

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

March 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, Fire Chief Cliff Vaniman, 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. Verger noted that the funds in the supplemental budget for the Empire Urban Renewal District are there in case the Council needs them at a future date, and no commitment will be made by adopting the supplemental budget.

Verger said she did not see any need for amplification of music at Ed Lund Park due to the size of the park. Councilor Williams voiced his objections over having amplified music in a basically residential neighborhood. Councilor Combs felt amplified music requests should be reviewed on an individual basis and suggested this request be reviewed by the Parks Commission. Councilor Weeks said she did not feel comfortable granting this open-ended request. Councilor Spangler also had a problem with giving any group an open ticket for amplified music with no specified date.

In discussing Diane Hannah's request for an extension of time to make repairs to her house, the Council asked if the City had put in the mini tide gate as previously agreed. City Manager Bill Elliott said the weather had not been dry enough for installation. Councilor Combs asked whether the structure had been improved at all since this item was first brought before the Council and whether or not there was still an unsafe condition. Community Development Director Bruce Meithof said a new concrete footing had been poured, but many unsafe conditions still exist. Councilor Spangler also expressed concern about the dangerous condition of the building. Councilor Weeks asked why no inspections had been done since June as there had been a lot of good weather last summer, to which Meithof replied that the Hannah's had not requested any inspections, but he did not know specifically why. Councilor Miller asked if Hannah had been told she could have two extensions. Meithof replied that he mentioned two extensions in conjunction with the building permit, but the Council did not tell her she could have two extensions. He said his authority as building official allowed him to grant one extension, and the Council would be accepting the responsibility and liability if they granted a second extension tonight. Spangler asked what would happen if the Council did not grant an extension. Meithof said the Hannah's permit would expire without an extension and a new permit would need to be issued to continue work, but could be issued at half the original fee. Combs said he felt the Council had tried to help this family, but he

had concerns about the City continuing to assume liability for the unsafe condition of the Hannah's home. Williams asked if the City should do another inspection before the Council declares the house unsafe again. Meithof replied that this would be a policy decision that could be made by the Council. Verger asked Meithof to give the Council their options during the regular session.

On motion by Councilor Miller, seconded by Councilor Benetti, with the mayor and all councilors voting aye, a special presentation by the Mayor was added to the agenda following the consent calendar.

## **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 March 7, 1995.
- b) Approval of the minutes of the regular meeting of February 28, 1995

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

### **Presentation of Award to Alfreda Shively**

Mayor Verger presented Alfreda Shively a Coos Bay medallion for her service as chair of the Council Citizen committee and her work on their crime report.

### **Presentation from the American Cancer Society**

Eva Shimotakahara informed the Council that the American Cancer Society was having a fund raising event in Coos Bay which is expected to attract seven hundred to one thousand participants. She explained the event would consist of fifty teams of at least ten persons each doing a relay around the track at Marshfield High School for a twenty-four hour period. The Council was shown a video of a similar event in Roseburg.

### **Citizen Comments**

No citizens appeared to offer comments.

### **Public Hearing on 1994/95 Supplemental Budget and Resolution 95-2 Adopting the Supplemental Budget and Making Appropriations-**

Mayor Verger opened the public hearing on the 1994/95 supplemental budget. No one appeared to speak on the budget. Councilor Miller moved to adopt resolution 95-2, which is attached hereto and made a part of thereby, adopting the 1994/95 supplemental budget and making appropriations. The motion was seconded by Councilor Williams and carried with the Mayor and all Councilors present voting aye.

### **Approval of Special Event Permit - Use of City Park**

Neil Jones requested permission to play amplified music, mostly in Ed Lund Park, with no specific dates requested. He explained he wanted to do everything he can to reach young people with a gospel message, especially through music. He expressed his belief that such programs can help our youth and he would like to utilize his first amendment right in the parks and parking lots and "plug in." Mayor Verger asked him if he had considered using his own facility where he is a minister and Jones replied that they were in the process of setting up a more formal program at their church, and they currently provide counseling. It was his feeling the youth would not attend programs at his church and felt it was his obligation to reach out to them. Jones said he has already been doing this for three years in Mingus Park and was only recently informed that he needed permission to continue. Councilor Combs suggested his request be referred to the Parks Commission for their review and recommendation back to the Council. Verger said the Council would like the request to be site specific and time specific. Councilor Benetti asked Jones if he was aware that music could be played without permission if it was not amplified. Jones said he was and asked the Council to look at granting his request for several weeks at a time so he would not have to keep coming before the Council. When asked, Jones reported on the success they have had with this program in the past and noted they would like to do more in Empire. The matter was referred to the Parks Commission.

### **Request for Extension to Make Structural Repairs - 1041 S. 7th Street**

Diane Hannah appeared before the Council and requested an extension on finishing repairs to her home which had previously been declared unsafe by the Council. She noted that she has been working on the house constantly, but has not been able to do much lately because of the weather. She reported she has been working on the siding, the roof would be replaced this summer, the chimney has been removed, some electrical has been done and is now safe, and said the house is no longer unsafe. She complained the City did not put in the tide gate before the rains started even though she had informed them of her problem. Hannah said she wanted to keep her home and had already invested \$15,000 in it. Mayor Verger explained the dilemma the Council is finding themselves in because of the ordinance under which they declared her home unsafe. Verger felt the Council needed to look at the rules and ordinances and be human beings at the same time. Councilor Spangler asked Hannah if she has had the City come over to inspect the repairs she has made. Hannah reported the City has inspected all the work she has done and she was told some of the more serious problems have been abated. Councilor Weeks asked why no inspections have been called for since June, 1994 and no work was done last summer. Hannah replied she did not have sufficient funds to do any more work last summer after spending the first \$15,000 and she can only do so much. Councilor Combs reviewed the history of the building and asked what work was done to the structure besides the foundation work. Hannah replied the chimney had been removed, the electrical panel was replaced, plumbing work was done, a substandard structure was removed and

ditches were dug. She went on to say she cannot be responsible for the City's neglect in not correcting the water problem which in her opinion causes contaminated water to collect in her backyard. Verger verified that the major repair left was the roof. Councilor Benetti asked Hannah how many extensions she felt she would be able to get on the repairs to be done and if she felt she had completed the structural repairs that rendered her house unsafe. Hannah replied that she felt the house was now safe. Councilor Miller asked Community Development Director Bruce Meithof if the roof was sagging to which he replied in the affirmative. Hannah disagreed saying the roof only needed new shingles. Councilor Williams asked if she was planning on having the rest of the work completed this summer and Hannah replied yes. Councilor Spangler asked if she had sufficient funds to complete the repairs within the next six months and Hannah again replied yes. Combs reviewed the items he thought still needed to be done and Hannah questioned some of those items he listed. Combs said his point was that the Council needed to be fair and treat everyone equally. Hannah again complained about the City's inaction about the water and City Attorney Randall Tosh remarked it sounded like Hannah was threatening to sue and the water problem should be discussed in executive session. Councilor Miller moved a six month extension be granted and this be the final extension. The motion was seconded by Councilor Spangler. Combs asked if in the opinion of Meithof the repairs required could be completed in six months. Meithof replied that the repairs could be done within six months. Spangler asked if there was a difference of opinion about what needed to be done and Meithof replied that Hannah did not agree with all of the repairs required. The question was called and the motion carried with the Mayor and Councilors Williams, Miller, Benetti and Spangler voting aye. Councilors Weeks and Combs voted no.

### **Ordinance No. 214 - Changes to Business License Ordinance**

City Attorney Randall Tosh explained the changes being made to the current ordinance, the only substantial one dealing with the requirement of providing proof of other licenses when applying for a City business license. Councilor Benetti moved to enact Ordinance No. 214. Councilor Miller seconded the motion. City Recorder Gail George read the Ordinance by title only and the Council was polled with the following results:

Voting Aye: Mayor Verger, Councilors Benetti, Combs, Miller, Spangler, Weeks and Williams

Voting No: None

Absent: None

### **Discussion of Mall Block 2 Construction Project**

Mayor Verger asked what the Council was being asked to do at this time. City Manager Bill Elliott said that Public Works Director Ralph Dunham was ready to make changes from Steve Clay's suggestions he felt should be done. Elliott pointed out that if substantial changes beyond those recommended by Dunham were to be made, the Council would need to amend the award of the contract. Elliott asked Dunham that if the suggested changes were made, was any Council action needed at this point. Dunham said changing these items would be above the 10% change order limit and he would need to get quotes for changes. Dunham commented on some of Clay's suggestions and affirmed his recommendation to only make changes in the crossings on Central, continuing the sidewalk at grade across Second and Third Streets on the south side and changing the detectible

## Council Minutes -March 21, 1995

warning strips. Verger asked him how important the aesthetics were to have straight sidewalks. Dunham replied that he only agreed with part of Clay's recommendation on the alignment of the sidewalk. Verger asked if his original estimate of \$19,600 was accurate and Dunham replied it would be closer to \$23,000 for both Second and Third Street crossings. Councilor Benetti asked about the tactile warning strips and Dunham explained that they are required when a crossing is at grade level. Benetti asked how many parking spaces could be gained by taking out the planters and Dunham said that one could be added, not four as mentioned by Clay. Councilor Weeks asked why the flag poles in block one are in the street and if the planters are moveable. Dunham explained why the flag poles are in the street and said that the planters which contain the Japanese maples are moveable. Councilor Spangler asked how many parking spaces could be added if all possible barriers were removed. Dunham said that one could be added in the street and if the parking spots were made compact spots, two additional spaces could be added. The cost of the space on the street was \$1,000, and the two compact spaces in the lot would require further demolition and cost about \$6,000. Weeks said after viewing Mall Block Two and visiting with Clay, she feels the continuity of the sidewalk is very important. There was further discussion on the costs of the recommendations made by Clay. Combs asked why the items Clay suggested were not included in the original bid. Dunham replied that except for the tactile warning strips that were inadvertently omitted from the original bid, the rest of Clay's recommendations were just that, his aesthetic recommendations as an architect. He explained that his intent is to pursue his recommendations as made to the Council in his memo of March 7, 1995 unless he hears otherwise from the Council. Councilor Benetti moved that the Council approve only those items recommended by Dunham with the addition of removing the planter and flagpole to create one additional parking space. The motion was seconded by Councilor Miller. Williams said he would like to wait on the sidewalk and crossings until Block Three is done, and Block One is cleaned up and the entire project can be reviewed. Benetti clarified that his motion was for doing the sidewalk and crossing on the south side only. Verger said that while she would like to see a good project, the Council needs to be cautious of spending more than is necessary and hopes no one else will come and want to add more of these little touches to create the perfect street. 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 the City may or may not have liability from trees, it would depend on each particular issue and whether or not the tree was a nuisance. He also reported that if a tree is dropping leaves which are a problem to someone and they know of the problem before the construction, there probably would not be any liability.

### **City Manager Report**

City Manager Bill Elliott reported that he has received proposals for insurance agent of record from three firms and asked for direction from the Council before completing his review. Councilor Spangler said it was his understanding that if everything was equal, the agent would be rotated. Councilor Williams said the first consideration was the services to be provided. Councilor Benetti said he would like to see it rotated occasionally. Verger asked for and got consensus that the Council favored rotation every three to five years.

Elliott said his understanding of the original concept of the Boardwalk was a place for local

citizens and tourists to walk and enjoy the view of the bay and gain information about our working waterfront. He asked the Council for direction on how to handle requests he is getting from vendors desiring to be on the boardwalk as well as the request from the Saturday Market people. Verger explained that the first purpose of the Boardwalk was to beautify the area, next to provide information about the area and to stimulate quality economic activity in the area. She would like to see a strong policy so it does not become cluttered. Councilor Weeks asked if any activity on the Boardwalk would require a permit from the Council and consensus was that a permit process would be appropriate. Councilor Benetti said that once the criteria is established permits could be handled by staff and he thinks the Saturday Market is a perfect idea for down there. Elliott thanked them for their direction and said he would bring back a policy for their review.

### **Mayor and Council Comments**

Councilor Spangler asked when the nautical flags, which were removed for the Christmas decorations in Empire, would be going back up. Public Works Director Ralph Dunham replied that the parks crew could stop their work on Mingus Lake and put the flags back up.

Spangler reported that he had talked with the director of the Bay Area Rescue Mission and was told that their current building was not entirely suitable for their needs. Spangler suggested that the City lease two or three acres of the property it owns near Central and Ocean to the Mission. They could then build an appropriate building as their current building in a C-2 zone, allowing 30% residential use on the first floor, does not meet their needs. He asked if the City Attorney has worked with both sides to move toward mediation. City Attorney Randall Tosh said that so long as the Mission is complying with City codes, it is just a neighborhood dispute, and the City must be careful about how they are involved. Spangler said he would like Tosh to make contact with both parties and suggest mediation and asked Council direct him to do so. It was noted that Eugene and other cities require mediation before neighborhood disputes are brought before the council. Consensus was that Tosh could contact the parties, explain mediation and give them the name of a mediator, or he could have a mediator contact them directly.

Councilor Weeks asked to be brought up to date on the Mingus Lake project and the skateboard park. Dunham reported the parks crew is currently working on the wall as prison labor is available and the skateboard park is waiting for him to have time to get to it. Weeks reported she attended her first Council-Citizen Committee meeting last week and enjoyed it.

Councilor Combs said he wanted to Council to carefully weigh the extension granted to Hannah given the liability issues. He indicated that the Parks Commission will review all amplified music, not just the current request. He commented on the excellent report on crime from the Council-Citizen Committee and said he would like to see special event permits for the boardwalk. He asked Elliott for an updated report on roofs. Combs expressed concern with the neighborhood dispute about the Mission and would like to look at relocation, as well as helping them find a mediator.

Councilor Miller said she was sorry she could not attend the Fire Department banquet and asked Elliott why the City has not made any progress on the tide gate they agreed to install.

Councilor Benetti noted that Trisha Schreck was left off the list of Community Promotions

Council Minutes -March 21, 1995

Committee members and thanked Alfreda Shively for the excellent report on crime from the Council-Citizen Committee.

Mayor Verger said she attended the Fire Department banquet and was impressed with the number of applicants applying for a recent firefighter/engineer position. She reported she would be going to Salem to testify before a legislative committee and encouraged reports from the various committees be shared with the Council.

### **Executive Session**

On motion by Mayor Verger, seconded by Councilor Benetti, 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, (e) to discuss real property transactions and (h) to discuss litigation. Those attending the executive session were the Mayor and all Councilors, City Manager Bill Elliott, City Recorder Gail George, City Attorney Randall Tosh, Police Chief Marc Adams, Fire Chief Cliff Vaniman and Fire Captain Mark Anderson.

### **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 April 4, 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