

MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL

September 6, 2005

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 Cindi Miller and John Muenchrath were absent. City staff present were City Manager Scott McClure, Deputy Recorder Joyce Jansen, City Attorney Nathan McClintock, Finance Director Janell Howard, Fire Chief Stan Gibson, Library Director Carol Ventgen, 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 July 19, 2005 and August 2, 2005 meetings, approval of an inter-governmental agreement with Coos County Public Health Department for use of a PortaCount machine, and approval of an OLCC license for Sami Mounif dba Euro's International Grill. Councilor Eck moved to approve the consent calendar as presented. Councilor McKeown seconded the motion which passed with the Mayor and all Councilors present voting aye.

Presentation by Kay Mills and Al Neubauer of a Proclamation for September as National Recovery Month and Award of Certificates of Recognition.

Ms. Kay Mills briefly reviewed information on National Recovery Month and invited citizens to participate in activities and training provided in the community. Mr. Al Neubauer thanked the Council for inviting them to the meeting and presented Wayne Grant with a certificate of appreciation. Other citizens recognized for their achievements and presented with certificates were: Dale Turner, Patrick Blaney, and Chris Van Lobedan. Mentioned, but not present was Jeff Whitey. Mayor Benetti congratulated those receiving certificates and thanked everyone who works in addiction recovery programs.

Presentation by Linda Piovasan of a Proclamation for September as SMART Month

Linda Piovasan reported Governor Kulongoski has invited all Oregon cities to proclaim September as SMART, Start Making a Reader Today, Month. Ms. Piovasan read the proclamation which is attached and hereby made a part of the record to the assembly. She reported 234 children in Coos Bay participate in the program and a fund raising event at Benetti's Restaurant will be held Thursday evening. Councilor McKeown moved to approve the

proclamation. Councilor Gould seconded the motion which passed with the Mayor and all Councilors present voting aye.

Mingus Park Pool Management – Clarification of Budget Allocation

City Manager Scott McClure reported there was considerable discussion at the budget meeting regarding the city taking on the cost of utilities for Mingus Pool instead of paying Mingus Park Pool Management a flat fee; however, it was not clear on the payment of the chemicals. Mr. Ralph Mohr reported Mingus Park Pool Management would be paying for the necessary chemicals. Mr. Mohr briefly explained two options for solar heating of the pool and reviewed the progress of hooking the pool facility up to natural gas. Mayor Benetti asked what the cost savings would be and Mr. McClure commented in the long term there would be a savings in maintenance costs.

Report from Coos Bay-North Bend Water Board Manager Rob Schab

Mr. Rob Schab distributed copies of the Water Board's annual report and water quality brochure to the Council, and reported on funding for security issues. The Water Board is currently working with both cities on an early warning system at the dam and the Board will be allocating budget dollars for security of the water facility. Mr. Schab reported on discoloration of the water caused by manganese and reviewed the methods of treating the water. The Bay Crossing project has been completed at a final cost of \$850,000, and a capital reserve fund has been set up for interties to connect the bay crossing lines. The Tenmile Creek water right issue is still in the works and briefs have been submitted to the Oregon Supreme Court.

Consideration of the Proposed Ordinance to Amend the Transient Occupancy Tax Ordinance

City Attorney Nate McClintock briefly explained the amendment to the ordinance would allow businesses such as Red Lion to have people stay for more than 30 days and not pay the transient tax. The amendment would also clean up language for payment of the tax to the city. Councilor Gould moved to approve the proposed ordinance and Councilor McKeown seconded the motion.

Deputy Recorder Joyce Jansen read the ordinance by title only and polled the Council. Ordinance No. 374 amending ordinance no. 2663 providing for a transient occupancy tax for the City of Coos Bay and to provide the administrative procedures for collection of same; as amended by ordinance no. 83, 195, and 315 was enacted by the following vote:

Aye: Mayor Benetti and Councilors Eck, Gould, and Stufflebean

No: None

Absent: Councilors Miller and Muenchrath

Consideration of a Request from Wayne Schrunk to Connect Certain North Bend Residences to Coos Bay’s Wastewater and Stormwater System

Wayne Schrunk briefly reported on development of The Water’s Edge Subdivision. He explained a portion of the development, approximately 26 to 28 homes, is very low and would require construction of a pump station. He stated he had contacted Community Services staff and was given verbal approval to connect to the Coos Bay system. Mr. Schrunk reported several connections of this type have been done in the past on a handshake with no formal documentation, and the fees and costs went to the city in which the property located. Mr. Schrunk stated he would like to move forward with the project as soon as possible and requested the Council approve the hookups tonight with the fees going to North Bend.

Councilor McKeown recommended a mutual agreement be prepared. There was further discussion on maintenance of lines, consideration of annexing the urban growth boundary, future increases in the cost of processing sewage, and preparation of an agreement with North Bend. Mayor Benetti commented an intergovernmental agreement would solve problems with past, present, and future users. Councilor Gould suggested paying the municipality which the lines flow into. Mr. Schrunk reported there are three contractors waiting on this issue. Councilor Gould commented the Council wants the developments to go ahead, but also wants the hook up issue to be resolved first. Councilor Eck commented the city has a responsibility to maintain the lines and he supported having an agreement in place before approving the hookups. The consensus of the Council was to have an agreement in place before giving approval for the hookups. City Manager McClure will contact the City of North Bend and set up a meeting to prepare an intergovernmental agreement.

Public Hearing on a Request to Vacate a Portion of Kelly Avenue – Council Approval of the Request will Require Enactment of the Proposed Ordinance

Planning Administrator Laura Barron read the public hearing disclosure to the assembly and reported the Planning Commission has recommended approval of the request to vacate a portion of Kelly Avenue with a condition of a deed restriction tying lots one and two together. The restriction would ensure legal access to lot two if conveyed separately from lot one. Ms. Barron briefly reviewed the application from Harold Gregory. Mayor Benetti opened the public hearing. There were no comments given and the hearing was closed. Councilor Gould moved to approve the ordinance and include the Planning Commission’s condition for a deed restriction, and adopt the Planning Commission’s findings and conclusions as the Council’s findings and conclusions. Councilor Eck seconded the motion. Deputy Recorder Joyce Jansen read the ordinance by title only and polled the Council. Ordinance No. 375, an ordinance providing for the vacation of Kelly Avenue located in the Plant of Empire City Section 17CC, Township 25 South, Range 13 West of the Willamette Meridian, Coos County, Oregon, and was enacted with the following vote:

Aye: Mayor Benetti and Councilors Eck, Gould, and Stufflebean
No: None

Absent: Councilors Miller and Muenchrath

**Continuance Requested on an Appeal of a Variance
Allowing Edge Wireless to Place a Communications
Tower on Property Owned by the Coos Bay-North Bend
Water Board Located on Fulton Avenue**

Mayor Benetti reported a letter of intent to appeal the Planning Commission decision was received from Mr. Ron Brainard, Chairman of the Tribal Council for the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Tribes on July 28, 2005. A letter requesting a continuance from the scheduled September 6, 2005 appeal hearing was received on August 22nd. Councilor McKeown moved to continue the hearing to October 18, 2005 at 7 p.m. in the Council Chambers. Councilor Stufflebean seconded the motion which passed with the Mayor and all Councilors present voting aye.

**Public Hearing on the Appeal of the Denial of the
Architectural Design Review Proposal for Construction
of a Metal Structure Adjacent to Bay Area Athletic Club**

Planning Administrator Laura Barron read the public hearing disclosure to the assembly. Ms. Barron reported on July 12th the Planning Commission denied Mr. McPeek's proposal to construct a metal building on the east side of the Bay Area Athletic Club. On July 26th the Department of Community Services received a notice of intent to appeal from Mr. McPeek. Ms. Barron reported on April 7th Mr. McPeek went to the Historic Design Review Committee (HDRC) meeting to discuss whether review standards applied to his building. The committee determined the standards would apply because the new building would be contiguous to a building located on Newmark Avenue. On May 11th the HDRC met to review the information submitted by Mr. McPeek and the committee requested Mr. McPeek return with better information on his proposed building. A Planning Commission meeting was scheduled for June 14th which Mr. McPeek could not attend, and the meeting was continued to July 12th.

Ms. Barron reported the HDRC acknowledged the function of the building as a gym and found that a metal siding prohibition could be waived; however, the new building should match the current building. The committee stated the proposed building must be visually related to the existing structure and offered Mr. McPeek suggestions for matching the two buildings. The suggestions included adding masonry at the base of the new building, or adding an awning over the lower windows like the awning on the existing building. Landscaping was suggested to help reduce the size of the building since it would be located partially in a residential area. The committee concluded the building, as proposed, was not acceptable, based on the design review goals and standards. Ms. Barron explained Mr. McPeek based his appeal on the Planning Commission's failure to recognize that it is acceptable to waive one or more of the design standards. Mr. McPeek believes the structure should be approved as proposed. Ms. Barron reviewed the city ordinance which states one or more of the standards may be waived, but the goal must apply. The HDRC agreed the city could waive the prohibition of the metal building and still meet the goal. The committee would make this recommendation if Mr. McPeek would implement some of the committee's suggestions for adding masonry to the bottom of the building, or an awning, and include some landscaping.

Ms. Barron reminded the Council that they may affirm, reverse or modify, or remand the Planning Commission's decision. Councilor Gould moved that the notice of appeal was filed in a timely manner. Councilor Stufflebean seconded the motion which passed with the Mayor and all Councilors present voting aye. Councilor Gould moved that the appellant has standing to appeal. Councilor Eck seconded the motion which passed with the Mayor and all Councilors present voting aye. Ms. Barron explained the scope of the appeal is limited to the request of the appeal, and is limited to approval of the proposal and waiving the standards. Prohibition of a metal building should not apply. Mayor Benetti inquired if the Planning Commission has the right to be specific on landscaping and facades, and commented there is confusion about the historic standards. Ms. Barron commented in the Empire area, metal buildings are prohibited, and the HDRC made suggestions to the applicant, however, none were acted upon by the applicant. She further commented landscaping requirements also falls under the SPAR for buildings not in an historic area.

Mayor Benetti opened the public hearing. Starr Sacket, 961 Salmon Avenue, stated she also represents her neighbors, Mary Goodrich and Eunice Appleberry. All three have residences behind the club and do not have an issue of building a gym, but do have concern about the lack of maintenance behind the building. Ms. Sacket requested Mr. McPeek be required to maintain the back of his buildings. Mr. McPeek commented the brush had been cleared and he is willing to keep the area clean. Councilor Gould reminded everyone that comments need to address the issues of the appeal.

Mark McPeek, Bay Area Athletic Club, briefly reviewed a staff report from the Historic Design Review Committee and stated the proposal for a gym structure satisfies the historic review criteria. He expressed concern for the delay in constructing the building and requested the Council approve the proposed metal building.

Councilor McKeown commented that one or more of the standards may be waived; however, Mr. McPeek did not make any effort to meet design standards. Mayor Benetti commented the awning and landscaping would have made the metal building acceptable and no effort was made by Mr. McPeek to access the recommendations. Mr. McPeek stated those were only suggestions and not requirements. He further commented that there are several metal buildings along Newmark and the Planning Commission decided to prevent him constructing a metal building. Mayor Benetti noted the HDRC committee recommended approving the metal building with some conditions, and he suggested the building could be built with a steel structure and complete the outside of the building with some other kind of material. Mr. McPeek commented the specs on the windows and signage were changed to match the existing building, and he thought the issue was resolved after he met with the design committee, only to be shot down by the Planning Commission. Councilor Gould stated there is no mention in the Planning Commission findings that this was the case; the commission is not prohibiting Mr. McPeek from having a metal building. Ms. Barron commented the metal building is OK if tied in with the current building. Councilor Stufflebean commented Mr. McPeek was denied because he accepted none of the suggestions. Councilor Gould commented the statute (ORS 197.772) Mr. McPeek placed in his appeal does not apply to this issue, and under constitutional property rights, local governments do have the ability to implement land use criteria. Mr. McPeek responded the Planning Commission specifically made reference that their objection was to a metal building.

Bruce Harlan, Chair of the Planning Commission, reported the goal of the ordinance is to reflect construction in the late 1800s and early 1900s. It is not a question of the structure; a metal building with metal exterior or low sloped roof of metal is not of that period of time. The Planning Commission asked that some effort be made to fit the criteria. Councilor Gould asked if the commission ever said Mr. McPeek could not have a metal building and Mr. Harlan responded that statement was not made. Councilor Stufflebean asked if the applicant had taken some of the suggestions, would the commission have accepted the proposed building. Mr. Harlan commented the siding was an issue, and possibly the commission would have accepted it if some effort had been made to comply.

Mayor Benetti asked Mr. McPeek if he would be interested in complying with some of the recommendations and Mr. McPeek stated he has met the recommendations. Mayor Benetti suggested he meet some of the architectural standards. Bob Sasanoff, Chair of the Historic Design Review Committee, reported the committee can only suggest and recommend. When first presented with the information, they were disturbed by the building itself, no landscaping was included in the design plan, and no views of the other sides of the building were included. At the second meeting, more information was submitted but it was inadequate to understand and the drawings were inconsistent. The committee tried to work with the applicant and presented a number of things they thought would help Mr. McPeek. Mayor Benetti asked if Mr. McPeek was willing to change the design to meet some of the criteria. Mr. McPeek stated he was not willing to change the siding. Councilor Gould explained the metal siding was acceptable, but he needs to meet the other criteria.

There were no further comments and Mayor Benetti closed the public hearing. Councilor Gould moved to deny Mr. McPeek's appeal on each of the five points listed in the appeal and remand the issue back to the Planning Commission. Councilor McKeown seconded the motion which passed with the Mayor and all Councilors present voting aye.

Discussion of the Charter Review Process

City Manager Scott McClure reported the Council had previously requested the city charter be reviewed. The process would begin with appointment of a charter committee in October and conclude with bringing a ballot title to the Council in January. The Council briefly discussed whether to review only the section on bonding or review the whole charter. Consensus of the Council to direct the city manager to submit a recommendation on a time line for the review and proposed language to clarify Section 9.12 Sales of Bonds and Warrants.

City Manager's Report

Chief Stan Gibson reported the department received notification of award of a federal grant for \$133,000. The funds will be used for upgrading the Fire Department's communication equipment, purchasing physical fitness equipment, and implementation of a health screening program. Chief Gibson encouraged citizens to review personal emergency preparedness plans. Information on emergency preparedness is available from the Fire Department, Red Cross, and Salvation Army.

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Deputy Recorder Joyce Jansen briefed the Council on the League of Oregon Cities Conference in November and requested Council members contact the city manager's office if they plan to attend. Copies of conference information was distributed to the Council.

City Manager Scott McClure distributed copies of the project report and briefly review the status of city projects. The certificate of appreciation for the City of Coos Bay's support of the National Guard was presented to the Council.

Public Comments

John Pundt, Coos Bay, reported a public meeting to review the plan concept for the Hollering Place project has been scheduled for September 21st at the Newmark Center. The meeting will begin at 7 p.m. and he encouraged the Council and citizens to attend.

Will Wright, Coos Bay, suggested the Council consider the affects a natural disaster would have on the community, and review the city's ability to pump water from the city. He commented several areas of the city are at or below sea level and man areas are protected by dikes. Mr. Wright urged the Council to form a committee to review options and develop a plan for recovery from earthquake or tsunami damage. He offered to assist the city in this endeavor.

Council Comments

Councilor Gould commented he would be out of town on the 20th to attend a Boys and Girls Club conference. Mayor Benetti reminded everyone of the free concerts in Mingus Park on Tuesday evenings in September. He expressed concern for the victims of Hurricane Katrina.

Adjourn

There being no further business to come before the Council, Mayor Benetti adjourned the meeting to September 20, 2005 in the Council Chambers at City Hall.

Joe Benetti, Mayor

ATTEST:

Joyce Jansen, Deputy Recorder