

## **MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL**

**December 5, 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 Attending**

Those present were Mayor Joe Benetti and Councilors Anna Marie Larson, Jeff McKeown, Cindi Miller, Don Spangler, Kevin Stufflebean, and Judy Weeks. City staff present were City Manager Bill Grile, Deputy Recorder Joyce Jansen, City Attorney Randall Tosh, Community Services Director Shanda Shribbs, Finance Director Janell Howard, Fire Chief Stan Gibson, and Police Chief Chuck Knight.

### **WORK SESSION**

Mayor Benetti reviewed the consent calendar items and requested a report from Marshfield High School by Nick Gerritsen be added to the agenda. Councilor Spangler requested item 2c, adoption of Resolution 00-36 accepting the official canvass for the November 7, 2000 election, be removed from the consent calendar. City Manager Bill Grile reported Kathy Netter will be reporting on the 5<sup>th</sup> Street Historical District and the grant they received from the Oregon State Historic Preservation Office. Mr. Grile explained the funds will be used to designate the area as a historical district and may include tax breaks. Mayor Benetti noted there are some changes to be made to the ordinance establishing regulatory takings which the city attorney will read to the Council. City Attorney Tosh noted the effective date for Measure 7 is December 7, 2000 unless an injunction is issued by the court delaying implementation until legal challenges to the measure are resolved.

Mr. Grile reported Resolution 00-37 will finalize the matter with the Coos Bay-North Bend Water Board regarding the treatment of alum sludge discharged into the City's waste disposal system. He noted the actual cost to treat the sludge is more than the Water Board is paying. Mayor Benetti inquired if the Water Board would be treated the same as other industrial users. Finance Director Janell Howard responded they would be paying the same as other industries and would not have an advantage over other industries.

Gary Young, OMI Project Manager, commented the Water Board does not separate out the sludge before releasing their water into the waste system. It is common practice for an industry to remove the sludge and treat it separately. Mr. Young explained sludge is an inorganic solid that is a by-product which is removed from the bottom of the basin and the Water Board discharges approximately 13,000 pounds per month. Mr. Grile noted the Water Board is currently paying \$1500 per month compared to \$2200 two years ago when they decreased the flow but increased the concentration. Mr. Young explained the cost to treat the sludge comes to \$6855 per month based upon the actual flow discharge, pounds of solid concentrations and OMI's current cost of treatment for both factors. If the Water Board improves their process, they would pay less. Mr. Young commented the City is trying to be fair to all industrial and residential users and to equalize the cost throughout the community.

Mayor Benetti reported appointments of Councilors to various committees would be made tonight and noted Councilor Spangler has indicated he does not wish to continue on the OCZMA board. Councilor Spangler requested the Empire Community Association also have Council representatives.

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### COUNCIL MEETING

#### Flag Salute

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

#### Consent Calendar

Mayor Benetti reviewed the consent calendar which consisted of approval of the minutes of October 3, October 17, and October 18, 2000 meetings, approval of an amendment to the agreement with the Coos County Historical Society, acceptance of the North 17<sup>th</sup> Street deed of dedication, approval of an amendment to the agreement with the Coos Art Museum, and the proclamation a Season for Nonviolence. Resolution 00-36 accepting the official canvass for the November 7, 2000 election had been removed from the consent calendar by Councilor Spangler. Councilor Stufflebean moved to approve the consent calendar as amended. Councilor Miller seconded the motion which passed with the Mayor and all Councilors present voting aye.

#### Department Head Report by Police Chief Chuck Knight

Chief Knight commended the City Council for approving lighting projects in the Empire District and the Second Street parking lot behind the theatre district. He noted crimes have reduced significantly in these areas. Chief Knight introduced Officer Ken Labrousse who recently graduated from the Police Academy. Officer Labrousse stated he is excited to be working for the City of Coos Bay and is looking forward to serving the community. Chief Knight introduced Dr. Dane Smith to speak about the Season for Nonviolence. Dr. Smith reported the Season of Nonviolence is a international effort which began in 1998 with the intention of promoting world peace. Community activities are being planned in an effort to bring people together to promote nonviolence and peace with a kickoff planned for January 27<sup>th</sup> at Pony Village. Councilor Miller read the proclamation to the assembly.

#### Marshfield High School Report by Nick Gerritsen

Nick Gerritsen congratulated the newly elected Mayor and City Councilors and reported the completion of the new math and science building is a couple of weeks behind schedule. MHS Principal Robaln will be in Philadelphia to speak about the Marshfield High School work program; the high school is re-emphasizing good attendance and students having unexcused absences will be required to attend Saturday School; and the winter sports program is beginning.

#### Report from Gary Young of Operations Management International (OMI) Regarding the Malcolm Baldrige National Quality Award

Gary Young reported the City of Coos Bay Wastewater Division has had articles in national trade and water environmental trade magazines. At the end of October OMI received notification from the EPA that Plant II had received an operations and maintenance excellence award for Region 10 which includes Washington, Oregon and Idaho. Mr. Young commented OMI has strived for the Malcolm Baldrige excellence award since the early 1990s. The application process is quite stringent and of those applications received, only half are considered for an award. Other recipients of the award include IBM, Cadillac, and AT&T. OMI submitted an application for this year and was recently notified they will be presented the Malcolm Baldrige

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award in December in Washington DC by President Clinton.

### **Adoption of Resolution 00-36 Accepting the Official Canvass of the November 7, 2000 Election**

Councilor Spangler commented the certified vote for Coos Bay includes the Councilor and Mayor positions and the charter amendment. Councilor Spangler reported there are 11 precincts in the city and a question had been raised to him regarding the precinct breakdown by votes when citizens vote by mail. He explained the precinct breakdown is still valid and is done when election staff review ballot signatures. Councilor Spangler emphasized that all votes count and it is important to vote. Councilor Spangler moved to adopt Resolution 00-36 accepting the official canvass of the November 7, 2000 election. Councilor Miller seconded the motion which passed with the Mayor and all Councilors present voting aye.

### **Authorization to Administer a Grant for the 5th Street Historical Neighborhood Designation**

City Manager Bill Grile reported the 5<sup>th</sup> Street neighbors have secured a \$5,000 grant from the State Historic Preservation Office (SHIPO) and have an architect to help prepare a package to designate the neighborhood as a historic district. Staff has been asked to administer the grant. Mr. Grile noted concern has been expressed by some of the neighbors regarding the restrictions that may apply to the historic district and staff will be hosting a town hall meeting for the neighbors. Kathy Netter reported the district is a three block area and includes 60 homes. The history of the homes is quite interesting and the owners are very proud of their neighborhood and excited about the historic designation. Ms. Netter commented a number of meetings have been held to address homeowner's concerns. Mr. Grile reported SHIPO will be holding their statewide meeting in Coos Bay May 24<sup>th</sup> and 25<sup>th</sup>. Councilor Miller moved to authorize staff to assist with administration of the grant. Councilor Stufflebean seconded the motion which passed with the Mayor and all Councilors present voting aye.

### **Enactment of an Ordinance to Establish a Claims Procedure For Regulatory Takings and Adoption of Resolution 00-39 Establishing Fees for Submission of Claims**

Mayor Benetti noted there were a number of changes to the ordinance which would be read to the assembly. City Attorney Randall Tosh reported there are currently two legal suites against Ballot Measure 7 and the City of Eugene is challenging the measure. Mr. Tosh explained Measure 7 was passed at the November 7, 2000 election with an effective date of December 7, 2000, giving staff a very short time frame to prepare the ordinance and claims procedure. The measure amends the Oregon constitution and requires government to pay when property is taken for public use. Mayor Benetti commented Measure 7 could affect future changes in zoning and other areas of land use. Councilor Spangler expressed concern about the process being difficult for citizens to use. Mr. Tosh stated he would have preferred more time to draft the ordinance and Mr. Grile commented future action would affect the City's ordinance which should be considered a work in progress. Mr. Tosh read the changes to the ordinance to the Mayor and Councilors. There was further discussion on the ordinance and Mr. Tosh noted if Measure 7 is declared invalid, it will be as if the ordinance were never enacted. Mayor Benetti commented the ordinance is a protective measure for the City. Councilor McKeown commented the City must enact an ordinance by December 7, 2000 as stipulated in the ballot measure. Councilor Spangler stated the City needs an ordinance but he felt this ordinance as too restrictive. Mayor Benetti noted the ordinance could be amended if necessary.

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Councilor Weeks moved to enact Ordinance No. 300 establishing a claims procedure for regulatory takings. Councilor Miller seconded the motion and Deputy Recorder read the ordinance by title and polled the Council with the following results:

Voting Aye: Mayor Benetti and Councilors McKeown, Miller, Stufflebean and Weeks  
Voting No: Councilors Larson and Spangler  
Absent: None

Councilor Stufflebean moved to adopt Resolution 00-39 establishing fees for submission of claims. Councilor Weeks seconded the motion which passed with Mayor Benetti and Councilors McKeown, Miller, Stufflebean and Weeks voting yes and Councilors Larson and Spangler voting no.

### **Report from Fiber South Consortium Representative Councilor Spangler and Adoption of Resolution 00-38 Transferring Funds from Contingency**

Councilor Spangler reported an agreement has been signed with Williams Communication to acquire fiber from Bandon to Eugene and a memorandum of understanding has been signed with PCI. Councilor Spangler commented the revenue from fiber optics may eventually be as much as \$1 million which would be divided among the Consortium members. Councilor Spangler explained Lane County up to this point has been footing most of the bill for the Consortium and it is now time for members to pay dues. The dues are figured on population and the City of Coos Bay's dues are \$7,162. Councilor McKeown commented fiber optics is critical to the area's economy and caution should be taken in negotiating the agreements for service. Councilor Spangler reported the Consortium will not be involved in the negotiations, PCI will negotiate with whoever is seeking service. City Manager Bill Grile reported \$2,000 had been budgeted and recommended paying the dues by transferring \$5,162 from contingency. Mayor Benetti moved to adopt Resolution 00-38 transferring \$5,162 from Contingency to the Economic Development line item and authorize staff to pay the Fiber South Consortium dues in the amount of \$7,162. Councilor Miller seconded the motion which passed with the Mayor and all Councilors present voting aye.

### **Adoption of Resolution 00-37 Setting Sewer User Rates, Charges and Fees**

City Manager Bill Grile reported with the adoption of Resolution 00-37 the Coos Bay-North Bend Water Board would be treated the same as other industrial users and the Water Board would begin paying the City for what it costs to treat the wastewater. Councilor Stufflebean moved to adopt Resolution 00-37 setting sewer user rates, charges and fees. Councilor McKeown seconded the motion which passed with the Mayor and all Councilors present voting aye.

### **City Council Appointments to Various Commissions, Committees and Boards**

Mayor Benetti commented there are a number of committees and boards to appoint Councilors to and he has tried to take into consideration the desires of the Councilors before making his recommendations. Councilor McKeown asked not to be appointed to the Enterprise Zone Committee and Councilor Spangler asked not be reappointed to OCZMA as it is very time consuming and the Fiber Optics Consortium also takes a considerable amount of time. Mayor Benetti asked if Councilor Weeks would consider being the OCZMA

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representative and Councilor McKeown as the alternate. Councilor Spangler requested council representatives be appointed to the Empire Community Association since there are representatives to the Downtown Association. After a brief discussion, Mayor Benetti recommended he and Councilor Stufflebean serve as the City's representatives on the Empire Community Association.

Mayor Benetti asked the Council to ratify the following appointments: Councilor Larson as representative to the Downtown Association, Mingus Park Stage Committee, Parking Committee, and the Tree Board; Councilor McKeown as representative to the Historic Museum Project Committee, OCZMA alternate, and South Coast Development Council; Councilor Miller as representative to the Commission on Children and Families, Downtown Association, Enterprize Zone Committee and the 9-1-1 Intergovernmental Council; Councilor Spangler as representative to the Fiber South Consortium and the Port Airport Advisory Committee; Councilor Stufflebean as representative to the Boys and Girls Club, County Solid Waste Committee, Empire Community Association, and Library Board; Councilor Weeks as representative to the County Urban Renewal Agency Board, OCZMA, and Parks Commission; and Mayor Benetti as representative to the County Urban Renewal Agency Board, Empire Community Association, Enterprise Zone Committee, Historic Museum Project Committee and the Tourism Promotion Committee.

Councilor Weeks made a motion to ratify the appointments and Councilor Stufflebean seconded the motion. The motion passed with Mayor Benetti and Councilors Larson, McKeown, Miller, Stufflebean and Weeks voting yes; Councilor Spangler voting no.

### **Review of City Council Rules and Adoption of Appropriate Changes**

Mayor Benetti commented the Council had been asked to review the Council Rules for possible changes. Councilor Spangler requested the Urban Renewal Agency also adopt rules. Councilor Weeks requested the time to adjourn meetings be changed to 10 p.m. and Mayor Benetti requested the meetings begin at 7 p.m. and without a work session. City Manager Bill Grile requested rule no. 10 regarding the city attorney's attendance at meetings be reworded to state the attorney is not required to attend work sessions unless directed by the city manager. Any reference to the City Clerk throughout the rules should be changed to Deputy Recorder. Councilor McKeown commented the rule on decorum and order is important and the Council should follow this rule. Councilor Spangler commented rule no. 47 council questions to staff is awkward and requested staff reword the rule.

Councilor Stufflebean requested under rule no. 24 order of business, that public hearings be moved to position no. 5. Councilor McKeown suggested public comments remain in the current order. There was discussion on rule no. 32 voting required and consensus was to leave the rule as currently worded. Mr. Grile asked the Council to consider rule no. 57 (9) regarding removal from a board or commission and commented the rule should be consistent with Oregon law. Deputy Recorder Jansen requested the notification time in rule no. 57(5) be changed to one week so as not delay citizen appointments unnecessarily. Councilor Weeks commented rule no. 9 requires the Deputy Recorder to present the minutes at the next council meeting and noted that is not currently being done. Mayor Benetti commented the Council needs to be mindful of staff time. There being no further changes suggested, Mayor Benetti reported the revised council rules will be on the next council agenda for adoption.

### **Public Comments**

Frank Williams, 3500 Pancy, Coos Bay, read a statement supporting public access TV to the assembly. Mr. Williams commented the present arrangement does not meet the needs of the community and encouraged the Council to support public access TV.

Carl Siminow, 1005 Augustine, Coos Bay, stated his support for public access TV and noted many

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associations would use public access to air their tapes.

Julia Spangler, 476 Newmark Avenue, Coos Bay, commented that public access is more complicated than most people realize and is totally different than government access. Ms. Spangler stated she personally did not care for public access due to the type of programming that was on before and the lack of control of the programming. She invited everyone to attend the Empire community tree lighting at the Empire fire hall.

Mike Decaires, 3445 Pansy, Coos Bay, commented there is very little cost associated with public access, there is \$95,000 from franchise fees available, and it has been two years since they had requested the Council restore public access. City Attorney Randall Tosh commented the use of franchise fees is discretionary on the part of the governing body and the governing body can designate the funds to be used for government or public access. Mr. Tosh explained when the City was working on an agreement with the City of North Bend, North Bend did not wish to participate unless it was for government access only, and the Coos Bay City Council decided to fund the government channel. Mayor Benetti commented a non-profit could come forward and operate public access. City Manager Bill Grile reported the government channel is funded by subscriptions from local government entities. Councilor Weeks inquired if Mr. Decaires had sought sponsorships and Mr. Decaires commented they still need some financial help to get started. Councilor Weeks suggested the mayor and city manager talk with the group to help them get going. Councilor Stufflebean suggested contacting the County and the Cities of North Bend and Coquille about providing public access. Councilor Spangler moved to suspend the rules on the 10:30 p.m. ending time for council meetings. Councilor Stufflebean seconded the motion which passed with the Mayor and all Councilors present voting aye. Mr. Williams stated they had recently talked with North Bend Mayor Lee Golder and he was ready to give public access all new equipment. Councilor Spangler noted that Coos Bay had worked very hard to get North Bend to participate in public access and North Bend declined.

Barbara Carpenter, 735 Seagate, Coos Bay, reported she had worked as a volunteer for public access and there are many films that can be used on public access which may not be used on the government channel. Without public access there is no place to show the films. Mayor Benetti commented the City is willing to offer assistance and the Council is supportive of public access.

Peter Ryan, 500 Dean Mountain Road, North Bend, expressed appreciation for the City's willingness to work with public access supporters and suggested the Council contribute seed money to get public access started. He further noted the old equipment is still serviceable and could be used by public access.

Marsha Decaires, 3445 Pansy, Coos Bay, commented the Confederated Tribes are also in favor of public access and the public does have control over the programming; you can turn the channel off.

Flore Lee Lockhart, Coos Bay, was not able to attend the meeting and Mayor Benetti read her letter into the record, which is attached hereto and made a part of thereby.

### **City Attorney's Report**

City Attorney Randall Tosh reported the Oregon Court of Appeals ruled this week that the Oregon Dept. of Environmental Quality improperly assessed a civil penalty against the City of Coos Bay arising out of a 1995 sewer line break in Eastside. The Court of Appeals ruled that the statute at issue specified when it is necessary to obtain a permit while another section of the code provides for violations of the program. In fairness, it needs to be said that the City did pay two other small civil assessments totaling about \$1500 related to the incident. Mr. Tosh reported oral arguments on the firefighters' appeal to the Employment Relations Board were scheduled, but the firefighters' attorney did not appear. The court should hand down a decision within the next few months.

### **City Manager's Report**

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City Manager Bill Grile submitted a written report as attached and welcomed Shanda Shribbs to her first city council meeting as director of the Community Services Department.

### Mayor and Council Comments

**Councilor Larson** commented there are 17 vacancies on the ground floor in the downtown area and hoped there was something the City could do to bring businesses back to downtown. She also asked that more garbage cans be placed in the downtown area.

**Councilor Stufflebean** thanked Councilor Miller and the Explorers for doing a good job with the downtown tree lighting event, and reported Marshfield High hosted a swim meet for Williamette and it went very well.

**Councilor McKeown** commented perhaps the City could be a little more aggressive in recruiting businesses for the downtown area and suggested the possibility of appointing a Council committee. Mr. Grile commented staff has some ideas for downtown.

**Councilor Weeks** congratulated OMI on receiving the Malcolm Baldrige award and reported the proposed taxi ordinance is still in discussion. She welcomed Shanda Shribbs to the City.

**Councilor Spangler** congratulated Councilor Miller on her past service as Council President and Councilor Larson as the Urban Renewal Agency Secretary. He commented he had not received a copy of the Chabin report last month and suggested all councilors receive the document. Councilor Spangler commented urban renewal funds allow the City to make improvements to the City, that public hearings are held and are done for the public.

**Councilor Miller** thanked everyone and Joyce Jansen for helping make the tree lighting event a success.

**Mayor Benetti** commented the disc golf course needs attention, the tree lighting event was a success, and commended OMI on receiving the Malcolm Baldrige award. Mayor Benetti also reported Larry McCabe has plans for four concerts in Mingus Park. There was discussion on the procedure for purchasing property and Mayor Benetti suggested there be further discussion on the matter at the next meeting.

### Adjournment

There being no further business to come before the City Council, Mayor Benetti adjourned the meeting to December 19, 2000 at 7 p.m. in the Council Chambers at City Hall.

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Joe Benetti, Mayor

ATTEST:

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Joyce Jansen, Deputy Recorder