

# MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL

September 1, 1998

The minutes of the proceedings of the regular meeting of the City Council of the City of Coos Bay, Coos County, Oregon, beginning at 7 p.m. with a work session in the Council Chambers and proceeding to a regular session at 7:30 p.m. in the Council Chambers at City Hall, 500 Central Avenue, Coos Bay, Oregon.

## Those Present

Those present were Mayor Joanne Verger, Councilors Joe Benetti, Cindi Miller, Don Spangler, and Judy Weeks. Councilors Jeff McKeown and Kevin Stufflebean were absent due to out of town business. City staff present were Acting City Manager Chuck Knight, Deputy Recorder Joyce Jansen, City Attorney Randall Tosh, Community Services Director Bill Finney, and Fire Chief Stan Gibson.

## WORK SESSION

Mayor Verger reported the Council needs to decide if the City should appeal a DEQ civil assessment and asked the item be added to the agenda. Mayor Verger reviewed the agenda noting that Officer Darrell King would be making presentations to the Safety Town volunteers, Council would be appointing the finance director as municipal judge, and a public hearing would be held to take testimony on determining a dangerous building at 119 South Wasson. Community Services Director Bill Finney commented no word has been received from the property owner regarding this matter. Mayor Verger noted that at the last meeting someone from the property management team had appeared. Councilor Spangler asked if the situation was different than what has been before the Council previously and if this building were only a nuisance if occupied. City Attorney Tosh reported the issue is the presence of untreated sewage creates a threat to public health, and if abated, the building can be occupied. Councilor Spangler expressed concern about the City declaring property dangerous and liening the property, and then the City does not get money back from cleaning up the nuisance. Mr. Tosh reported the lien stays with the property and if sold, the City would get their money back. Mr. Tosh explained forfeiture proceedings and reported he had checked with the County Clerk and no foreclosure has taken place on the property. Councilor Spangler noted the property has been posted by the federal government and cannot be sold. Mr. Tosh explained the resolution declares the property a nuisance and gives the City an opportunity to move forward. Mayor Verger commented there is a health hazard connected with the building. Councilor Spangler asked if the hazard is to the community or to the residents of the building. Mr. Finney said it could be to the community and definitely to the residents; and explained the building could be vacant and still have a potential for people to be affected by sewage in the soil. Mr. Tosh explained abatement does not mean the building must be torn down and there are different forms of abatement. The issue is that raw sewage cannot be dumped on the ground.

Mr. Finney reported pump station #17 is the primary pump station for the Eastside area and explained the necessity of doing the improvements before the rainy season begins. Councilor Spangler asked, on behalf of Councilor Stufflebean, if the well heads were being replaced because Councilor Stufflebean suggested replacing the well heads was not necessary. Mr. Finney reported the wetwell is part of the project because the wetwell currently not adequate. Councilor Weeks inquired about the alternative listed in the report and Mr. Finney explained the alternative provides for a variable drive pump and is primarily for maintenance convenience as the other pump stations have this type of pump.

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### **COUNCIL MEETING**

#### **Flag Salute**

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

#### **Consent Calendar**

Mayor Verger read the consent calendar which consisted of approval of the minutes from the August 18, 1998 meeting, acceptance of the 1998 fund exchange agreement with the State for Thompson Road, and approval of the Art Museum deed. Councilor Miller moved to approve the calendar as presented. Councilor Weeks seconded the motion which passed with the Mayor and all Councilors present voting aye.

#### **Safety Town Awards — Presented by Officer Darrell King**

Officer Darrell King reported the Safety Town program began in 1981 and was started by Sgt. Eura Washburn and Volunteer Coordinator Jane Olbekson. The program has had overwhelming response and support from the community in funding and volunteers. Officer King commended Officers Scott Lafevre and Rob Scoville for teaching classes, Police staff member Anita Miller for keeping the program organized, teachers Marina Robbins and Hank Lepley for volunteering their time, and special recognition to the 40 youth volunteers. Officer King noted the total time donated was 1400 person hours. Officer King also recognized the Bay Area Sportsmens Association (BASA) for sponsoring the Safety Town program each year and presented Mike Helfrich of BASA with a photo board of this year's classes. Also mentioned for their contributions were Bay Cities Ambulance, Coos Bay Fire Department, Bay Area Hospital Pharmacy, Dr. Hill Hanson, Thomas and Sons, and Marriott Food Services. Officers King and Lafevre presented the following students with a certificate, letter of reference, and a picture of the group they taught: Susie Moore, Maegan Traver, Nick Grassham, Vanessa King, Joe Cowan, Tim Schweitz, LeAnne Bechtel, Emily Csoros, Pete Carpani, Kaley Murdock, Kim Carpani, Melissa Coonse, Kimberlee Connelly, Andrew Porter, Ashley Pennington, Sara Henson, Justin Raggio, Stacey McCullough, Sarah Brands, Niki Caffey, Tabitha Goodman, Kara Spence, Artie George, Kayla Schmidt, Eric Olbekson, Julie Driscoll, Joshua Whitty, Marci Shires, Whitney Harrison, Katie Allender, Annie Johnson, Brad Hill, Lisa Nylander, Jamie Ferry, Brad Burnette, Hollie Malcomb, Kayla Bower, and Annie Grayson. Mayor Verger commend the students for their work and for being a part of the large bank of volunteers in the community.

#### **Selection of School District 9 Elementary School to Participate in the "From a Child's Eye" Program**

Councilor Weeks explained the "From a Child's Eye" program is an opportunity for elementary schools and cities to work together for a better community. Cameras will be given to one 4<sup>th</sup> grade class to take pictures of the things they like and do not like about the city; the pictures will be placed on poster board and a presentation made at the October 6<sup>th</sup> council meeting. The class will receive certificates for their participation. All the elementary schools in District 9 were included in the drawing and Tim Schweitz drew Bunker Hill school. Councilor Weeks commented she would contact the principle and deliver the cameras.

#### **Department Head Report — Police Chief Chuck Knight**

Chief Knight reported the Police Department is now up to full staff with the hiring of Dan

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O'Loughlin and Dennis Burge. Officer Scott Lafevre has been assigned as School Resource Officer to Millicoma Middle School, Officer Rob Scoville to Sunset Middle School, and Officer Darrell King will remain at Marshfield High School. Chief Knight reported the Empire Sub-station volunteers are doing a great job and had 88 contacts last month, and the DARE booth at the fair netted \$4,200 which will fund the DARE program for the coming year.

### **Appointment of Finance Director as Municipal Judge**

Mayor Verger moved to appoint Finance Director Janell Howard as municipal judge. Councilor Miller seconded the motion which passed with the Mayor and all Councilors present voting aye. Councilor Spangler thanked Deputy Recorder Joyce Jansen for filling in as judge for the past several months.

### **Appeal of Department of Environmental Quality Civil Assessment in Case No. WQMW-WR-96-277**

City Attorney Randall Tosh reported DEQ had assessed three violations in relation to a pipeline rupture in the Fall of 1996 and the City appealed the initial assessment. A hearing was held before an administrative law judge; which DEQ appealed and the City cross-appealed, and another hearing was held before the EQC in Medford on June 11, 1998. A final order was served on the City on August 14, 1998, ruling against the City on all three violations and assessing total civil penalties of \$5,400. Mr. Tosh recommended appealing the EQC final order to the court of appeals. Councilor Spangler moved to authorize the city attorney to proceed with the appeal. Councilor Miller seconded the motion which passed with the Mayor and all Councilors present voting aye.

### **Public Hearing — to Hear Testimony Regarding the Determination of a Dangerous Building at 119 South Wasson and Adoption of Resolution 98-20 Declaring a Dangerous Building**

Mayor Verger opened the public hearing for taking testimony regarding the building at 119 South Wasson. Pastor Stan Ellis, Coos Bay, commented the Rescue Mission has offices in the building and questioned whether the open sewer under the building presented a public nuisance. Mr. Ellis expressed concern regarding affordable housing for the 28 displaced individuals, and reported an anonymous donation had been received to help abate the problem. Councilor Spangler asked if the offer had been made to the building owner and Mr. Ellis reported a letter had been sent to the owner and no response has yet been received.

Ralph Larson, Coos Bay, reported he has made an written offer to the owner to make the repairs, and had called the County Health Department about the sewer problem and was referred to DEQ. DEQ said they wouldn't be involved unless the sewage was being removed. Mr. Larson suggested the building remain unoccupied until the problem has been resolved. Carrie Royd, property manager, agreed the best action would be to keep the building unoccupied and give the owner an opportunity to make the repairs.

Ken Walker, Coos Bay, explained he has a business in the building and is actively looking for a place to move; he does not use the water and sewer facilities and requested he be allowed to stay until he finds another location. Mayor Verger inquired if the City could accommodate the request and Mr. Tosh commented the order of abatement would find the building a public nuisance and if Mr. Walker stays in the building, he would be assuming the risk of being there; he would be staying at his own peril. Mr. Walker acknowledged he understood the risk would be his and he would continue to look for another location.

Reverend Lee Taft, Coos Bay, expressed concern for the homeless and the difficulty in finding

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affordable housing for them, and requested the City move forward with the repairs to the building. Councilor Weeks commented abatement does not mean the City will be taking over the building or tearing it down.

Joe McClay, City codes inspector, reported the building has been posted unsafe to occupy, and Mr. Walker is the only tenant in the building. He explained retail sales has different requirements than residential. Mr. McClay reported the sewer had been inspected and someone had treated the area with lime, and the sewer is not being used at this time. Mr. Tosh asked for a description of the building and what Mr. Clay observed while there. Mr. McClay reported on the first day there was an odor of methane gas, very raw sewage, and a hole had been cut in the floor in the hallway to allow access. Councilor Spangler asked if Mr. McClay considered the surrounding area of the building a hazard and Mr. McClay responded not in his opinion. There being no further testimony to be heard, Mayor Verger closed the public hearing.

Mayor Verger moved to adopt Resolution 98-20, attached hereto and made a part of thereby, declaring the building at 119 South Wasson to be dangerous and a public nuisance. Councilor Weeks seconded the motion which passed with the Mayor and all Councilors present voting aye.

### **Award of Bid for Wastewater Pump Station #17 Improvements**

Community Services Director Bill Finney reported the life expectancy of a pump station is 15 years and pump station #17 has been in service for 24 years. Mr. Finney explained the importance of making the improvements before the rainy season and noted the improvements are in accordance to DEQ requirements. The alternate bid provides for installation of variable drive pumps which is consistent with the City's other pump stations. Mr. Finney commented the original bid includes pump stations #19 and #20 but due to problems with acquiring the necessary easement, #19 and #20 were separated from the project. Councilor Benetti moved to award the bid to Chamber Plumbing and Heating for \$179,652.00. Councilor Miller seconded the motion which passed with the Mayor and all Councilors present voting aye.

### **Public Comments**

Sharon Lancaster, Coos Bay, expressed concern about funding for public access TV and suggested the cable franchise fees the City receives go to support public access. Ms. Lancaster estimated \$1.5 million has been received and asked that an accounting of where the funds were spent be made. She asked why a small portion had not been given to public access and asked the City to do the right thing and support public access. Mayor Verger asked what information Ms. Lancaster based the idea that the franchise fee was to be used for supporting public access, and Ms. Lancaster said Ordinance No. 136. Mayor Verger reviewed the history of forming the public access channel and noted it is a City Council policy decision on spending the franchise fees. She further stated public access will be available irregardless of what the cities do and the problem at this time is funding. Mayor Verger explained the City of North Bend supports only the government channel, and most cities in the state contract with a non-profit organization to run public access and government channels.

Ms. Lancaster asked that some of the franchise fee be paid for public access. Mayor Verger commented the City depends on franchise fees to run the City and this would need to go through the budget process. Mayor Verger noted there are other ways to fund public access and the City of Coos Bay is very dedicated to having public access and government channels if it can be worked out; it will require everyone making an effort and working together. City Attorney Tosh reported in other cities public access is administered through an intergovernmental committee with a contract with a non-profit organization and franchise fees cannot be directly funneled to the non-profit because of legal issues. Mayor Verger commented public access should be supported by a broad base of entities. Councilor Spangler noted that \$3,500 was budgeted this year to help support public access and Mayor Verger explained the City supports public access

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with in-kind service.

David Waters, Coos Bay, explained he is on the public access TV board and read a letter into the record, which is attached hereto and made a part of thereby. Mr. Waters asked that the public access board remain intact because it is an asset to the City and suggested the City fund public access with one percent of the gross revenues because funding of public access is mandated. Mr. Tosh briefly reviewed the requirements under the Telecommunications Act and explained the federal statute has the franchisee, the cable company, as the entity to run peg access. A change in 1986 giving local government responsible for public access came about because the cable companies did not wish to be involved. Mr. Tosh explained the federal statute clearly shows the cable companies are responsible and he is currently researching other city's franchise ordinances and peg access programs.

Mayor Verger explained the funding use of the franchise fees is a policy decision and there is a way of providing public access if everyone works together. Councilor Spangler said the Council does support public access, education, and government access. Councilor Miller reported the Joint TV Committee has been working on a solution for public access and is recommending formation of a non-profit organization, but it will require everyone to work together.

Laural Ashman, North Bend, commented she has been somewhat involved with public access; it is important for the community and it will work with everyone cooperating. Gary Rifkin, Coos Bay, apologized to the City Council for certain attitudes expressed regarding public access, and stated for the record, the City of Coos Bay has always been extremely supportive of public access. The City has paid for insurance, provided office space at city hall, and always with an attitude to keep public access going. Mr. Rifkin commented the problems can be worked out and supported becoming a non-profit. Ann Session, Coos Bay, commented on the need for better equipment, additional cameras and money to support public access.

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

Acting City Manager Chuck Knight reported the League of Oregon Cities conference will be held in Portland November 6<sup>th</sup> through 8<sup>th</sup>, the welcome for the cruise ship Rendezvous is scheduled for 2 p.m. Thursday at the city dock, and the City currently is taking applications for the account clerk position in the Finance Department. Chief Knight reviewed the criminal mischief incident at the Mingus Park pool and the fires set in dumpsters behind the Egyptian Theatre, city hall and at the boardwalk.

### **Mayor and Council Comments**

**Councilor Spangler** reported he will be attending the transportation commission meeting to prioritize projects on September 9<sup>th</sup> in Brookings and asked that Councilors let him know of items they would like discussed at the meeting.

**Councilor Miller** reported the State Tourism Commission for the Governor's conference were hosted recently in preparation for the conference next April, and noted there is much enthusiasm for holding the conference in Coos Bay.

**Councilor Weeks** wished Councilor Miller happy birthday, thanked the City employees for attending the recognition lunch in the park, and congratulated the Safety Town volunteers for their work.

**Mayor Verger** referenced a letter from Gloria Hilstrom regarding paving of paths in Choshi Gardens and asked Mr. Finney to look into the matter. Mayor Verger commented Council needs to have a work session on Ordinance No. 136 regarding the television franchise and obtain a legal opinion on what is mandated. She commented most of the property tax revenues are used for fire and police budgets and the rest of the City services are funded by franchise fees and other revenue sources.

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**Adjournment**

There being no further business to come before the Council, Mayor Verger adjourned the meeting to September 15, 1998 at 7 p.m. in the Council Chambers of City Hall.

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

ATTEST:

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Joyce Jansen  
Deputy Recorder of the City of Coos Bay  
Coos County, Oregon