

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

**May 2, 2006**

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, Jeff McKeown, and John Muenchrath. Council Members Roger Gould, Cindi Miller, and Kevin Stufflebean were absent. City staff present were City Manager Scott McClure, Deputy Recorder Joyce Jansen, City Attorney Nate McClintock, Community Services Director Jim Hossley, Finance Director Janell Howard, Fire Chief Stan Gibson, 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 adoption of resolution 06-11 accepting and appropriating grant funds from the State Marine Board, and approval of May as Foster Care Month proclamation. Mayor Benetti requested the proclamation be removed from the consent calendar and made an agenda item. Councilor Eck moved to approve the consent calendar as amended. Councilor McKeown seconded the motion which passed with the Mayor and all Councilors present voting aye.

### **Approval of May as Foster Care Month Proclamation**

Frannie McMann, North Bend, read the Foster Care Month proclamation to the assembly. Councilor Eck moved to approve the proclamation. Councilor Muenchrath seconded the motion which passed with Mayor Benetti and all Councilors present voting aye.

### **Public Hearing on the Proposed Vacation of H Street West of 6<sup>th</sup> Avenue (Eastside) ZON2006-00022 – Approval Will Require Enactment of the Proposed Ordinance**

Laura Barron, Planning Administrator, read the public hearing disclosure to the assembly and reviewed the location of the proposed vacation of a portion of H Street. The applicants are Mr. and Mrs. Gary Angell and the vacation would correct the problem of a dwelling encroaching in the right of way. Ms. Barron explained zoning regulations require that if a water access is eliminated, it must be replaced. Mr. Angel proposes to relocate the new access to the north of the existing access. On April 11, 2006 the Planning Commission unanimously approved recommendation of the vacation with the condition that prior to issuance of the building permit, the right of way would be replaced.

Mayor Benetti opened the public hearing. No comments were given and the mayor closed the hearing. Councilor Muenchrath moved to approve vacation of a portion of H Street and accept

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the Planning Commission's findings. Councilor McKeown seconded the motion. Deputy Recorder Joyce Jansen read the ordinance by title only and Ordinance No. 383 was enacted by the following vote:

Aye:	Mayor Benetti and Councilors Eck, McKeown, and Muenchrath
No:	None
Absent:	Councilors Gould, Miller, and Stufflebean

### **Public Hearing on an Appeal of a Conditional Use (ZON2006-00006) to Allow the Expansion of an Education Use to Allow the Addition of a Modular Structure for Additional Classroom Space for Christ Lutheran Church and School at 1835 North 15<sup>th</sup> Street**

Planning Administrator Laura Barron read the public hearing disclosure to the assembly and explained the proposal is to site a modular structure on church property located at 1835 North 15<sup>th</sup> to provide two additional classrooms. The Planning Commission approved the conditional use by a 5 to 2 vote with conditions on parking and a cap on student enrollment. Ms. Barron reviewed the area and location of the facility and reported a letter of intent to appeal was received by the City on March 28, 2006 from Mr. and Mrs. Herbert Kinney, Mr. and Mrs. Archie Spurgeon, Mr. and Mrs. Clyde Noyes, Ms. Marie Stewart, Mrs. LeeAnn Summers, and Mr. and Mrs. Tom Kelly. The letter stated an adverse affect of the school exists now and any addition would make the condition worse. The issue is parking, limited playground area, cap at 160 students, and traffic.

Ms. Barron explained the Council may affirm, reverse, or modify the appeal. Councilor McKeown moved the notice was filed in a timely manner. Councilor Muenchrath seconded the motion which passed with Mayor Benetti and all Councilors present voting aye. Councilor McKeown moved the appellants have standing to appeal. Councilor Eck seconded the motion which passed with Mayor Benetti and all Councilors present voting aye. Ms. Barron submitted a letter from Mr. and Mrs. Clyde Noyes as Exhibit 1 of the appeal record, and read the letter to the assembly. Ms. Barron explained the proposal for adding the building and changes to be made for off street parking and playground area. The Council reviewed the proposed parking changes; the requirement for 49 spaces for the church, parking needed during school hours, use of the parking area as playground, and capping student enrollment.

Mayor Benetti opened the public hearing and asked for those in favor of the conditional use permit to give comments. Darlene Thauland, Coos Bay, principal at Christ Lutheran, presented new information for the record which was made Exhibit 2. Ms. Thauland explained the additional class rooms are needed to increase grades, and reviewed the parking procedures, ingress and egress on Nutwood Avenue, playground area, and the times for drop off and pick up students. Councilor McKeown inquired if the school would consider limiting enrollment to 160 students. Ms. Thauland commented the Planning Commission set the limit at 175, and currently there is no limit set. Karen Stulz, Coos Bay, read the letters submitted as Exhibit 2 to the assembly. There being no further testimony in support of the conditional use, Mayor Benetti requested testimony from citizens opposed to the use. Herbert Kinney, Coos Bay, commented he lives next door to the church and the parking issue has only been partially addressed. He expressed concern about on-street parking, the use of the playground as additional parking, and increased traffic. Mr. Kinney stated there is already an adverse affect on abutting property owners and the

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additional classroom would increase the adverse affect. He requested the Council deny the conditional use permit. Gladys Kelly, Coos Bay, commented she lives across the street from the church and remembers when the school started, and the traffic in the area has increased significantly. She has been an educator all her life and would rather see a playground with children than a parking lot. Ms. Kelly supported limiting enrollment to 160 students. Sarah Kinney, Coos Bay, supported the school at its current level and opposed increasing classes. She commented this is a residential community and the traffic has increased in the last two years. Landy Marshall, Coos Bay, expressed concern about the amount of traffic and on-street parking and suggested limiting the amount of traffic by using a bus. There being no further comments, Mayor Benetti closed the public hearing.

Councilor McKeown asked if the Planning Commission discussed the playground proposal. Ms. Barron reported discussion was on the number of parking spaces needed for school use and the need to convert the playground into parking to get the 49 spaces required for the church. Councilor Muenchrath suggested with the cap on enrollment, the requirement to convert the front lawn as a playground be added. Councilor McKeown stated there has been some objection on appearance of changing the lawn into parking, and he asked if the condition could change the amount of parking required. Ms. Barron reported it would require a variance as parking is based on the capacity of the church. Councilor Eck commented the criteria has been met by the applicant, and although he understands the concerns of the neighbors, Council has no choice but to approve the Planning Commission's recommendation. Mayor Benetti stated in concept they have met the criteria, the Council cannot tell them to have a playground, and the bus is a good suggestion. Councilor McKeown asked if capping the enrollment at 160 would be a hardship for the school.

Mayor Benetti reopened the public hearing. Greg Byer, Coos Bay, speaking as member of the church, commented there is some area to the north that with engineering work could provide more parking. It's a possibility, but is not feasible due to the expense. Mr. Byer further commented the church does not have the ability to hire buses, and they want to continue to be a good neighbor. Mr. Byer commented if they could get a variance on the number of parking spaces, they would leave the playground in tact. Mayor Benetti commented the Council is not in a position to make a condition for less than 49 parking spaces. Ms. Thauland commented the school depends on enrollment to pay the bills and if they limit class size, they will have difficulty in attaining the goal of having 8<sup>th</sup> grade. They would be willing to cap enrollment at 175; the capacity of the building is 226. The school uses the downstairs portion of the building, but could convert the fellowship hall into classrooms, although they would prefer to use the modular and not impact church use. Ms. Thauland requested a two year time limit on the permit in order to get the modular in place. Arlene Davis, Coos Bay, expressed support for the school and church, and commented the current playground is inadequate. Ellen Waldon, North Bend, is a second grade teacher and commented most of the kids have siblings so one vehicle may have a family of four or five kids. She did not support using a bus because it would take away from the freedom of bringing students when it is convenient for the family. There being no further comments, Mayor Benetti closed the public hearing.

Councilor Eck inquired if the two-year time limit is possible. Ms. Barron reported normally a conditional use is for one year, but the Council could make that an additional statement good for two years. Councilor Muenchrath moved to accept the Planning Commission's findings, accept the conditional use, and include a two year limit. Councilor Eck seconded the motion which passed with Mayor Benetti and all Councilors present voting aye.

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### **Public Hearing on an Appeal of Variance ZON2006-00019** **Verizon Wireless is Appealing the Planning Commission's** **Denial of a Variance to Site a 70-foot High Monopole on** **Seagate Avenue**

Planning Administrator Laura Barron read the public hearing disclosure to the assembly and explained Verizon is proposing to site a 70' high monopole at 1835 Seagate. In accordance to the land development ordinance Chapter 2.6, no structure in the R-W zone shall exceed 25 feet in height. The Planning Commission denied the variance on March 13, 2006 and on March 30, 2006 the City received a letter of appeal. Ms. Barron reported the appellant based the appeal on criteria 1 and 2 not being properly addressed. Criteria 1 - physical, exceptional, extraordinary circumstances and criteria 2 – the variance will not negatively affect abutting property. Councilor Muenchrath moved the notice of appeal was filed in a timely manner. Councilor Eck seconded the motion which passed with Mayor Benetti and all Councilors present voting aye. Councilor McKeown moved the appellant has standing to appeal the Planning Commission's denial of the variance. Councilor Eck seconded the motion which passed with Mayor Benetti and all Councilors present voting aye. Ms. Barron submitted two new pieces of evidence; Exhibit 1, the letter from Joe Stonecypher and Exhibit 2, the letter from the North Bend Airport. Mayor Benetti disclosed that he is a board member of the Airport Commission.

Mayor Benetti opened the public hearing and requested testimony in support of the tower. Chris Koback, 1300 SW 5<sup>th</sup> Avenue, Portland, representing the appellant, briefly reviewed the criteria for appeal. He distributed information showing the need for the 70-foot tower and reported the tower would fill a gap in reception in the area. Mr. Koback explained a 35-foot tower would not work as towers work by line of sight and if there are topographic features in the way, there are dead areas. Verizon has looked for property in this specific area, but without success, and they need the variance because the topography will not allow coverage to serve their customers. Mr. Koback commented criteria 2 regarding negative impact does not apply because the airport withdrew their objection and there isn't a lot of data to support the two property owner's concern that the tower would decrease their property values. Mayor Benetti asked about the site in the airport district. Mr. Ted McClain, Kirkland, WA, representing Verizon in leasing and permitting, reported he had made attempts to contact airport staff responsible for the airport park and was told by the secretary the airport district was not interested in leasing to Verizon. He later contacted Ron Opitz who was encouraging, but still received zero response from the airport.

There being no further comments in support, Mayor Benetti requested comments from those opposed to the tower. Earl Croucher, 1587 Johnson, commented he has rental property next to the location for the proposed tower and expressed concern about the size, color, lighting, and noise of the tower. He further commented the property is zoned waterfront and is a nice piece of property. Councilor Muenchrath asked if strobes were required and noted the FAA letter stated the tower would be marked and/or lighted. Mr. Croucher commented he purchased the property to build a retirement home and the best view is right where the tower would be located. There was further discussion on lighting and marking requirements, and possible noise from the equipment housed inside the shelter located next to the tower. Mr. Koback commented technology has changed a lot and the proposed tower would have a flush-mounted antenna and would resemble a utility pole. The warning light would comply with FAA requirements. Verizon is willing to pursue a shroud at the bottom of the light to keep the light up to minimize what's coming down, and if approved by the FAA, they will install the shroud. Mr. Koback commented

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even though the city's code does not require landscaping around the structure, they would provide a screen like laurel hedge or arborvitae, and the fence would match the building.

Mayor Benetti closed the public hearing. Councilor McKeown commented in review of the application, he doesn't see a negative impact in locating the tower as proposed and recommended approval with the condition Verizon would provide landscaping and explore the possibility of the shroud. Councilor Muenchrath agreed and commented having cell phone service makes our community more attractive. Councilor McKeown moved to reverse the Planning Commission's decision and approve the variance to height limitations with conditions for a landscape screen and require a shroud subject to FAA approval. Councilor Eck seconded the motion which passed with Mayor Benetti and all Councilors present voting aye. Ms. Barron noted there is a 21 day appeal period.

### **Consideration of Approval of a Local Improvement District for Minnesota Street**

Community Services Director Jim Hossley reported residents on Minnesota Street have formed a local improvement district for the purpose of paving the street. It is currently a gravel road, 11 feet wide and with a steep grade. The topography prevents a full width street of 36', but could be widened to 20 feet and would include curbing on one side of the street to keep storm water from damaging the street surface. Councilor Eck moved to direct staff to prepare a preliminary report for the widening and paving of Minnesota Avenue. Councilor McKeown seconded the motion which passed with Mayor Benetti and all Councilors present voting aye.

### **Consideration of Award of Bid for Replacing Choshi Bridge in Mingus Park**

Community Services Director Jim Hossley reported last year the Council appointed a committee to review replacement of Choshi Bridge and on April 4<sup>th</sup> the Council agreed to proceed with the final design. The City received a 50-50 match grant from the State and \$25,000 from the Coquille Tribe. Bids were received from Donald Thompson Construction for \$175,000; West Coast Contractors for \$209,738; and Oregon Wood, Inc. for \$148,700. The low bid includes an alternate to replace White Cedar with Doug Fir and a 15% contingency. Councilor Muenchrath noted the original bids were lower. Councilor McKeown expressed concern that the design is unusual and lends to higher bids, and perhaps a lack of longevity. Mr. Hossley reported staff and the designers were aware of past problems, and the design took these problems into account. There was further discussion on the design, cost of the project, and longevity of the bridge. City Manager McClure suggested due to the concerns, the item be brought back to the Council at the next meeting.

### **Consideration of Award of Bid for the 2006 Timber Sale**

Community Services Director Jim Hossley reported the timber sale is on 32.9 acres and 7 acres will not be logged to preserve wildlife habitat. Stuntzner Engineering cruised the time and the Water Board will include 1.7 acres in the sale. Bids were received from Menasha for \$667,361.00; Scott Timber for \$658,038.50; South Coast Lumber for \$642,025.00; Superior for \$602,373.68; and Seneca for \$573,729.30. Councilor Eck moved to approve the contract with Menasha for \$667,361.00. Councilor McKeown seconded the motion which passed with Mayor Benetti and all Councilors present voting aye.

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

City Attorney Nate McClintock reported Edge Wireless appealed the denial of their variance for a cell tower.

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

Officer Ken Labrousse reported the department received a \$4,000 pedestrian safety grant from ODOT. The objective is to increase driver awareness of pedestrian safety laws and will target drivers who ignore pedestrian laws. The first operation will be on May 10<sup>th</sup>. Notice of the date, place and time will be sent to news media and offenders will be issued warnings. City Manager Scott McClure reported a report on the fire station siting will be at the next meeting; the Central Dock project is almost completed; the Egyptian Theater agreement will be on the next agenda; the wastewater plant SDC will come to the Council in June; the downtown WiFi project has begun; the 2006/07 budget has been finished and staff will bring items for review to the Council prior to adoption; and wastewater collections SDC work session will be held next Tuesday.

### **Public Comments**

Camby Collier, 90768 Travis Lane, expressed concern that elected officials and residents are not aware of what LNG is and whether the facility is worth the risk. She distributed articles about LNG to the Council and urged citizens to become informed. Jody McCaffree, North Bend, reported a meeting on LNG will be held at the North Bend Community Center on Saturday, and encouraged citizens to study the facts. Amy Hoppins, 1309 Bayview, expressed concern about the affect of LNG on people with sensitivity to petroleum products. She explained the health affects of the allergy and her personal experience. Dr. Morgan commented the community needs to fully understand the affect of natural gas in the area, and many people cannot tolerate natural gas.

### **Council Comments**

Councilor McKeown commented the LNG facility must go through an arduous permitting process, and there is a lot of inaccurate information being distributed. He encouraged people to look at all the information. Mayor Benetti also encouraged citizens to get the facts and expressed sympathy for Ms. Hoppins health issues. He reported the Lady Washington will be arriving at the city dock on Thursday and the Memorial Day parade will be held on May 27<sup>th</sup>.

### **Adjourn**

There being no further business to come before the Council, Mayor Benetti adjourned the meeting to May 16, 2006 in the Council Chambers at City Hall.

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Joe Benetti, Mayor

Attest:

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Joyce Jansen, Deputy Recorder