verger confirmed that Mr. Bryner understood the requirements for the repairs and the amount of time allowed. Councilor McKeown expressed concern that Mr. Bryner will be putting more into the trailer than it is worth. Councilor Stufflebean moved to grant 60 days to make the repairs to the Unit 6. Councilor Miller seconded the motion which passed with the Mayor and all Councilors present voting aye.

Ratification of the Livability Committee's Formation of a Non-Profit Organization

Councilor Stufflebean moved to ratify the Livability Committee's formation of a non-profit organization as the South Coast Development Council. Councilor Miller seconded the motion. Councilor Spangler commented the motion should be to authorize the committee to submit an inter-governmental agreement to the city attorney before the City Council acts upon it. Mr. Tosh reported there is a difference between by-laws and articles of corporation and it would be appropriate for the Council to ratify establishing the corporation. Councilor Spangler commented the Council should not ratify something they have never seen. Councilor Benetti noted that earlier Councilor McKeown had suggested Mr. Tosh meet with Roger Gould regarding this matter. Mayor Verger expressed concern that this matter was brought up after presentations have been made to a number of entities, including the cities of Coos Bay and North Bend, and further, the Council has been supportive of the project. Councilor McKeown commented regular reports have been made to the City Council on the progress of the Livability Committee with Mr. Roblan giving a full report at the February 1st meeting. Mr. Grile reported with the vote made on February 1st, he interpreted that as a green light to proceed. Councilor McKeown noted the inter-governmental agreement would come to the City Council for approval.

The question was called and the motion passed with Mayor Verger and Councilors Benetti, McKeown, Miller, and Stufflebean voting aye, and Councilor Spangler voting no.

Public Comments

Julia Spangler, Coos Bay, commented the trailer park at 1432 Newmark Avenue has been a disgrace for some time and it is unfortunate that there are people who take advantage of the poor in this community. Because someone is poor, it doesn't mean they should not have decent and adequate housing.

Gary Rifkin, Coos Bay, responding to Councilor Spangler's concern regarding funding of merchant groups, reported the Downtown Association is working to promote the area as a whole and welcomes everyone to be involved. Mr. Rifkin commented it is in the spirit of cooperation, not competition.

City Manager's Report

City Manager Bill Grile commended Joe McClay and Mike Perkins for their professionalism and asked the Council to contact him if they had comments on his written report.

Mayor and Council Comments

Councilor Miller reported the Charleston Seafood Festival was a great success and the Census 200 Steering Committee will meet next week

Councilor Stufflebean commented swim meets bring many people to the area and he was pleased

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the City contributed toward the purchase of the new timing board.

Councilor McKeown reported the new timing board upgraded the swim meet and with more meets to be held, the new pool and timing board have a positive effect on the community. Councilor McKeown noted the inter-governmental agreement for the South Coast Development Council is ready for the city attorney to review and noted anyone may review any of the documents.

Mayor Verger reminded everyone the State of the City Address will be given at the Chamber of Commerce Forum tomorrow at the Red Lion.

Adjournment

There being no further business to come before the Council, Mayor Verger adjourned the meeting to March 2, 2000 at 7 p.m. in the Council Chambers of City Hall.

Joanne Verger
Mayor of the City of Coos Bay
Coos County, Oregon

ATTEST:

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