

MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL

October 19, 2004

The minutes of the proceedings of a 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 Attending

Those present were Mayor Joe Benetti and Councilors Jon Eck, Roger Gould, Jeff McKeown, and Kevin Stufflebean. Councilors Anna Marie Larson and Cindi Miller were absent. City staff present were Finance Director Janell Howard, Deputy Recorder Joyce Jansen, City Attorney Nathan McClintock, Building Codes Administrator Joe McClay, Fire Chief Stan Gibson, Library Director Carol Ventgen, Planning Administrator Laura Barron, and Police Chief Eura Washburn.

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 regular meeting of September 7, 2004; approval of the minutes of executive sessions held September 9, 10, 13, and 16, 2004; and recommendation for approval of an OLCC application for Oregon Wine Distributors. Councilor Eck moved to approve the consent calendar as presented. Councilor Stufflebean seconded the motion which passed with Mayor Benetti and all Councilors present voting aye.

Appeal of Architectural Design Review (ZON2004-00079) for Property Located at 520 and 556 North Bayshore Drive

Mayor Benetti introduced the agenda item and announced he would be stepping down from the discussion due to ex parte contact with Ms. Brown, and Council President McKeown will preside over the hearing. Councilor Gould stated he represented Mike George, contractor on the project, and had had significant contact; however, he will continue to sit on the Council at this point. Planning Administrator Laura Barron read the public hearing disclosure to the assembly and reported the Planning Commission has conditionally approved joining the two buildings at their meeting September 14, 2004. She reviewed the drawings of the building and reported the applicant had installed new windows and doors, added fascia, a new roof, and new siding to the structure. The Planning Commission approved the proposal with two conditions: a new signboard would be installed, and the copper penny roof material would be modified to a color acceptable to the applicant and the Design Review Committee.

Ms. Barron explained the Waterfront Heritage District has design criteria for the exterior of buildings and the standards state the exterior material should be continued around the entire building, be of equal quality, and for those areas visible to the public. This is an existing building and the Planning Commission and Design Review Committee allowed the fascia to be on the west elevation as the building was not structured to continue the fascia around the building.

Another exception was on the north elevation for which the Planning Commission did not require lap siding because the construction is cinder block. Ms. Barron reported the Planning Commission reviewed Ms. Brown's proposal on July 13th and approved the siding, location of doors and placement of windows to allow the applicant to finish the interior. A building permit was issued for these items. Ms. Barron reported the fascia is not appealable because the fascia was part of the application. Councilor McKeown inquired if a permit had been issued for the roof and Ms. Barron stated a permit had not been issued. Ms. Barron explained the appeal is to consider the color of the roof, and the Council has several alternatives. They can affirm, reverse, modify or remand the Planning Commission's condition for the color of the roof. Ms. Barron commented new information was submitted by the applicant on October 11, 2004 and was included with the Council agenda. Councilor Gould moved the applicant has standing to appeal and the appeal was filed in a timely manner. Councilor Stufflebean seconded the motion which passed with Mayor Benetti and all Councilors present voting aye.

Councilor McKeown opened the public hearing and reminded everyone the scope of the appeal is limited to the color of the roof. Councilor Gould commented he was not sure the scope of the appeal was correct. City Attorney McClintock reported point one and three of the appeal has to do with the fascia and the fascia was part of the applicant's proposal. Councilor Gould commented that would be the case, unless something done by the Planning Commission caused the applicant to want to change. Mr. McClintock stated Ms. Brown could withdraw the application and resubmit; however, the Planning Commission accepted the proposal with the two conditions on signage and color of the roof. Ms. Barron commented the applicant's proposal was provided to the Planning Commission, and then notice of intent to appeal was for the board and batten, which was her proposal. Councilor McKeown commented the appellant cannot appeal their own proposal.

Dave Foster, North Bend, speaking for Ms. Earlene Brown, commented the subject property is in a transition zone, is not a historic building, is not adjacent to a historic structure, and is located on an island. Mr. Foster commented the issue of the color of the roof is somewhat conflicting as copper-type material was historically used for roofing on older buildings. He further commented that under the ordinance standards it states one or more guidelines can be waived if the project meets the goal of the district, and Ms. Brown's proposal meets this requirement. Mr. Foster explained the issue of the color and material was sent back to the Design Review Committee by the Planning Commission. Councilor Gould noted in the staff report that Commissioner Daily had moved to accept the proposal September 8, 2004 with the exceptions for the sign and color of the metal. He further commented the matter should not have been referred back to the committee. Councilor Gould inquired if this was something the applicant was forced into. Mr. Foster commented Ms. Brown's desire to use metal fascia shows throughout the entire process.

Earlene Brown, Coos Bay, stated she was amazed at how the city is run. When her contractor first applied, he was told by Joe McClay to go ahead, and then a month later he was told they needed to go before the Historic Design Review Committee. Councilor McKeown inquired if Ms. Brown had a permit for the exterior work. Ms. Brown responded she had a demolition permit and had applied for a permit for the whole project. She reported the committee had approved the roofing and an order was placed for the material; then at the Planning Commission meeting Bob Sasanoff of the Historic Committee stated he had not told her the material was approved and to go ahead and order. Ms. Brown commented the committee also requested the fascia be

changed from a slant to a straight design. Joe McClay, building inspector, reported the State building codes plumbing and electrical had not been finalized, but he had given the OK for temporary occupancy. Ms. Brown stated the process has taken eight months and she had thought the advisory committee had made the decision, although her proposal for board and batten was not her first choice. Councilor Gould asked Ms. Brown why she agreed if it was not her first choice, and Ms. Brown stated she wanted to get into her building.

Councilor Stufflebean inquired if at any time during the process did anyone tell her to go to the Planning Commission. Ms. Brown responded no. Councilor Gould stated for the record that he was brought in on the difference between the Planning Commission and staff. There was further discussion on the whether approval had been given for the board and batten and the metal material. Mr. Foster commented the original proposal had been for a metal fascia to be added to the west and south sides of the building and the committee submitted a revised proposal that the metal be covered by wood. Bob Sasanoff, Historic Design Committee, reported the committee does not have authority to give permission and can only make recommendations to the Planning Commission. The colors were not appropriate for the use proposed and competed with the copper color. At the committee meeting, they were told the metal for the fascia was ordered and it would be a problem to cancel the order. The original drawing referred to a mansard roof in a vertical position and when asked about the design, what Ms. Brown was really referring to was a fascia, and it is inappropriate in a number of ways. Mr. Sasanoff reported the committee met later to talk about what could have been done differently and a concern of the committee was that section of the building facing Front Street needed to be addressed. He stated it didn't appear that Ms. Brown was willing to work with the committee and staff.

George Gant, Myrtle Point, stated he works for Ms. Brown and it was weeks after the application before they were told they had to go before the Historic Design Review Committee. Mr. Gant commented that someone had to have made the decision that this was a major remodel, because that is the only time the ordinance comes into play. He also commented that several people from the office had attended the committee meetings and had brought samples of the roofing material, and they had been given permission to order the metal. Councilor McKeown clarified with Mr. Gant that they did not understand that the Planning Commission had to make the final ruling. Mr. Gant stated he and the architect thought the Planning Commission would go ahead with the committee. Councilor Gould asked if Mr. Gant was on the county planning commission and Mr. Gant stated he had served for ten years on the commission. Councilor Gould asked why Mr. Gant believed this was not a major renovation. Mr. Gant responded the roof was not raised, the floor area was not increased, and a major part of the work was installation of a heat pump and renovation of the interior.

Bruce Harlan, Chair of the Planning Commission, reported the historic district was done at the request of the City Council and the district and standards were established by ordinance. Mr. Harlan commented the Ms. Brown's project came to the Planning Commission after the material was on the building. The material is not appropriate for the district and a major concern of the commission is being in compliance with the historic district standards. Mr. Harlan suggested the Council decide whether to have the historic district or not. Kathryn Netter, Coos Bay, member of the Historic Design Review Committee, reported the committee never told anyone to go ahead with the proposed design and the project was well underway before Ms. Brown came to the committee. Ms. Netter commented the committee explained the ordinance requirements to

Ms. Brown and tried to help Ms. Brown make it work. Ms. Netter commented it is a challenge to put the two buildings together and the project is considered a major remodeling.

Gordon Ross, Coos Bay, commented everyone is trying to do a job and it's been a learning process for the Planning Commission, the Planning Department and the Design Review Committee. Mr. Ross reported in the 1890s all the buildings were wooden with shingle roofs, but after the big fire of 1923, metal roofs came in. He also commented Ms. Brown is a single mother, she provides 30 jobs, and she is improving the community. It's been a learning process for her and she has paid her dues. Mr. Ross urged the Council to approve the fascia and metal material. Ralph Labatto, Coquille, reported his wife works for Ms. Brown and after listening to the proceedings, it appears no decision was formally made as to whether this was a major renovation. Mr. Labatto commented the desire of the Planning Commission and Design Review Committee was to do a good job and adhere to the ordinance; however, Ms. Brown had tried to please the committee by changing her proposal. He recommended the Council move forward on this matter and approve Ms. Brown's request.

Ms. Barron reported the transition district has nothing to do with design standards and referred to zoning an area to allow difference uses in an area. Ms. Barron briefly reviewed the section of the ordinance for Water Heritage District and commented staff's decision was applicable to Ms. Brown's proposal. There being no further comments, Councilor McKeown closed the public hearing. Councilor Gould commented the reason the application is in appeal is that there is not enough staff, which is a direct result of budget cutbacks and layoffs. Neither the contractor nor the owner were aware of the historic district standards and the contractor was allowed to proceed after the permit had been applied for. At that time, no one on staff recognized the need for the additional procedure. Councilor Gould stated the problem was not caused by staff, Planning Commission or the Historic Design Review Committee. The Council's task is to fashion a solution to allow the project to move ahead. Councilor Eck suggested if the district standards are so complicated that its difficult for citizens to understand, the Council needs to make changes and streamline the process.

Councilor Stufflebean reported he was on the Council when the design standards were implemented and if the Council wants the district, they need to stick with the standards. He further commented that the project is a major renovation and based on the testimony tonight, he recommended approving Ms. Brown's request. Councilor McKeown commented there is no clear, clean solution. Initially the business owner wanted to improve her business. It is difficult to apply historic design standards to a Taco Time building, the city is understaffed, and mistakes were made early on by both staff and the applicant. The Planning Commission and Historic Design Review Committee are hard working, well intentioned people and were presented with a difficult task. Councilor McKeown commented the Coos County Historic Museum will be built within the historic district in the near future and will potentially change the Front Street area. We need a resolution and closure on this matter that will not set a precedent for citizens to ignore the Planning Commission and the permit process. Herb Black, North Bend, reported he works for Ms. Brown and painting the metal is expensive and removes the warranty. Councilor Gould commented the fascia was put in place before staff determined the building was in the historic district, and he has a problem telling them to change.

Ms. Barron commented when the permits were brought into the department was when staff discovered the buildings were in the historic district, and demolition began in April. Councilor

Stufflebean commented often work begins before permits are issued and he is concerned that a business owner has put out a substantial amount of money but did not meet all the standards, and not all the procedures were followed on both sides. Councilor Stufflebean stated the applicant shouldn't be punished and he recommended the Council approve the roof and fascia. Councilor Stufflebean moved to approve the existing fascia and roofing as is, with everything else to be completed in accordance to the design standards. Councilor Eck seconded the motion.

Councilor McKeown asked if anyone had looked into painting the metal. Mike George, contractor for the project, reported it would not be cost effective and the material is guaranteed for 30 years. Mr. George commented he had applied for all the permits and had started work immediately. The stop work order was issued at the time no new construction was being done and he had talked with Joe McClay about working on the smaller end of the project. Mr. George stated he was never once told it was in the waterfront heritage thing. He further stated that staff had told him the waterfront standards were a waste of money and a big joke. Mr. McClintock stated based on the evidence, the fascia was a proposal made by the applicant and is not a basis for appeal. The Council has the authority to modify the Planning Commission's findings. Councilors Stufflebean and Eck rescinded their motions. Councilor Stufflebean moved to modify the Planning Commission's findings and leave the fascia and roof as it is. Councilor Eck seconded the motion which passed with Mayor Benetti and all Councilors present voting aye.

Public Comments

There were no public comments.

Council Comments

Councilor Eck reminded everyone to vote. Councilor McKeown reported SDC met with the owner of the potential new sawmill to be located on the North Spit and it is looking good. There is also another sawmill considering locating in the Bay Area. Mayor Benetti recommended the Council give consideration to procedures to avoid similar issues as Ms. Brown's. He suggested the Council give the building administrator direction about letting contractors begin work before a building permit has been issued. Mr. McClay commented work prior to the permit being issued is only to a certain point such a forming foots, setback, etc. and it is at the contractor's own risk. Mr. McClay stated he had talked with Ms. Brown's contractor about doing certain work prior to receiving the permit. Councilor Gould suggested allowing Mr. McClay continue the current practice.

Councilor McKeown commented the City has implemented standards for the historical district and suggested revisiting the issue. Ms. Brown had almost completed her project before permits were issued and perhaps closer attention is needed when work is being done in that district. Mayor Benetti suggested staff give information and criteria to applicants before work begins in the district. Councilor Stufflebean commented the problem is the way the process is set up with the Historic Design Committee. Mayor Benetti suggested the committee have the authority to approve design requests which would save time and steps for the applicant. After further discussion, the consensus of the Council was to have the city manager look into the matter.

Council Minutes – October 19, 2004

Executive Session

An executive session was held pursuant to ORS192.660 (2) (d) for the purpose of discussing labor negotiations. The City Council reconvened into regular session.

Adjourn

There being no further business to come before the Council, Mayor Benetti adjourned the meeting to November 2, 2004 in the Council Chambers at City Hall.

Joe Benetti, Mayor

ATTEST:

Joyce Jansen, Deputy Recorder