

## MINUTES OF THE PROCEEDING OF THE CITY COUNCIL

March 7, 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, Fire Chief Cliff Vaniman, 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. Councilor Combs asked if the canopy for Bill Rosencrantz had already been approved. Verger said the concept had been approved but final approval was reserved until the original canopies had been removed. Councilor Spangler asked what the next steps were if the Council approved his concept tonight, whether or not he would need a right-of-way use permit, if the Council would need to establish a cost for the canopy, and whether or not the design had been approved by the Design Review Board. He was told that a right-of-way use permit had been applied for, the cost allowance would be the same as for awnings, and that only the concept has been approved by the Design Review Board, not the actual project.

Verger asked if the Councilors had a chance to look at the tree that Rosencrantz was requesting permission to remove. She said she understood that if the Council approved the removal of this tree, there would be many other property owners asking for similar permission. She asked Dunham if the trees on Second were the same as the one Rosencrantz wanted to remove. Dunham replied that there are different species of trees in the downtown area. Verger noted that there was no recommendation from the Tree Board and Dunham replied that the Tree Board has not had a quorum present to make a recommendation for various reasons. There was some discussion on the urgency of this matter and whether or not the Council should wait for the Tree Board to make a decision. Combs said he would like input from staff as well. It was noted that Rosencrantz was allowed to remove one tree that had been interfering with his sewer lateral.

Community Development Director Bruce Meithof explained the fee schedule which is being proposed for adoption by the Council tonight. Verger asked who would pay the fee for an appeal of a Planning Commission decision. Meithof replied that whoever appeals the decision would pay the fee.

City Manager Bill Elliott informed the Council that the purchasing policy is on the agenda for discussion and direction on the local purchasing option and to let him know at what dollar level

the Council wants to become involved in the purchasing process. Verger asked if all of the material labeled Agenda Item 8 is the current rules the City is operating under. Elliott clarified that the first ten pages are new language he is proposing, followed by a copy of the current rules. City Attorney Randall Tosh was asked if he had reviewed the proposed changes to which he answered he had read them, but would need to review them in more depth before he made a recommendation. Combs said he would like to see a recommendation from staff, a review by the City Attorney, and a Council work session to discuss them in depth.

Verger asked Steve Clay, chair of the Planning Commission, how the Commission was doing in reviewing some of the zoning changes the Council had asked them to look at. Clay replied that they have been too busy with other matters to do much yet but could hold extra meetings to address Council concerns if necessary.

## **COUNCIL MEETING**

### **Flag Salute**

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

### **Consent Calendar**

Mayor Verger read the consent calendar which included the following items:

- a) Approval of the minutes of the regular meeting of February 21, 1995.
- b) Comprehensive plan map amendment #94-74 and approval of Resolution 95-4 which is attached hereto and made a part of thereby .

Councilor Benetti moved for approval of the consent calendar. The motion was seconded by Councilor Miller. Councilor Spangler asked that Benetti's comments regarding his opinion that he had no conflict of interest because he held an OLCC license when discussing a possible OLCC approval ordinance be added to the minutes. It was noted that the vote on Benetti's tabling motion on discussion of the above mentioned ordinance was corrected to reflect Councilor Spanglers no vote. The question was called and the motion including corrections to the minutes carried with the Mayor and all Councilors present voting aye.

### **Citizen Comments**

Michael James, Coos Bay, thanked the City for their increased patrol in the Empire area. Police Chief Marc Adams said patrols had been increased in the downtown area as well as the Empire area.

Steve Clay, Coos Bay, said he wanted to address his concerns about Mall Block 2 which is in the process of renovation. He said it was his opinion that parts of the project as now being

constructed are not correct. He said he was willing to volunteer his and his firm's time to help with this project. He reviewed a memo he sent to the City on February 9, 1995. His first concern dealt with the crossings over Second and Third Streets and on Central, his feeling being they were not correctly designed for the visually handicapped. Other concerns dealt with the brick pavers running north and south across Central Avenue which in his opinion lead people to believe that is the appropriate place to cross the street when it is not, lack of warning strips at mid block and lack of the continuity of the sidewalk both visually and functionally across Second and Third Streets. He feels the concrete patches should be specified to match the color of the adjacent concrete. Further recommendations from Clay included elimination of the irrigation system to irrigate the two existing planters, removing the existing concrete planter and adding as much additional parking as possible. In his opinion, the warning tiles being specified for a crossing are not currently being used by the United States Department of Transportation because of their concern with the truncated dome. His final concern was with the lack of the double bullnose curb on the plan. He said he was not trying to criticize the work being done, but to help the city have a quality project. He then complimented the Public Works Director, Ralph Dunham, on the good job he is doing.

Flora Lee Lockhart, downtown business owner, asked if there are any plans to put in rest rooms that can be used by the public in the downtown area, other than those at City Hall or at the Chamber of Commerce building. She would also like to see places where people can sit down and rest.

### **Approval of Mall Canopy Design - Bill Rosencrantz**

Mayor Verger informed Bill Rosencrantz that his request had been discussed in the work session and that he would have to go before the Design Review Board if the Council approved his design. She said she had visited his site and although she did not totally agree with his plan, she had no reason not to approve his design. Mayor Verger moved that the Council approve his proposal for using the existing concrete columns and put up a canvas canopy in front of his building. Councilor Miller seconded the motion. Councilor Spangler wanted it clarified that the City's involvement would be to allow the same dollar cost per foot as currently allowed for awnings. Councilor Williams said he likes the diversity and is in favor of this project. Councilor Benetti asked if this would interfere in any way with the renovation in Mall Block 2. Ralph Dunham replied that as the project is currently designed, there would be no problems, but that the canopy would need to be designed to accommodate the street lights. Benetti asked if there would be any problems with parking or traffic, and Dunham replied that as the traffic pattern is now proposed, there would be no problems. Rosencrantz said he would be willing to work with Public Works in any way necessary. Councilor Combs asked how one of Clay's recommendations would be affected if the cement columns were left and Clay replied that the columns would interrupt the double bullnose curbs and he would prefer to see the curbs run in a straight line. When asked for his opinion by Combs, Dunham said the jog in the curb would help prevent door dings from cars parked by the canopy and since the electrical conduit is running under the curb, it would not be easy to follow Clay's recommendation. Dunham said there would be an additional cost of \$500 to \$1000 to do as Clay is recommending. Combs asked how the alignment is changing and was told that the street would be one foot narrower in front of Rosencrantz's store. The question was called and the motion

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carried with the Mayor and all Councilors present voting aye.

### **Authorization for Tree Removal - Bill Rosencrantz**

Mayor Verger asked if there was a problem on Third Street with the trees and whether or not the Council would be inundated with similar requests. She also questioned whether the City had any liability if the trees did damage to canopies or awnings. Rosencrantz said he had asked his attorney for a legal opinion on this matter. He also said he had a letter from the manufacturer of the canopy regarding what would happen to the canopy if the tree remained which showed that the main cost would be additional cleaning. Rosencrantz asked if the Council was not ready to give him an answer on his request at this time, to which Verger replied that she had some unanswered questions, especially how many requests they might get from other business owners on Third Street. Rosencrantz suggested that if the business owners do not want the trees there, perhaps that was an indication that the trees should not be there. Verger said she did not agree. Combs asked if this would go back to the Tree Board and Verger said she would like the Tree Board to look at the trees on Third Street in general.

### **Report on the Art Education Program - Susan Goodman**

Susan Goodman gave the Council a report and update on the art education program the Council agreed to fund in this budget year. She reviewed the history of the art education program relating their goal is to bring art education into the schools. She told the Council they are working with the schools this year and the target group is the second and third grade students. Goodman said they are reaching over 900 students by taking art instruction directly into the classrooms and the students are receiving instruction in charcoal, graphite and water color. She noted this age group was picked as they felt they could reach them before the children decided they were not artistic. She showed the Council pictures of some of the projects and said part of the project included bringing first quality art materials to the students. She also informed the Council the program is meeting a need for many students. Goodman then reviewed the classes being offered at the Art Museum under this program and noted their great success. She remarked that the program exceeded her expectations and all classes were full and had waiting lists. Goodman invited the Council to visit the classes and come to the student art show. Verger said she was happy the City was partnering with the museum to educate the children and noted that she feels the program is more than she had hoped for. She expressed her appreciation for all the artists participating in the program and hopes this will help the children know the Council cares about them.

### **Adoption of Plumbing Fees - Resolution 95-3**

City Manager Bill Elliott explained the City is changing their fees to be more in line with the state and noted that not all the fees are changing. He recommended that Council adopt Resolution 95-3. Councilor Williams moved for adoption of Resolution 95-3. The motion was seconded by Councilor Miller. Councilor Combs asked how we would compare with the State fees, and Community Development Director Bruce Meithof replied that we would have the same fees

as the State Field Offices. Councilor Benetti asked what financial impact this would have on the City, and Meithof replied that it would be a wash, some fees being reduced and others being raised. The question was called and the motion carried with the Mayor and all Councilors present voting aye.

### **Discussion of Purchasing Policy and Rules of the Contract Review Board**

City Manager Bill Elliott said he did not expect action on this tonight, but is bringing this to the Council for their review. He asked for direction on whether or not they wanted a local purchase option and at what dollar amount the Council would like to be involved in the purchasing process. Councilor Benetti asked the City Attorney for his opinion on having a local purchase option in our rules. Randall Tosh replied that his research showed that there were not many cases on this issue, but that issues could be raised on the constitutionality of such a policy. He said this type of issue hinges on the rational basis interpretation. He felt that it would be best to have the policy broad. He explained that first a legitimate interest would have to be established and then you would have to have an ordinance that implements that legitimate interest in a rational manner. He said that the courts have said that benefiting the local economy is a legitimate interest. Verger said if there was a policy to only ask for bids in the local area, there would be no need for a local purchase option ordinance. Councilor Spangler asked if it was legal to have a certain percentage where local bids were accepted if they were not higher than this percentage from the low bid which was non-local. Tosh replied that it was possible, but he would need to do more research on legislative action, court decisions, and the probability of a lawsuit in the future on the percent method. Combs asked if there were any other cities which had this type of ordinance and Tosh replied that he was not aware of any in Oregon, nor was the League of Oregon Cities. He cited a few places outside of Oregon which had local purchase options which had been held to be constitutional. Elliott said the real key would be to craft an ordinance which is defensible. Verger said she did not feel such an ordinance was necessary, and could be controlled by where we send the bids. Councilor Williams said he could only remember a couple of times where there was any problem and did not see the need for another ordinance. Tosh did inform the Council that if no such local purchase option was in place, the Council must accept the low bid if it met specifications. Elliott then asked the Council at what point they wanted to come into the purchasing process and pointed out his recommendation for several levels of approval. Mayor Verger pointed out that most of the purchasing is already approved in the budget process and she would not want to be any more involved in purchasing than necessary. Combs asked for Elliott's recommendation, and Elliott replied he would be comfortable with any figure between \$15,000 and \$25,000. Councilor Spangler moved that the City Manager be allowed to approve any purchase under \$25,000. The motion was seconded by Councilor Miller. Combs said he had a problem with purchasing budgeted items in case the City ran out of funds, and was more comfortable with a \$15,000 level. Elliott said he would monitor the City's finances at all times regardless of the level at which the Council wants to become involved. Councilor Benetti said he was more comfortable with a \$15,000 level also. The question was called and the motion carried with the Mayor and Councilors Williams, Miller, Weeks and Spangler voting aye. Councilors Benetti and Combs voted no.

**Discussion of Council Goals**

Bill Elliott informed the Council that the City did not own the Eastside airport property, but that it was owned by the port. Mayor Verger suggested that the wording be changed to read “Investigating possible uses of the Port’s Eastside ‘airport’ property”. Councilor Benetti moved that the Council goals be adopted as presented with the change mentioned. A list of those goals is attached hereto and made a part of thereby. The motion was seconded by Councilor Weeks. Benetti said he felt the City would eventually need to create a staff position to help bring in Economic Development. Verger said she felt the City wants to show they are serious about Economic Development.

Carl Simenow, Coos Bay, asked how the Council came up with the goals and whether or not there was any input from the citizens. Verger explained that the Council held a goal setting session, but did not have any citizen input at this time due to time constraints with this year’s budget. She also noted that there would be a Town Hall meeting in the future to set goals. Combs noted that these goals were being added to the goals established at previous town hall meetings. The Council also stated that they took into account contact with the public both at the meetings and personally. The question was called and the motion carried with the Mayor and all Councilors present voting aye.

**City Attorney Report**

City Attorney Randall Tosh reported that a review of the Council Rules was still pending and he would like to set a date certain to begin the review. He asked if the Council wanted a standardized procedure for committee appointments in the Council Rules or have appointment processes contained in individual ordinances. The Mayor said she wanted to see it cleared up as to who appoints what committee members. Tosh also felt the Council should look at whether or not any committees had delegated power or whether they were strictly advisory. He said if they have any delegated powers, we need to make sure they are conforming with open meetings laws. He reiterated that his recommendation would be to look at the whole committee process. Councilor Benetti said he felt the committees should be dealt with on an individual basis. The Mayor and Council agreed.

Tosh asked the Council how they would like him to handle enforcement of City Codes which also involved violations of State Laws. He related that as City Attorney, he could not prosecute under the state violations, but that some cities have an arrangement with the District Attorney letting the City Attorney prosecute such cases. When asked how many of these cases come up, Elliott replied that maybe one or two of these come up each year. The Council asked what would be involved and Tosh replied that he wanted their authority to proceed and talk to the District Attorney. Consensus was that he could proceed.

**City Manager Report**

City Manager Bill Elliott reported he received a proposal from Liveable Oregon, Inc.

through Judy Lovell, for a parking study at a cost of \$6,000. Councilor Williams said the parking committee had looked at parking downtown and did not want to pay for a study which would repeat the work they have already done.

Elliott said he received a call from the people wanting to put a Saturday Market on the boardwalk asking where the Council was on developing a policy. Verger suggested staff develop a policy and bring it to the Council for discussion. Elliott asked for any Council members with concerns to call him to make sure their concerns were addressed in the policy. Combs suggested the Mayor and Councilors send Elliott their written comments on such a policy.

Councilor Spangler asked where Elliott was on the subject of enforcing city codes and Elliott referred to a memo he recently sent out, saying he would give them time to review the memo before any further discussion.

### **Mayor and Council Comments**

Councilor Benetti, noting a letter from the Oregon Coast Music Association asking for City consideration, said the Promotions Committee had offered to help the Oregon Coast Music Festival with their advertising. Benetti asked what the staff would do if the wrong class of hood were installed in a restaurant. Elliott said that under current policy, nothing would be done unless there was a complaint. Benetti said he had a problem with the City ignoring a violation known to the City unless there was a complaint. Elliott said the City staff could certainly enforce every violation they find if so instructed by the Council. Benetti said he is bothered by some of the codes being enforced for some businesses, and not others. He does not want the City to hire more staff or to enforce every little thing, but he wants the City to be fair.

Councilor Spangler said he agrees with Benetti, and feels there might be some liability to the City's part if they see a violation but do not require it to be corrected. Tosh said it was not a cut and dried case of liability in such cases. Benetti asked Tosh if there was liability in enforcing violations for some business owners, and not for others. Tosh replied that actually enforcing on complaint only basis provided protection from discriminatory claims.

Spangler said most of the members of the Empire Association are very pleased with the increased police enforcement in Empire, noting that some of the bar owners are not quite as happy having the police in their establishments.

Councilor Combs reported on a recent meeting of the Parks Commission. He noted their desire to see a charcoal pit at the Empire Boat Ramp, a request to have the Skateboard park moved up on the City's priority schedule, discussion of an upper bay boat ramp and an Eastside boat ramp. He said the Parks Commission would be recommending spending \$6,500 on City property at the SWOCC entrance. He related they are recommending removal of the Tori gate at Choshi Gardens after receiving a letter from the Mayor of Choshi informing them it was not a proper place for the gate. Combs expressed concern about the reasons DeFazio's office moved out of their space at the Art Museum. He also expressed his desire to see fair and equitable code enforcement with some common sense thrown in. He then stated that when the Council set goals, they took into account a lot of public input received over the last year.

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Mayor Verger asked if Steve Clay had spoken to Ralph Dunham or Bill Elliott about the Job Corp from the north coast staying at the Scout Cabin and doing some work. Dunham replied that he has heard from a Mc Farland about the project, but there is nothing firm yet. She reported that the Mayor's office is very busy but very enjoyable.

**Executive Session**

On motion by Mayor Verger, 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. Those attending the executive session were the Mayor and all Councilors, City Manager Bill Elliott, City Recorder Gail George, City Attorney Randall Tosh, Community Development Director Bruce Meithof and Fire Chief Cliff Vaniman.

**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 21, 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