

MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL

December 3, 1996

The minutes of the proceedings of the regular meeting of the City Council of the City of Coos Bay, Coos County, Oregon, beginning with a work session in the Council Chambers at 6:30 p.m. and proceeding to a regular session in the Council Chambers at 7:30 p.m.

Those Present

Those present were Council President Joe Benetti, and Councilors Jeff McKeown, Don Spangler, Kevin Stufflebean, and Judy Weeks. Mayor Joanne Verger and Councilor Cindi Miller were absent. City staff present were City Manager Bill Grile, Deputy Recorder Joyce Jansen, City Attorney Randall Tosh, Finance Director Gail George, Community Services Director Bruce Meithof, Police Chief Marc Adams, Interim Fire Chief Mark Anderson, and Library Director Carol Ventgen. Members of the media were also present.

WORK SESSION

City Attorney Randall Tosh began the work session by explaining the Oregon State constitution allows the cities to adopt a charter and establish their own system of government. He explained the powers of the charter and types of ordinances cities may enact. The city must work within the constraints of the federal and state governments which includes laws regarding collective bargaining, open meetings, public contracting, and land use; in addition to the City's council rules, local contract rules, and ordinances.

Mr. Tosh explained all meetings are open to the public and notice of the meetings is required. He further explained meetings are defined as a convening of a public body for which a quorum is required and also applies to city boards and commissions. Mr. Tosh explained the exception to the law is executive sessions, which the public can be excluded. Executive session can be held only for limited topics, such as labor negotiations, real property, consultation with the city attorney over potential litigation, or evaluation of the city manager. The news media can attend, but cannot report on the executive session discussion. Mr. Tosh explained all decisions must be made in regular session and violations are treated as a violation of Oregon ethics as defined in the Government Standards and Practices law. He noted violations can lead to a fine and explained Councilors are entitled to legal representation paid by City, but representation does not apply for ethics violations.

Mr. Tosh explained the public records law covers any writing pertaining to public business, computer records, magnetic tapes, personal notes, private letters, memorandums, and anything related to conducting public business, and that all records are open to inspection upon reasonable request. The public body may make decisions to not disclose certain records; however certain records are exempt such as criminal investigation records, an individual's business records, certain litigation material, attorney advisory opinions, and personal privacy.

Mr. Tosh explained conflict of interest as having a personal financial gain or loss, and includes any decision which would affect you, a member of your family or a business partner or associate. Mr. Tosh explained the process for disclosing a conflict of interest and explained if the

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decision has a potential conflict of interest, it must be disclosed. He encouraged Councilors if they are in doubt, make the disclosure so it is on the record.

Mr. Tosh explained ex parte contact as contact with an interested party and is generally in a land use appeal or any situation where the Council is engaged in a quasi judicial capacity. He reported if ex parte contact is made, Councilors must disclose the contact for the record and after disclosure they may participate in the decision. Mr. Tosh explained that failure to disclose may render the decision invalid and the City may end up in a long legal battle for the citizen. He explained the purpose of ex parte disclosure is to ensure all citizens the right of due process.

Mr. Tosh briefly discussed the meaning of actual bias, and explained in the event bias would prevent an impartial decision from being made, you should disqualify yourself from the process. Mr. Tosh encouraged Councilors to contact him any time they have questions.

COUNCIL MEETING

Flag Salute

Council President Benetti opened the meeting and led the assembly in the salute to the flag.

Consent Calendar

Council President Benetti excused Mayor Verger and Councilor Miller due to other commitments. City Manager Bill Grile requested an OLCC license for Safeway be added to the consent calendar. Councilor Weeks moved to add the item as 2c which was seconded by Councilor Stufflebean and passed with all Councilors present voting aye. Council President Benetti read the consent calendar which consisted of the following items:

- a) Approval of the minutes of the regular meeting of November 19, 1996
- b) Setting a public hearing for amendment to the comprehensive plan and land development ordinance amendment for industrial lands in south Empire
- c) OLCC license for Safeway

Councilor Weeks moved to approve the consent calendar as presented. Councilor Spangler seconded the motion which carried all Councilors present voting aye.

Proclamation of Election Results from the General Election on November 5, 1996

Council President Benetti accepted the abstract of the election results from the general election held November 5, 1996, and proclaimed before the Council and those assembled that Measure 6-44 amending the city charter, had been approved by the majority of the electors. President Benetti read Section 9.12 - Sales of Bonds and Warrants in full and stated the charter amendment shall be effective as of November 5, 1996.

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Presentation of FY 95/96 Audit by Don Hall

Don Hall of Yergen and Meyer presented the 95/96 audit to the City Council. He noted the city records were excellent and internal controls good. He complimented the finance staff on an outstanding job. Councilor Weeks commended the finance director and staff for a job well done.

Award of Bid - Hall Street Project

City Manager Bill Grile reported a serious sink-hole on Hall Street required repair and noted this section of street provides access to commercial property. Mr. Grile noted the low bid was for the project was from Johnson Rock Products. Councilor Spangler moved to award the bid to Johnson Rock Products in the amount of \$57,949. Councilor Stufflebean seconded the motion which carried with all Councilors present voting aye.

Council Appointments to Various Committees, Commissions, and Boards

Council President Benetti reported Mayor Verger had presented a recommendation for Council appointments at the previous meeting and the appointments were now before the Council for ratification. Councilor Weeks moved to accept the Council appointments as presented. Councilor Spangler seconded the motion which carried with all Councilors present voting aye.

Enactment of Ordinance Amending Paving Requirements

Council President Benetti reported the ordinance amendments had been discussed at the previous Council meeting. City Manager Bill Grile noted the changes in the ordinance allowed for the option of not surfacing the whole driveway and for paving exceptions for small businesses. Mr. Grile explained the Council could accept all the changes or make new changes. Council President Benetti expressed concern that the requirements apply to everyone. Community Services Director Bruce Meithof explained parking requirements, noting the Land Development Ordinance (LDO) identifies types of businesses and computes parking requirements using criteria. He further explained item 2 of the ordinance identifies exemptions for paving. Councilor Spangler inquired how the current ordinance would be affected and Mr. Meithof responded parking is addressed in the LDO which includes off-street parking and loading, and this ordinance would amend off-street parking.

Mr. Meithof reported the change in the ordinance would remove the number of employees from the criteria, and the new language more clearly defines paving exemptions and requirements, and sets standards. Mr. Meithof noted there are exceptions, but required parking spaces would have to be paved. Mr. Grile commented paving may be delayed with exceptions as provided in C Unimproved Rights-of-Ways and D Physical Problems. Councilor Stufflebean asked if a delay could be implemented to help small businesses with the economic impact of paving, and Mr. Grile said that is precisely what staff has been doing and then complaints came in as to why some people didn't pave. Councilor McKeown commented the City should have standards for businesses and make it clear as to what is required. Councilor Weeks suggested a brochure explaining all the requirements for doing business be prepared. Councilor Spangler suggested a provision be added to the ordinance

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to allow up to one year to pave. Council President Benetti cautioned that an extension could end up taking more time than a year. Mr. Meithof noted the City issues approximately 1,000 construction permits a year and tracking them to make sure paving is done would be very difficult. Councilor McKeown moved to adopt the final order of amendment 96-43 and enact the amending ordinance. Councilor Spangler seconded the motion. Deputy Recorder Joyce Jansen read the ordinance by title only and the Council was polled with the following results:

Aye: Councilors Benetti, McKeown, Spangler, Stufflebean, and Weeks

No: None

Absent: Mayor Verger and Councilor Miller

Public Comments

Keith Topits, 1650 Lund Street, Coos Bay, read from a prepared statement regarding the Empire Lakes Park. Mr. Topits commented his father, John Topits, has volunteered at the park for over 20 years, and that working in the park is a family tradition. He reported his father had recently checked the spillway and found it plugged, and had notified the police department requesting staff be contacted immediately about the problem. Mr. Topits was concerned that staff had not been notified of the seriousness of the situation and did not take action until the state water master panicked and required the City to remove the boards from the spillway.

City Manager Grile expressed the City's appreciation for the work the volunteers perform at Empire Lakes Park. Mr. Grile explained the safety of the dam was of major concern and responsibility of the City. He reported John Drolet, State Water Master, had contacted the city manager's office and discussed the necessity of removing the splash boards to protect the dam and prevent flooding. Mr. Drolet suggested the boards be kept out until Spring to keep the water level low. Mr. Grile commented the City would have a serious disaster to surrounding property if the water master's suggestion was not followed and the lakes flooded. Mr. Topits expressed concern that the water levels would be too low during the summer months if the boards were not replaced now. Community Services Director Meithof reported not all of the boards had been removed and a final decision had not yet been made by the water master about leaving some of the boards in place. Mr. Meithof explained there was concern that too much pressure would damage the dam. Councilor McKeown asked if Mr. Drolet has the authority to require certain stipulations, and suggested the Council receive more information in order to make a decision. Councilor Weeks recommended tabling the matter to the next meeting and the city manager said he would contact Mr. Drolet about attending the Council meeting on December 17th.

City Manager's Report

City Manager Grile reported a meeting with department heads has been scheduled to work on budget options for the Council. Mr. Grile noted a proposal for a study concerning parking, traffic circulation, and signage in the downtown area would be presented at the next meeting. He commented the Oregon Department of Transportation is willing to share the cost of the study. Mr. Grile reported contacting Yvonne Addington of the Economic Development Department about making a presentation for review of a grant application for the Front Street plan. The plan is for

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redeveloping Front Street and would allow for mixed commercial and historical uses, similar to the historic waterfront in Newport. Mr. Grile noted there has been public support and involvement for the project, and that \$25,000 of Urban Renewal money has been earmarked for the project. Mr. Grile commented staff will present a proposal for traffic ingress and egress for the Fred Meyer-Safeway area at the next Council meeting. He noted Judge Barron will begin court at city hall on the 16th of December and the City will receive \$935 for the use of city hall. Mr. Grile reported the Parks Commission met recently regarding the skateboard park problems and will be planning a meeting after the first of the year to bring interested parties together to provide care for the facility. Councilor Stufflebean noted that Salem has a skateboard park and has not had the kind of problems Coos Bay is experiencing. He suggested staff contact Salem. Mr. Grile invited Councilors to contact his office if they would like to tour City facilities or meet with departments.

Mayor and Council Comments

Councilor Spangler asked for an update on the status of the business climate study. City Manager Grile reported he planned no further action and that several of the recommendations in the report had been implemented. Councilor Spangler suggested the Council look at the study.

Councilor Stufflebean inquired when Councilors would receive their notebooks. Deputy Recorder Joyce Jansen responded she expected the notebooks to be distributed at the next meeting.

Councilor McKeown thanked City Attorney Randall Tosh for the legal issues work session and said he found the information helpful.

Councilor Weeks also expressed appreciation for the work session. Councilor Weeks commented she is looking forward to resolving the skateboard park issue and apologized for missing the Parks Commission meeting due to illness.

Council President Benetti thanked the Jaycees and Downtown Association for their contribution and involvement in the tree lighting ceremony. He also commended staff their work in making the event a success.

Adjournment

There being no further business to come before the Council, Mayor Verger adjourned the meeting to December 17, 1996 at 6:30 p.m. in the Council Chambers of City Hall.

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

ATTEST:

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