

MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL

July 17, 2001

The minutes of the proceedings of the regular meeting of the City Council of the City of Coos Bay, Coos County, Oregon, held at 7 p.m. in the Council Chambers at City Hall, 500 Central Avenue, Coos Bay, Oregon.

Those Present

Those present were Mayor Joe Benetti and Councilors Anna Marie Larson, Jeff McKeown, Cindi Miller, Don Spangler, and Kevin Stufflebean. Councilor Judy Weeks was absent. City staff present were City Manager Bill Grile, Deputy Recorder Joyce Jansen, City Attorney Randall Tosh, Community Services Director Shanda Shribbs, Police Chief Chuck Knight, Police Captain Eura Washburn, and Deputy Chief Mark Anderson.

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 the May 1st and 3rd, 2001 meetings, adoption of Resolution 01-24 providing for record checks on non-profit organizations, initiation of amendments to the Comprehensive Plan, Volume III – Estuary Management Plan, and initiation of amendments to the Comprehensive Plan and Land Development Ordinance. Councilor Miller moved to approve the consent calendar as submitted. Councilor Stufflebean seconded the motion which passed with the Mayor and all Councilors present voting aye.

Department Head Report by Police Chief Chuck Knight

Chief Knight reported the Meth Task Force has received a grant in the amount of \$180,000 and will be hiring a local coordinator. Mr. Darling prepared the application for the grant which was combined with seed money from Rotary. Chief Knight commented the success of the task force is due to the efforts of David Darling and the Rotary Club. The Police Department has received a \$3,000 grant for safety belt enforcement and recently completed the Three Flags safety blitz; Officer Craddock attended the 7th annual summer institute in Corvallis on combating school violence; and Officer Schweitz has been performing security surveys for residences and businesses, and recently completed a survey for the Coos Art Museum. Chief Knight reported in-house training on critical skills has been completed for all officers and involved training in real-life situations.

Chief Knight reported National Night Out Against Crime will be held August 7th and both the police and fire departments will be participating. He introduced Phyllis Wilson with the North Bend Housing Authority, coordinator for the event. Ms. Wilson reported this is the 18th year for the event throughout the U.S. and this year's event will be held at the Woodland Apartments on Schoneman. Also participating is Bay City Ambulance, Boys and Girls Club, and Campfire Kids, as well as other area organizations that deal with drug rehab and prevention. Ms. Wilson commented the intent is to tell the bad guys to get out of town. Ms. Wilson

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then read the proclamation to the assembly. Councilor Miller moved to approve the proclamation declaring National Night out on August 7, 2001. Councilor Stufflebean seconded the motion which passed with the Mayor and all Councilors present voting aye.

Appeal by Horizon Air Regarding a Request for Reimbursement of Hotel/Motel Tax Funds

Mayor Benetti invited Jan Lindner, Hotel Contract Specialist for Horizon Air, to present Horizon's request to appeal the city manager's denial for reimbursement of hotel/motel tax funds. Ms. Lindner reported several cities in Oregon and other states served by Horizon Air exempt Horizon from paying hotel/motel room taxes. She explained the definition of person, as given in the ordinance, means any individual, firm, partnership, joint venture, association, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit. And further, the last sentence of the definition of transient states a person who pays for lodging on a monthly basis, irrespective of the number of days in such month, shall not be deemed a transient. Also Section 6 (a) exempts a person who pays lodging on a monthly basis, irrespective of the number of days in such month, shall not be deemed a transient. Ms. Lindner stated the ordinance is clear that Horizon would be exempt. Horizon Air is a corporation and has housed their crew at the Red Lion for 19 years. The rooms are rented under Horizon and invoiced monthly. Ms. Lindner reported there are five other Oregon cities with ordinances with the same language and Horizon is exempt from paying the tax. The cities in Oregon are Pendleton, Medford, Eugene, Klamath Falls and Redmond; and other states and Canada also have the same wording and Horizon is exempt. Ms. Lindner commented Horizon provides transportation, is an economic benefit, promotes tourism, encourages business, and is an employer to cities. Mr. Lindner requested the Council look at the ordinance as written and exempt Horizon Air from paying the room taxes.

Councilor McKeown inquired if there are any cities in which Horizon pays room tax. Ms. Lindner reported Montana and Idaho both require Horizon to pay, however, in Oregon, all cities they do business with exempt Horizon from the tax. Councilor Spangler commented the 30-day exemption is in the ordinance for people taking up residence in the city. Ms. Lindner said using the definition in the ordinance, Horizon pays for lodging on a monthly basis and would be exempt. Mayor Benetti commented Horizon is billed on a daily basis. Chris Coles, Red Lion representative, explained Horizon is billed on a monthly basis even though the statement shows a daily charge.

City Manager Bill Grile reported it was his decision to deny Horizon's request for reimbursement of taxes paid over the past three years. He noted Horizon is an important partner in the community's transportation system; however, Horizon and the Red Lion have reached the wrong conclusion on the intent of the ordinance. Mr. Grile explained in Section 2(j) the term transient means individual and the transient owes the tax, and person means individual, but individual does not mean person. Aside from the daily/monthly billing, Horizon has no claim on exemption. Ms. Lindner stated she disagreed with Mr. Grile's interpretation of the ordinance.

Mayor Benetti commented Section 2(j) states any individual who exercises occupancy or is entitled to occupancy in a motel for a period of thirty consecutive days or less, counting portions of calendar days as full days and a person who pays lodging on a monthly basis, irrespective of the number of days in such month, shall not be deemed a transient. City Attorney Randall Tosh commented the billing shows charges on a daily basis and it would be perfectly simple to use a residential landlord/tenant agreement. He explained the

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definition of person does not say a person means all of these things; a person may be any of those things, but not all. Mr. Tosh reported the 30-day provision is to prevent a residential lessee from being liable to pay the tax. He explained it is important to look at the whole ordinance, not one sentence. He then read Section 3 of the ordinance: Section 3. Tax Imposed. For the privilege of occupancy in any motel, on and after July 1, 1993, each transient shall pay a tax in the amount of seven percent of the rent charged by the operator. The tax constitutes a debt owed by the transient to the city which is extinguished only by payment to the operator or to the city. The transient shall pay the tax to the operator of the motel at the time the rent is paid. The operator shall enter the tax on his records when rent is collected if the operator keeps his records on the cash accounting basis and when earned if the operator keeps his records on the accrual accounting basis. If rent is paid in installments a proportionate share of the tax shall be paid by the transient to the operator with each installment. If for any reason the tax is not paid to the operator of the motel, the City Recorder may require that such tax shall be paid directly to the city. In all cases, the rent paid or charged for occupancy shall exclude the sale of any goods, services and commodities, other than the furnishing of rooms, accommodations, and parking space in mobile home parks or trailer parks.

Mr. Tosh stated the debt is owed by the transient; the important words are occupancy and transient. The tax is imposed on the individuals who reside in the rooms; Horizon crew members are agents of Horizon, here in the course and scope of their employment. Tax is defined as a debt owed to the City and Horizon is liable for the amount of the tax. Mr. Tosh commented under this basis Horizon does owe the tax.

Ms. Lindner commented privilege of occupancy means that one person has the privilege of occupancy, but could let others occupy the room; and therefore, does not require an individual occupy the room for the month. The ordinance states a person is one who pays for the lodging and Horizon is paying on a monthly basis. Ms. Lindner stated she has read the ordinance as a whole and Horizon is exempt from paying the tax. Lynn Merry, Manager for the Red Lion, explained the computer system requires programming the room use before a key may be given and that is why the charges show up as daily. Mayor Benetti inquired why this matter was not brought up some years ago. Ms. Lindner commented the company was much smaller and they were not aware of this particular provision. The ordinance only allows going back three years. Ms. Merry commented Horizon pays for three rooms for every day of the year and has done so for 19 years.

Mayor Benetti commented Horizon's interpretation of the ordinance would also affect a lot of other businesses. Ms. Lindner suggested that people staying longer would be contributing to the local economy. Councilor Spangler reported people stay at his bed and breakfast and they also spend money in the community, and pay the tax. Mayor Benetti commented the benefit from the tax is to promote tourism and generates income for everyone. Ms. Lindner stated all she is asking is that the Council support the ordinance the way it is written. Other cities have the same language in their ordinances and Horizon is exempt; Coos Bay is the only one not exempting Horizon.

Councilor Stufflebean commented after reviewing the reports and listening to this evening's comments, he believes Horizon is responsible for paying the tax. Councilor Spangler stated the ordinance is clear and Horizon does owe the tax; he further commented the crew takes advantage of services provided by the taxes. Ms. Lindner stated Horizon is a good corporation and they are not trying to shirk responsibilities, but the ordinance clearly exempts Horizon from the tax.

Councilor Stufflebean moved to deny the request for reimbursement of the hotel/motel taxes. Councilor Spangler seconded the motion and the motion passed with the Mayor and all Councilors present voting aye.

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Consideration of Request for Power Upgrades at the Mingus Park Stage

Larry McCabe reported Music On the Bay, or MOB as they are also known, has had a great year and has raised funds for their first concert, which will be Spyro Gyra on August 22nd. He expressed concern that the Mingus Park Stage was built without enough power for most entertainment groups. Mr. McCabe commented the cost to upgrade the power is estimated at \$25,000 and he is not here to ask the Council for the funds, but to ask for a commitment from the City to match \$10,000 towards funding the improvement. Councilor McKeown commented a fundraising event with a match from the City is a good approach, although, the Mingus Park Stage may not be the right venue for this group. Councilor Spangler also agreed with a fundraising approach and it would give the City an opportunity to put the power increase in the next budget. Councilor Miller commented staff is looking at grants and she supported Music On the Bay's efforts.

Award of Contract for the 4th and Elrod Street Improvements Project

City Manager Bill Grile reported the grant for the 4th and Elrod project goes back to Steve Doty's good work and is now coming to fruition. The project entails 4th Street to Elrod Avenue and to Broadway with an overlay. The City has done some sewer line work in preparation for the project, which will include a raised cement island at 4th and Anderson to allow trucks to turn right from Anderson onto 4th Street. Councilor Spangler commented there have been complaints regarding the trees along 4th Street. Community Services Director Shanda Shribbs reported the problem was due to tree roots and they will be replaced with trees better suited for use along streets. Councilor McKeown inquired if the island will be designed for trucks to drive over and Ms. Shribbs reported it will be designed for this kind of situation.

Councilor Stufflebean moved to direct staff to prepare a supplemental budget to transfer the unappropriated ending fund balance from the Street Improvement Fund to the Street Overlay line item, and award the bid to Bracelin and Yeager for \$231,384. Councilor Miller seconded the motion which passed with the Mayor and all Councilors present voting aye.

Award of Contract for the Front Street Improvements Project

Councilor Stufflebean moved to award the base bid and all alternatives for the Front Street Paving Project in the amount of \$210,428 to Bracelin and Yeager, subject to obligation of an additional \$25,000 from the Urban Renewal Agency. Councilor Miller seconded the motion which passed with the Mayor and all Councilors present voting aye.

Enactment of an Ordinance Establishing the Historic Design Review Committee

City Manager Bill Grile reported the Historic Design Review Committee would act as an advisory committee to help implement the Empire and Front Street design standards. Councilor Stufflebean moved to enact Ordinance No. 310. Councilor Spangler seconded the motion and Deputy Recorder Joyce Jansen read the ordinance by title only. The Council was polled and the ordinance enacted by the following vote:

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

Enactment of an Ordinance Regulating Taxi Companies

Police Chief Chuck Knight reported a public hearing on the ordinance to regulate taxis was held April 3rd and a revised ordinance was presented to the Council July 3rd. Councilor Stufflebean commented there should be something in the ordinance about taxi cab drivers picking up alcohol and delivering to minors. Chief Knight responded such action is illegal and it would be remise of the taxi company to do this. Councilor McKeown commented if the action is illegal it is not necessary to include in the City's ordinance. There was discussion on the requirement of background checks and the amount of time required to perform the checks. Chief Knight reported the department needs the 15 day window to allow staff time to do the background checks as it is not always possible to perform at the moment of request.

Rod Stalcup, Jerry's Taxi, stated the revised ordinance is almost perfect; however, he is concerned about Section 4 b3 and suggested that every company have a drug testing program but not have to have their own counselor. Councilor McKeown commented it wouldn't require an additional employee. City Attorney Randall Tosh stated it could be access to Rehab treatment such as a name of a drug counselor or program. Mr. Stalcup expressed concern about requiring three taxis and Chief Knight explained this is for safety and maintenance issues. Councilor Spangler commented he would like to see the three-taxi requirement removed because it discriminates against the small operator. Councilor Miller commented for a company to run 24/7 and keep up with maintenance and safety, three taxis would be necessary.

Councilor Stufflebean asked if the ordinance would also cover limousine services and Mr. Tosh stated it would. There was discussion on whether the County bus service and non-profit organizations such as churches would need to comply with the ordinance. Mr. Tosh reported if the vehicles are operated by a non-profit, then the ordinance would not apply. Dick Leshley, Yellow Cab, commented the three-taxi requirement was discussed at length in committee meetings and it was agreed that the purpose of the ordinance could not be met if a company only had one cab.

Councilor McKeown moved to amend the ordinance by striking Section 4 b2. Councilor Spangler seconded the motion and the motion passed with the Mayor and all Councilors present voting aye. Councilor Miller moved to enact Ordinance No. 311 regulating taxi companies within the City of Coos Bay. Councilor Stufflebean seconded the motion and Deputy Recorder Joyce Jansen read the Ordinance by title only. The Council was polled and the ordinance enacted by the following vote:

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

Discussion of Coos County's Proposed Nuisance Ordinance

Mayor Benetti reported the Coos County Commissioners have held public hearings for input on a proposed nuisance ordinance, with another meeting scheduled for the 25th. He inquired if the Council was interested

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in taking a position on the draft ordinance. Mayor Benetti said he was in favor of sending a letter of support to the County. Councilor Miller also indicated support of the ordinance. Councilor Spangler commented the County already has an ordinance and the proposed ordinance would give them enforcement strength in the existing ordinance. Councilor McKeown commented he is in favor of the concept; perhaps not the exact language, and the ordinance would help with improving the traffic corridors. He recommended the letter be supportive of the concept and specific to the corridors. City Manager Bill Grile suggested staff draft a letter and email it to the Council for their review. Councilor Stufflebean supported the ordinance and noted some citizens feel it would be a violation of their property rights and others do not want certain situations next to their property. Councilor Larson also supported the ordinance and commented on the importance of taking pride in our community. Consensus of the Council to draft a letter supporting the concept of the ordinance.

Adoption of Resolution 01-23 Approving the City Manager's Participation in the International City Manager's Association International Resources Cities Program

City Manager Bill Grile reported he has been invited by the League of Oregon Cities to participate in a Federally funded program where professional managers from U.S. cities are sent to various third world countries and help them deal with governing problems. The Indonesian government recently decentralized authority to local governments and they are facing enormous challenges. Mr. Grile commented there would not be a cost to the City other than his time away. Typically the program entails four trips to Indonesia and he plans to go on the first and last trips. On the first trip he has invited the city attorney and Martin Callery from the Port of Coos Bay and would be inviting professionals from the community for the other trips.

Councilor Spangler stated he could not support staff participation in the program as the payback to Coos Bay would not be significant. He noted productivity is lost when the city manager is out of the city and it would be a huge mistake to have the city manager globe trotting the world. Councilor McKeown inquired how much prep time would be required for the trip. Mr. Grile reported he would go on two of the trips and did not anticipate a lot of prep time. Councilor Miller commented the City has qualified staff to carry on while the city manager is out of town and supported Mr. Grile's participation in the program. Mayor Benetti commented it is an honor that Mr. Grile has been approached for the program and reflects on the kind of management team we have at the city. He further stated he does not see a problem with the city manager being out of the office and sees the involvement in the program as a benefit to the community.

Councilor Spangler asked why the city attorney would be going and Mr. Grile explained the program is to provide technical expertise to the country in putting together local governments. Councilor McKeown stated the Council relies on staff to do their jobs efficiently and interaction with the people of Indonesia will make better managers for American communities. Mayor Benetti moved to adopt Resolution 01-23 approving the city manager's participation in the International City Manager's Association International Resources Cities Program. Councilor McKeown seconded the motion which passed with the Mayor and Councilors McKeown, Miller and Stufflebean voting yes; Councilor Weeks was absent; and Councilors Larson and Spangler voting no.

Public Comments

There were no public comments.

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City Attorney's Report

City Attorney Randall Tosh reported the Urban Renewal Agency will be closing on the purchase of the Crowley property tomorrow. The Firefighters Association has declared impasse and have notified ERB to schedule a mediation session.

City Manager's Report

City Manager Bill Grile reported a meeting with CPI to discuss franchise negotiations has been scheduled and staff is making progress on the technical review of the city. Tim Enright will at some point meet in a work session with the Council regarding the City's technology plan. The finance director will be preparing a report on the fiscal impact on Bunker Hill if the area were annexed. Mr. Grile commented he has been approached by a number of Bunker Hill residents who are interested in annexation. A design for the Boardwalk aquarium has been developed by the Confederated Tribes and will be presented to the Council in the near future.

Mr. Grile reported staff would be presenting a revision of the room tax ordinance to the Council in a few weeks. There is also a room tax issue with the College when they rent out rooms during the summer in competition with local hotels. Consensus of the Council to bring a revised ordinance for review.

Councilor Spangler inquired when the report would be to the Council regarding the maintenance costs on the jurisdictional exchange miles. Ms. Shribbs reported staff has reviewed the streets and also met with Johnson Rock and Bacelin and Yeager, and expects to have a report to the Council August 17th.

Council Comments

Councilor Larson welcomed World reporter Andrew Sirocchi back to work. She commented the 4th of July in the Park was fun and asked that parking signs be installed along Bayshore to encourage parking. Councilor Larson reported she has received compliments on the banners and the downtown area is looking nice.

Councilor Stufflebean reported the Solid Waste Committee met last week and Beaver Hill has been approved for burning tires. A proposal was made for doing green waste composting at the facility, and two companies have approached the County regarding electrical power. Councilor Stufflebean commented the Boys and Girls Club programs are doing well and many youth are participating. He will be out of town July 19th through 30th and August 3rd through 13th.

Councilor McKeown expressed support for the County's proposed nuisance ordinance. He reported the South Coast Development Council is proceeding rapidly with business contacts and one of the businesses regarding power at the Beaver Hill Facility came through the SCDC director.

Councilor Spangler reported the Fiber Optics meeting was held in Roseburg and established a technical committee to deal with the Ethernet. CPI has agreed to provide government with one gigabyte and allow government entities to hookup, hopefully, at no charge. The Airport Advisory Committee is looking at a 20-year plan and is looking at locations for a new terminal.

Councilor Miller commended Marty Crouse on organizing the July 4th Celebration in Mingus Park and thanked Council Larson and her husband Ralph for their help during the event. The Commission on Children and Families reviewed legislative items at their last meeting. Councilor Miller wished Rep. Joanne

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Verger happy birthday today.

Mayor Benetti reminded the Council of an Urban Renewal work session to discuss the Empire Facade Program on July 31st. The Oregon Coast Music Festival opening concert was held in Mingus Park on Saturday and was well attended. Tours of the USS Dolphin will be held from 9 a.m. until 4 p.m. and the Coos Bay-North Bend softball challenge will be held at 4 p.m. July 29th at Boynton Park.

Adjourn

There being no further business to come before the City Council, Mayor Benetti adjourned the meeting to August 7, 2001 at 7 p.m.

Joe Benetti, Mayor

ATTEST:

Joyce Jansen, Deputy Recorder