

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

January 17, 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 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, Police Chief Marc Adams, and Public Works Director Ralph Dunham. Members of the media were also present.

### **Work Session**

Mayor Verger gave the Council time to read material handed out regarding the Oregon Liquor Control Commission (OLCC) application for Harold's Club. She then reviewed the agenda for the meeting noting that Mr. and Mrs. Allen, representing Harold's Club, were in the audience. City Attorney Randall Tosh reviewed his research which showed that the role of the City is very limited in dealing with approval of liquor licenses and said the city would need to show factual reasons for recommending denial. Verger asked if the City was required to recommend denial or approval. Tosh replied that the City was not required to make a recommendation, but would probably want to do so. He noted his inclusion of a letter from Mayor Morissette of Springfield as well as an ordinance adopted by Springfield setting forth criteria for recommendation or denial of an OLCC license application. Councilor Williams said he would like this Council to consider some kind of ordinance but questions the feasibility of holding public hearings on OLCC applications and renewals. Councilor Spangler said he favored some type of ordinance so that applicants would know the criteria and the Council would have some guidelines for their action. Verger said she felt the Council was just advisory, but if the Council were to deny a license, they would have to have very good reasons. Tosh noted some of the reasons a license could be recommended for denial such as proximity to a school, history of alcohol related problems, etc. He again stated that in his opinion as an attorney, he feels a denial should be based on facts, not opinions.

On discussion of the Right-of-way use permit at 1150 S. Front Street, Councilor Combs asked if outdoor lights were being put in and if so, would they bother traffic on the bridge. Public Works Director Ralph Dunham replied that they would not. Councilor Spangler asked if the 50 feet being reserved by the slough was 50 feet from the edge or 50 feet from the center of the slough. Dunham replied that it was from the edge and would provide an area for future use.

Mayor Verger asked what was meant by delaying Mall Block Three if the contract for Mall Block Two was awarded and Dunham explained that the blocks were being done in phases in case one of the bids came in higher than the estimate made two years ago and that Block Three may have to be moved into next fiscal year. He further explained that the higher costs are attributable to providing as much parking as possible and installing permanent electrical service for festivals. Combs asked if this project addresses Bill Rosencrantz's concerns about his business. Dunham

replied that this project only removes the roof off the canopy after which the Council said they would review Rosencrantz's request. Spangler asked if Rosencrantz's request was costing the City extra money. Dunham replied that Rosencrantz would pay for any additional cost to replace his canopy above that allowed by the City's awning program. Verger explained some of the history of this project to the audience.

## **COUNCIL MEETING**

### **Flag Salute**

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

### **Presentation of Distinguished Service Awards**

Police Chief Marc Adams presented Distinguished Service Awards to Tia Akers and Rhonda Wilson for the outstanding job they did when handling a call to 9-1-1 during a murder in progress. He recognized them for the professional and calming way in which they handled the call noting that their actions probably saved lives.

### **Consent Calendar**

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

- a) Approval of the minutes of the regular meeting of January 3, 1995.
- b) Approval of the Warrants for December, 1994

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.

### **Public Comments**

Al Dalby, representing residents near Marshfield High School, asked for a stop sign to be put in at 11th and Ingersoll. He said residents feel it is dangerous because people have to pull out into the intersection in order to see. He presented a petition signed by about 30 nearby residents.

George Markell who has a house near the intersection also feels it is a dangerous intersection where you have to inch out to see if it is safe to cross and would also like to see a stop sign put in and feels busses should be able to start and stop there without any problem.

Gerald Mounts, also asked to have a stop sign put in noting the danger for children crossing at that intersection.

Public Works Director Ralph Dunham let the audience and Council know that staff had assessed the situation, the stop sign had been approved and would probably be in place by the end of the week.

Candi Hunt, also spoke in favor of a stop sign at this intersection.

### **OLCC Application for Harold's Club**

City Attorney, Randall Tosh, commented on his research of the Council's role in OLCC applications and said his conversations with Paula Dow of the OLCC indicated that they do take the recommendations of the City into consideration when looking at a license. Delores and Harold Allen, owners of Harold's Club, asked the Council to approve their OLCC license application noting their experience in owning and operating bars in the past. They reported that over 80% of their current customers are over 21 and many have requested being able to purchase beer on the premises. Mayor Verger asked Ms. Allen how she would reply to the statement that there are already enough bars in the area. Ms. Allen replied that it does not seem unusual to her to have that many bars in the area. Mr. Allen noted that although they may lose 20% of their current business, they would probably increase business because they have to have a beer and wine license to attract some of the pool tournaments they would like to have. Paula Dow of the OLCC reported that the State has limited the reasons for which an OLCC license may be denied. She said the denial is tied to the fitness of the applicant, such as criminal history, alcohol abuse, etc.. She noted that the hard liquor licenses are tied to the population and whether or not an area is over-served. When asked, she replied that it would be her inclination at this time to grant this license without limitation or restriction. Councilor Spangler asked if since they are stating that they will not be selling more than a six-pack to go, will that be a condition of their license. Dow replied that in her opinion there is no basis to put such a restriction in their license. Spangler asked if this would be a change in use for their building. Community Development Director Bruce Meithof said that after conversations with the Allens, he does not feel that this is a change from the current use and will not affect the parking requirements. Councilor Miller moved that the Council recommend approval of the OLCC license for Harold's Club. The motion was seconded by Councilor Benetti. Spangler stated that he felt the Council should deny the application since the business is less than 500 feet from Sunset Middle School and Empire is a problem area for crime. He related that Empire already has seven facilities where alcohol can be purchased, five are taverns and two or three have pool, which he feels is a reason for the State to deny the application. Councilor Benetti remarked that there were twelve places to buy alcohol in the immediate downtown Coos Bay area. Councilor Combs asked Police Chief Marc Adams if the number of calls in the area was excessive. Adams replied that this particular business is not identified as a problem business but that the area in general does have some problems. Benetti said he feels the calls noted are not excessive. Miller said that the recommendation of OLCC is good enough for her. Benetti said he is also relying on the Police report which recommends approval. Councilor Combs called for the question which carried with the Mayor and all Councilors except Councilor Spangler voting aye. Councilor Spangler voted no.

### **Right-of-way Use Permit - 1150 South Front Street**

Public Works Director Ralph Dunham reviewed John Neikirk's request for a right-of-way use permit adjacent to 1150 S. Front Street. He stated staff's recommendation was to approve the request but to reserve a 50 foot strip for future use in the Highway 101 enhancement project along the slough and not grant use of the property abutting the property owned by the Oregon Department of Transportation (ODOT). Councilor Combs asked if the proposed floodlights would be a problem to drivers on the adjacent bridge, to which Dunham replied in the negative. John Neikirk

related that his original right-of-way use permit was granted in 1988 and he was told by the City Attorney that if he were to lease the property to someone else, the right-of-way use permit would go with it. He later found out that with a change of use, a new permit would be needed. He described how the manufactured homes would be displayed and the need for the additional space. He questioned the need for the 50 foot strip along the slough as he feels there is adequate access and the area in question is mainly used by transients who cause problems. Neikirk feels their plan to light and landscape the area would eliminate some of this problem. He also noted the access to the water at Lockhart, which is paved. Joe Regal, who will be using the property to display manufactured homes, said that the utilities are already in and he has five houses waiting in Bend for this approval. He told the Council he and Neikirk have been in touch with ODOT who has said they are willing to let them use the property but he has not yet received anything in writing. Dunham explained that we cannot give them permission to use the property which the State has rights to, only that portion that accrues to Neikirk's property. Regal also questioned the requirement of the City to pour concrete for setting the manufactured home which will be used as an office. Community Development Director Bruce Meithof articulated that the State will allow a manufactured home to be used as an office for sale of manufactured homes, but it must be available for sale and in his opinion, it must be sited according to standard which calls for the concrete foundation. Regal says he does not understand the requirement since the office is just temporary. City Attorney Randall Tosh pointed out that if the requirement is set by Oregon Administrative Rule, the Council cannot waive the setting requirement. Neikirk explained how the manufactured homes are set and Meithof clarified the differences for single, double and triple wide homes. On another issue, Neikirk said they are asking the 50 foot access to be reduced to 15 feet to give adequate room for their display and moving the homes in and out. Councilor Williams asked staff why they were requesting the 50 foot strip and thought it could be reclaimed at a later date if needed for the highway enhancement project. Dunham replied that it may be needed in the future and it is hard to take the use back once it is granted, but the Council may reserve as little or none as they desire. Mayor Verger maintained that if staff has looked at this and decided that 50 feet is what they feel should be reserved, she is hesitant to overrule their recommendation. Dunham explained that the 50 foot is standard as it allows room for vehicles to turn around. He also said that in this instance, since the use is for storage of manufactured homes, there probably would be no problem with telling them at a later date that the 50 feet will be needed and having them move whatever they might have on the property at that time. Councilor Combs asked for clarification of the portion shown belonging to the State and Dunham reiterated that the City can release their right to use the street at this time, but that the City cannot give them permission to use the State's portion. Councilor Combs moved to grant the right-of-way use permit reserving a strip of 25 to 50 feet as determined by staff and denying the use of the State's property without their permission. The motion was seconded by Councilor Miller. Councilor Benetti asked if the user would be comfortable knowing that the 50 foot strip may be used soon. Regal related that his only problem was that one of the houses he is intending to display needs 15 feet of the proposed 50 foot strip. Neikirk reported talking with Stan Hobbs of ODOT who told him none of the enhancement project has been funded and that ODOT has reviewed and rejected all the plans presented for Coos Bay. Combs amended his motion to have a 50 foot strip and Miller amended her second to agree. Spangler said he was in favor of giving the applicant the 15 feet he has requested and Williams said he was also. The Council voted on the amendment which failed on a four to two vote with Combs and Verger voting Aye. The motion was then voted on and also failed with Combs voting Aye and the Mayor and all other Councilors present voting No. Councilor Benetti moved to approve the right-of way use

permit as recommended by staff except reserving only a 35 foot strip. The motion was seconded by Councilor Miller and carried with all Councilors present voting aye and Mayor Verger voting No.

### **Award of Bid - Mall Block Two Renovation**

City Manager Bill Elliott reported that staff recommendation was to award the bid on Mall Block Two to Don Thompson for \$133,309 which is \$13,200 over the original estimate. Mayor Verger asked Ralph Dunham how this would affect Mall Block Three to which Dunham replied that Mall Block Three may be delayed until next fiscal year if bids for that project or the Commercial Avenue sidewalk project do not come in slightly under their estimates. Councilor Combs asked if there were any problems with the intensity of the street lights in the project such as those incurred on the ones installed on Broadway. Dunham replied that the spacing will be similar to that in Block One and there have been no complaints since they were installed. Bill Rosencrantz said it was his understanding the contract being awarded was a 120 day contract and he felt there was no justification for this to take four months. He asked for an explanation as this would negatively impact his business. Dunham replied that the time was allowed because of delivery times on special order items and delays due to weather. He said the contractor would not be working for four months straight. When asked, Dunham indicated he expected the project to start February 1st. Councilor Miller moved to award the contract to Don Thompson for \$133,309. The motion was seconded by Councilor Benetti. Combs asked if there was a way to monitor or cut down on the time allowed and the impact of parking their equipment in the area. Dunham replied that if the contract were accelerated, the contractor would be entitled to compensation, but felt the contractor would be sensitive to the City's needs. Councilor Williams felt this would be a good opportunity to show that we can do a better job on Block Two than we did on Block One. 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 most of his time had been spent on Harold's Club and he was currently working on a couple of ordinances which need to be amended.

### **City Manager Report**

City Manager Bill Elliott reported that the Library received a \$1,000 grant from Weyerhaeuser for children's programs. He noted the Empire Urban Renewal meeting tomorrow night, the Downtown Association meeting Thursday evening and the Special Council meeting on January 24th. Councilor Spangler asked that Meithof be present at the Empire meeting

### **Council Comments**

Councilor Miller reported that she would not be able to attend the annual employee banquet.

Councilor Benetti welcomed Bill Elliott and thanked the crew that was filming the meeting for public access TV.

Council Minutes - January 17, 1995

Councilor Combs reported the Empire boat ramp is under construction funded by grants, the City is looking for a new park host for security at the boat ramp, there is a proposed scout project for six park benches, a need for additional security exists at the Scout Cabin and the Parks Commission is reviewing the park budget for staffing and equipment. He welcomed Bill Elliott to the City.

Councilor Williams welcomed Bill Elliott on his first day on the job.

Councilor Spangler announced he is looking forward to meeting tomorrow night at the Empire Lakes Community Building and would like to have the City look into an ordinance similar to Springfield dealing with OLCC license applications.

Mayor Verger said she and Councilor Benetti attended the Public Access T.V. committee and feels things are moving ahead. She reported the Council-Citizen committee met and heard an excellent report from two police officers and encouraged those who did not get on other committees as well as those who applied for the council position but did not make it to get on the Council-Citizen committee. She also gave a welcome to Bill Elliott.

### **URBAN RENEWAL AGENCY MEETING**

Joe Benetti called the meeting to order and asked for nominations for Chair of the Agency. Joanne Verger nominated Joe Benetti. The nomination was seconded by Gary Combs and Benetti was elected chair with all members of the agency present voting aye. Verger then nominated Cindi Miller for Vice-chair. That nomination was seconded by Dave Williams and Miller was elected Vice-chair with all members of the agency present voting aye. Verger nominated Don Spangler to become Secretary. That nomination was seconded by Miller and Spangler was elected Secretary with all members of the agency present voting aye.

### **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 February 7, 1995.

---

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

**ATTEST:**

---

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