

## **MINUTES OF THE PROCEEDING OF THE CITY COUNCIL**

February 21, 1995

The minutes of the proceedings of a regular meeting of the City Council of the City of Coos Bay, Coos County, Oregon, beginning with a work session at 7:00 P.M. in the Council Chambers of City Hall and proceeding to regular session in the Council Chambers at 7:30 P.M.

### **Those Present**

Those present were Mayor Joanne Verger, Councilors Joe Benetti, Gary Combs, Cindi Miller, Don Spangler, Judy Weeks and David Williams. City staff present included City Manager Bill Elliott, City Recorder/Finance Director Gail George, City Attorney Randall Tosh, Community Development Director Bruce Meithof, Library Director Carol Ventgen, Police Chief Marc Adams, and Public Works Director Ralph Dunham. Members of the media were also present.

### **Work Session**

Mayor Verger reviewed the agenda for the meeting. She discussed the Council Rules and indicated they may have been in effect for twenty years or more. She asked the Council how they wanted to proceed in reviewing and suggesting changes in the rules. Councilor Spangler expressed his opinion that the Council rules were so important and tied to the charter, he felt the entire Council should participate in the review. Councilor Benetti said he felt the first rule that needs to be changed is the one which places Citizen Comments at the end of the agenda instead of the near the beginning. Councilors Miller and Combs agreed with Benetti. Combs felt that the Mayor and Council President could meet with the City Attorney and bring changes back to the Council. There was discussion on how appointments to committees are made and what power the Mayor has in these appointments under the Council Rules. Spangler asked if, under the Charter, one person could be given the power to appoint to committees, and City Attorney Randall Tosh replied in the affirmative. Verger asked how the Council could move Citizen comments to the front of the agenda and Tosh said it could be done by a motion with a second and majority vote in the regular session. Spangler recommended that since the agenda was published with the Citizen Comments at the end of the agenda, it should not be changed tonight. Benetti felt that even if Citizen comments were moved, if someone came later and wanted to speak, they would not be denied an opportunity to do so.

The item on the Supplemental Budget was removed from the agenda at staff request due to an error in the publication.

Mayor Verger reported that she made contact with the Mayor of Springfield who told her he is backing away somewhat from his original position asking for more local control in approving OLCC license applications.

## **COUNCIL MEETING**

### **Flag Salute**

Mayor Verger called the meeting to order and led the assembly in the salute to the flag.

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### **Oath of Office**

City Recorder Gail George administered the Oath of Office to newly appointed Councilor Judy Weeks.

### **Discussion - Revision of Council Rules**

Mayor Verger asked how the Council wanted to proceed in reviewing and revising the Council Rules. She suggested the Councilors make recommendations to the City Attorney and then the Mayor and Council President could go over the suggested revisions and bring them back to the Council. Councilors Williams, Miller, Benetti, Combs and Weeks agreed with the Mayor's suggestion. Councilor Spangler felt it would be more appropriate to have a work session to go over any changes due to the importance of the rules as he would like to see discussion on any changes. Verger reminded Spangler that any changes would be brought back to the Council and could be discussed before adoption. It was agreed there was consensus to submit changes to the City Attorney which would then be reviewed with the Mayor and Council President and then brought back to the full Council.

### **Consent Calendar**

Councilor Spangler asked if the journal required by the Council rules was the same as the minutes. He was apprised that they are one and the same. Mayor Verger read the consent calendar which included the following items:

- a) Approval of the minutes of the regular meeting of February 7, 1995.
- b) Approval of the minutes of the special meetings of February 9 and 15, 1995

Councilor Miller moved for approval of the consent calendar. The motion was seconded by Councilor Combs and carried with the Mayor and all Councilors present voting aye.

Councilor Combs moved that Citizen Comments be moved in front of item five on the agenda. The motion was seconded by Councilor Miller and carried with the Mayor and all Councilors present except Councilor Spangler voting aye. Councilor Spangler voted no.

### **Public Comments**

Greg Norton, Chair of the Tribal Council of the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians said he was here tonight to make the announcement that they are entering into a contract with Capital Gaming International to establish casino style gaming on their reservation trust lands in the Empire area of Coos Bay. Norton noted that Capital Gaming is involved with the Cow Creek Gaming Center and the Umatilla resort. He wanted the Council to

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hear the announcement first and introduced two principals in Capital Gaming International, Jim Ahern and Col. Clinton Pagano. Ahern assured the Council that they wanted to cooperate in every way and stressed the reputation of his company. Councilor Williams asked the size of the facility and any other information they could share at this time. Pagano responded that it will be a modest facility costing about \$3,000,000, encompassing bingo, gaming and a restaurant. He said there are many rules and regulations yet to be complied with including a report by the National Indian Gaming Commission (NIGC). He went on to say that they are treating the Tribe as a client and during the next five years they will be teaching the Tribe how to run the facility. Councilor Miller asked if there was a proposed opening date and how it will be affected by another gaming facility in the area on Highway 101. Pagano reported that he felt the two facilities would be compatible and enhance the tourism in the area. Councilor Benetti asked what the process was from this point on. Pagano replied that there are three components under the Indian Gaming Regulatory Act; the first being consideration of the integrity of the management company, the second a report that looks at environmental impacts and third, the financing arrangements and funding sources are reviewed. He mentioned that Capital Gaming International is a public company. Benetti asked how any financial impacts on the City would be addressed. Pagano replied that the NIGC would take that into consideration in their report. He mentioned that in Canyonville and Pendleton they have not seen many adverse impacts on the cities. Benetti asked if their market study took into consideration the competition of another casino in the area. Pagano replied that there is competition in any business you go into. Councilor Spangler asked what role he sees the City playing in this venture, especially in the area of furnishing utilities. Pagano said each of the issues, such as water, power and public safety would be addressed in the environmental impact statement done by the NIGC. Councilor Combs commended the Tribe on their approach of involving the Council and the public at an early stage and liked the jobs being created by their projects. He stated he would like to hear more about the impact on traffic and tourism with the gaming project. Norton replied that the Confederated Tribe, while being a sovereign nation is also a part of the community. He assured the Council that the Tribe will be working with the Council addressing any concerns.

James Mann, Coos Bay, said he was in favor of the interpretive center being planned by the Confederated Tribes but was not in favor of another casino in the area. He expressed his concern at the facility being placed in a mostly residential area and the fact that this makes ten gaming facilities planned in the State of Oregon. He said the Council needs to think about a recent statement made to the County Commissioners from a member of the Coquille Tribe stating there is no future in gaming in this area.

### **Update on Library Building Project**

Architect Rich Turi presented the study model of the proposed library expansion to the Council and said it would be on display at the library as soon as the plexiglass cover for it was done. He pointed out which part was the existing library and where the expansion was. Mayor Verger asked if there would be a way for the public to comment on the expansion while looking at the model and Library Director Carol Ventgen replied there would be comment forms and a place to deposit them in close proximity to the model. Councilor Combs said he appreciated the many public

meetings held and hard work that has been done to get to this point. Councilor Weeks asked what would be in the new portion. Ventgen said part of it would be a children's section and part would contain some meeting rooms which would serve as a mini-conference center and could be closed off if the rest of the library was closed. Turi explained that the expansion would last for another twenty or thirty years. Councilor Williams asked if that much room would be needed for books thirty years from now with the rapid advances in electronic technology. Ventgen replied that she feels there will always be books, but the new facility will contain adequate wiring and be flexible to adapt to new technology.

### **Council Appointments**

The Mayor recommended that Councilor Judy Weeks be appointed to serve on the County Solid Waste Committee, the Council Citizen Committee and the Employee Awards Committee and that Mike Freeman, Ken Harlan, Norma Hash, Liz Miles, Joseph Reiser, Julia Spangler, Wally Hill and Geno Landrum be appointed to the Council Citizen Committee. Councilor Miller so moved. The motion was seconded by Councilor Benetti and carried with the Mayor and all Councilors present voting aye.

### **Award of Bid for a Flat Bed Truck - Public Works Department**

Public Works Director Ralph Dunham reported receiving the following bids for a flat bed truck equipped with a dump bed:

Murray-Chevrolet-Geo-Mazda, Gresham Oregon	\$21,727
Tower Motor Co., Coos Bay, Oregon	\$22,092

City Manager Bill Elliott clarified that both bids were F.O.B. Coos Bay. Mayor Verger expressed her opinion that she was in favor of doing business with a local dealer whenever possible and noted that there was only a difference of \$365. Councilor Combs asked if the council had any options other than to accept the low bid. City Attorney Tosh replied that the Council could reject the lower bid if they had findings showing why another bid should be accepted. Councilor Benetti asked if there was a certain percentage difference where a local bid could be accepted over an out of town bid. Tosh said there was nothing in the statutes on this issue and the City currently has no policy on local preference. Councilor Williams suggested that both bids could be rejected and we start over again. Public Works Director Ralph Dunham replied that he does not like to even bid out of the local area, but he has been concerned that local dealers have not been bidding noting that only one bid was received on a compact truck recently bid. Tosh said he could find no cases on this particular issue, and rejecting bids usually has to do with non-conforming bids. He said the real issue is whether or not the Council is acting capriciously and arbitrarily and the City should have a policy so that all bidders know that there may be local preference if bids are close. He also said before the City adopted a policy he would have to do some more research on local option policies. Benetti asked for Tosh's recommendation on the bid on the agenda tonight. Tosh said that since it is F.O.B. Coos Bay, there would be local service, and the Council does not have a policy, he would recommend awarding the bid to the lowest bidder. Benetti asked if the City knew why there were

not more local bids. Dunham replied that the information was sent to all local dealers and he did not know why there were not more bids. Elliott suggested that staff send a letter to all local dealers relating Council concerns about not receiving more local bids. Councilor Combs suggested that instead of a letter, a personal contact be made. Elliott offered to make that contact. He said that maybe a reason for accepting the local bid would be to keep the money in the area and thereby help the economy, and if it is not challenged, there would be no problem. Councilor Spangler said he would like to see a policy developed, but since there was not a policy, he was worried about making a decision favoring the local dealer. Verger stated she was not in favor of supporting the Portland economy, but would like to support the local economy. Combs asked what the ramifications would be if they accepted the local bid. Tosh replied he would like to do some research before they make such a decision. Dunham expressed concern that since there was no established policy, not accepting the lowest bid because it was from out of town might affect future bids where no local supplier was available. Councilor Combs moved to accept the low bid and award the purchase to Murray Chevrolet. The motion was seconded by Councilor Weeks and carried with all Councilors present voting aye. The Mayor voted no.

#### **Adoption of Cost Accounting System - Resolution 95-1**

City Manager Bill Elliott explained that this was necessary because of requirements in the statutes. Councilor Benetti moved to adopt Resolution 95-1 which thereby adopts a cost accounting system in compliance with ORS 279.061. The motion was seconded by Councilor Miller and carried with the Mayor and all Councilors present voting aye.

#### **Public Hearing on 1994/95 Supplemental Budget and Adoption of Resolution 95-2**

At the request of staff, this item was taken off the agenda.

#### **Discussion - Addition to Business License Ordinance Regarding Liquor License Recommendation (Springfield Ordinance)**

Mayor Verger said she had made contact with the Springfield Mayor who said he is reconsidering his position on this issue. When asked if the City charged a fee for Oregon Liquor Control Commission (OLCC) applications, the Council was apprised that a \$25.00 fee was charged for an original application, special application, ownership transfer or renewal. Councilor Benetti stated that he had an OLCC license but did not believe that he had a conflict of interest in discussing this. Councilor Spangler commented that these fees, according to staff, do not cover the cost of processing the applications. Benetti commented that he felt much of the Springfield ordinance is repetitive of what the OLCC does. Spangler disagreed saying that it sets forth grounds for disapproval and provides an outlet for citizens to make complaints before licenses are recommended for approval. Benetti felt that this was picking on one type of license and would delay the process. He wondered why only this license would require a hearing and not all licenses. Spangler noted that the League of Oregon Cities recognized Portland for putting language in their ordinance about drinking on the streets. Some Councilors felt this had little to do with OLCC license applications.

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Verger asked about the process stating she knew little about it. Spangler explained that the applicant picked up the forms and brought them to the City for approval and was not given any information about what would be considered in approving or denying the license. Benetti stated that the OLCC gave applicants a list of what conditions had to be met to get the license including approval by the Council. He also stated that even if the Council recommends denial, the OLCC can still approve the application. Spangler feels they have a responsibility to the citizens of the City of Coos Bay to have an orderly process for recommendation of approval or denial. He says he does not understand the harm of such an ordinance but does see the good. Councilor Combs said it was his understanding that the City did an in-depth background investigation before making a recommendation to the Council. Police Chief Marc Adams said they follow the law, do a background check into the criminal background of the applicants, and based on police information, make a recommendation to the Council. Benetti said he does not see any additional duties for the police department if an ordinance were adopted. Elliott said the question is whether or not the Council wants to involve the public in the process and hold hearings on the applications. Verger said she was discouraged after talking to Gold Beach and Springfield who, after going through a greater process feel it has not had an impact on the OLCC process. Spangler says he feels the benefit is involving the citizens in the process, commented that if he has a problem, he goes directly to the bar owner unless it is a police problem. Verger suggested that the Council look at this ordinance at a later time. Councilor Benetti moved to table the discussion on an ordinance for approving OLCC applications. The motion was seconded by Councilor Combs and carried with the Mayor and Councilors Benetti, Combs, Miller, Weeks and Williams voting aye. Councilor Spangler voted no.

### **City Attorney Report**

City Attorney Randall Tosh noted the written reports in the agenda packet and asked if there were any questions. None were asked.

### **City Manager Report**

City Manager Bill Elliott reported that he spent the day on a tour of the Oregon Dunes National Recreation Area. He noted meeting with several community groups and reminded the Council of the upcoming work session on goal setting. He informed the Council that the department heads were now using voice mail and if they wanted to call directly, use the 269-1181 number and ask for their extension.

### **Council Comments**

Councilor Spangler welcomed Councilor Weeks and complimented Bill Elliott on his action in getting staff to look at code violations.

Councilor Weeks said she was happy to be here and looked forward to working with everyone.

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Councilor Combs welcomed Weeks and felt she had outstanding leadership qualities. He expressed his concern with over-regulating their legislative process with Council Rules noting the many other things which regulate the meetings. He noted that the Empire Boat Ramp was open with new improvements and praised the Library on the expansion project.

Councilor Benetti also welcomed Weeks and said the traffic needs to be addressed for the Confederated Tribes Casino. He also was leery of over-regulating council discussion through more rules.

Councilor Miller and Councilor Williams welcomed Weeks to the Council and Williams noted the changes in the mall with the removal of the canopies downtown. He agreed that the Council needs to be wary of too much regulation on council discussion. He felt the Council has followed the intent of the rules and wants the atmosphere of open and friendly discussion continue.

Mayor Verger said she appreciated the filming of the council meetings, but had received some comments on problems with the audio. She reminded the Council of the League of Oregon Cities workshop on Saturday and encouraged them to attend. She asked Elliott for a status report on the mall construction project. Verger reported that the CBS network people asked her for an interview and related that they were here to look at young people in the work place. She felt it was a good opportunity to have our community on national television.

### **Executive Session**

On motion by Councilor Miller, seconded by Councilor Combs and with the Mayor and all Councilors present voting aye, the Council went into executive session pursuant to ORS 192.660 (1) (d) to discuss personnel matters and ORS 192.660 (1) (e) to discuss real property negotiations.

### **Enforcement of City Codes and Ordinances**

Councilor Benetti said he would like staff given direction to change their policy and enforce all city codes and ordinances on everyone. He related that it is frustrating to be starting a business and then be informed that you are not meeting all the codes. He would like to see problems pointed out right up front. He stated that it is his personal belief that there is prejudice on the part of the City and some businesses are allowed to operate one way and others are forced to operate another way. He does not think all the businesses are following all the codes and that the City is aware of this. City Manager Bill Elliott said he is willing to issue a directive stating that all businesses will comply with all regulations and all citizens will comply with all regulations and there will be no exceptions. Benetti declared that he felt there should be no exceptions and does not like the current policy of enforcement by complaint. Elliott said he did not know if the City was turning their head when they were aware of violations, and Benetti said he knew they did and it was wrong for staff to do nothing if they knew about a violation just because a complaint had not been filed. He felt when staff became aware of a violation through investigation of an inquiry, not a formal complaint, they should not wait for a formal complaint to be filed before informing the business of the violation. At this

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point, City Attorney Randall Tosh spoke in favor of enforcement by complaint citing that this gave a basis for enforcement. He said without a complaint process it can open a can of worms of arbitrary decisions and selective enforcement. Benetti said he likes the complaint process, but also feels that it is wrong to wait for a complaint if the City knows of any violation. Councilor Miller asked about selective enforcement and Tosh said the complaint policy eliminates the argument of selective enforcement. Benetti requested that this issue be researched as he thinks there are potential lawsuits with the current policy. Tosh said there were two issues, one of selective enforcement and the second whether the City has a duty to tell people everything they need to do. Speaking as an attorney, he remarked that it is normally up to the property owner to check into regulations regarding their property. Benetti felt it was up to the City to inform business owners citing an instance a year or so ago when the fire regulations changed and without any prior notice, businesses were inspected and given long lists of corrections to be made. He related that everyone was irate and the corrections cost \$1,000 to \$2,000 per business. Councilor Combs asked what the impact would be on the City to educate the public on all these types of changes and Tosh replied it was a matter of cost. Benetti again stressed that he felt he would have a potential lawsuit if he was required to make corrections and do things no other business was required to do. Councilor Spangler said this should apply to all ordinances stating that the police will only enforce the ordinance prohibiting people living in travel trailers when there are complaints and do not enforce it on their own when they see it. He feels that if we are going to enforce some codes strictly, all codes should be enforced strictly. Councilor Combs said we need to use common sense and issue warnings before violations are cited and the codes should be reflected to allow this procedure. Benetti said it was not his intent that staff go out and look for violations, but he felt if violations were known to the City, they should be taken care of regardless of whether or not there is a formal complaint filed. He would like to see a policy come back to the council addressing these concerns.

**Adjournment**

There being no further business to come before the Council, Mayor Verger adjourned the meeting to 7:00 o'clock P.M. in the Council Chambers of City Hall on March 7, 1995.

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Joanne Verger  
Mayor of the City of Coos Bay  
Coos County, Oregon

**ATTEST:**

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Gail George  
Recorder of the City of Coos Bay  
Coos County, Oregon