

# **MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL**

**January 21, 1997**

The minutes of the proceedings of the regular meeting of the City Council of the City of Coos Bay, Coos County, Oregon, beginning with an interview at 6:45 p.m. in the manager's conference room, followed by a work session in the council chambers at 7:00 p.m. and proceeding to a regular session in the council chambers at 7:30 p.m.

## **Those Present**

Those present were Mayor Joanne Verger, Councilors, Jeff McKeown, Cindi Miller, Don Spangler, Kevin Stufflebean, and Judy Weeks. Councilor Joe Benetti was out of town and unable to attend the meeting. City staff present were City Manager Bill Grile, Deputy Recorder Joyce Jansen, City Attorney Randall Tosh, Acting Police Chief Jack Bushmaker, Finance Director Gail George, Community Services Director Bruce Meithof, Interim Fire Chief Mark Anderson, and Library Director Carol Ventgen. Members of the media were also present.

## **INTERVIEW**

The City Council conducted an interview with Roger Gould for consideration of appointment to the Budget Committee.

## **WORK SESSION**

Mayor Verger reviewed the consent calendar which included four resolutions and the School-to-Work proclamation. She commented a representative from the School-to-Work program would not be able to attend due to another commitment. City Manager Bill Grile reviewed a proposal from Utilicheck to perform an audit of the City's franchises with Pacific Power and Light, Falcon Cable TV, Coos Bay Sanitary Service, Les's Sanitary Service, and GTE. Mr. Grile noted that Utilicheck has previously reviewed the City's utility bills and has saved the City a considerable amount of money. Mr. Grile reported the City does not have the resources to perform such an audit, and noted that other jurisdictions have audited their franchises and generated a significant amount of additional revenue. Mr. Grile explained that the agreement entitles Utilicheck to receive 50 percent of any additional franchise fees recovered and 50 percent on future savings. Councilor Miller inquired about the fee on future savings and Mr. Grile responded that for five years Utilicheck would receive half of the additional revenues. Councilor McKeown inquired if the City had used Utilicheck before and Mr. Grile said yes and noted the county, school district, and water board also have used the service. Councilor Spangler asked if Utilicheck would receive anything from the monies the City currently receives. Mr. Grile said if there is nothing wrong, Utilicheck would receive nothing.

Mayor Verger noted that Gary Young, Wastewater Project Manager, would be giving a report to the Council. She commented that she hoped he would be coming before the Council periodically. City Manager Bill Grile explained that at the request of the Council, he is submitting a factfinding report addressing a number of issues regarding the Bay Area Rescue Mission. Mr. Grile reviewed the issues covered in the report and noted that a number of concerns that were raised at a town hall meeting are addressed in the report. City Attorney Randall Tosh reported the off-street

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parking issue was not yet resolved and would be going before the Planning Commission on February 11th. He noted the issue could not be discussed by the Council at this time because the City Council is also the Appeal Board in such matters. The other issue regards improvements for which permits have been taken out and will be resolved when the work has been completed.

Mayor Verger asked the City Manager to report on the progress of the budget. Mr. Grile responded he was pleased with the guidance given by the Council and would be ready to meet with the Council next week. He commented, with the help of the finance director, two options have been prepared for Council to review. Mr. Grile reported the best case scenario has six positions cut and the worse case cuts 18 positions. He noted it is the City's desire to supply the best possible service with the funds available. Mr. Grile said the options would also include a worksheet which the Council could develop their own option.

Mayor Verger suggested a lot of time should not be spent on the technical part of Measure 47 because locally we do not have a lot to say in the matter, and decisions will be made by the legislature. Mayor Verger explained the proposed budget is not set in stone and the Council is merely giving the city manager direction on the preparation of the budget. The Mayor commented that citizens are encouraged to participate in the budget process and are welcome to attend the budget committee meetings. Consensus of the Council was to meet in a work session on January 27th at 5 p.m. in the Council Chambers. Councilor Spangler asked the city attorney to explain why urban renewal funds cannot be used to pay off the bonds. City Attorney Tosh responded the Urban Renewal Agency and the City are two different agencies and funds cannot be used from one to pay off the other. City Manager Grile commented this matter would require research and possibly would require a vote of the people. Councilor Spangler requested the matter be looked into and suggested the City look at every option available. Mayor Verger distributed a copy of the State of the City address she would be giving at the Chamber of Commerce meeting in the morning.

### **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 the following items:

- a) Approval of the minutes of the regular meeting of January 7, 1997
- b) Resolution 97-1 supporting amendments to local budget law
- c) Resolution 97-2 accepting and appropriating traffic safety grant funds
- d) Resolution 97-4 appropriating donations to the fire department
- e) Resolution 97-5 amendment to the ICMA deferred compensation plan
- f) School-to-Work proclamation

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

### **Appointments to the Budget Committee**

Mayor Verger reported there were two openings on the Budget Committee and the Council had interviewed several citizens for the positions. Those requesting consideration for appointment are Frances Cooley, Roger Gould, Joel Lemon, Rondi Potter, Bob Renner, Dana Stout, and Dave Williams. Roger Gould was appointed to the Budget Committee receiving four votes. No other candidate received a majority vote and a run-off vote will be held at the next Council meeting.

### **Approval of Agreement with Utili-Check**

City Manager Grile explained the City has franchises with Pacific Power and Light, Falcon Cable TV, Coos Bay Sanitary Service, Les's Sanitary Service, and GTE, which the City has never audited. He reported that a number of jurisdictions have done such audits and have generated a significant amount of additional revenue. Currently the City received approximately \$675,000 per year from the franchises. Mr. Grile explained the fee to Utilicheck would be 50 percent of any additional revenues recovered and 50 percent of future savings for the next five years. Mr. Grile noted the City has used Utilicheck to audit the City's utilities and was pleased with the work. Councilor Miller moved to direct the City Manager to sign the agreement with Utilicheck to audit the City's franchises. Councilor Weeks seconded the motion which passed with the Mayor and all Councilors present voting aye.

### **Report on Wastewater Operations by Gary Young**

Gary Young, Project Manager of Wastewater Treatment, reported the first few months had been used to become familiar with the system and discover what works well. Mr. Young said the staff has formed good teams and have accomplished a great deal in a short amount of time. He commented the operation of the plants is going well and he enjoys working with City.

Mr. Young reported the study of Plant II had been completed and shows the plant is running at 60 percent capacity. He said the plant would not need to be expanded at this time which gives the Council time to plan for the improvements. Mr. Young noted that tightening up the system so the plants would not be treating rainwater would help considerably, and in order to accomplish this money would need to be set aside for improving the collection system.

Mayor Verger commented the report has relieved the Council of concerns regarding wastewater operations and plant expansion. Councilor Spangler inquired about the importance of the UV process. Mr. Young reported it is an environmentally safe tool and the trend is going toward UV treatments. He noted in the past chemicals were used and with changes in regulations, employee safety, and environmental concerns, UV is the more desirable treatment. Mr. Grile pointed out the plant recently ran through some of the wettest weather in our history and was not out of compliance once.

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### **Bay Area Rescue Mission Factfinding Report**

Mayor Verger stated for the record that her son is a member of the Mission Board. Mr. Grile explained a year ago the Council had asked him to collect information to address ongoing concerns and controversies with the Bay Area Rescue Mission. The factfinding report was completed and distributed to the Council a month ago and addresses four basic issues; (1) does the Mission comply with codes, regulations and requirements of the City, (2) does the Mission comply with codes and regulations of other agencies, (3) is the Mission or clients of the Mission involved in or promote criminal activity, and (4) are citizen concerns regarding the Mission based on documented facts.

Mr. Grile reviewed the conclusion of the report stating that under the City's zoning ordinance the Rescue Mission is an allowable use in a C-2 zone. There have been issues involving code compliance and the Mission has actively worked to remedy those problems. As with other businesses and citizens who have problems with buildings which are not in compliance with the City uniform and specialty codes, the City has worked with the Mission to facilitate bringing the Newmark building into compliance, and the Mission has undertaken to make the necessary corrections. Opponents to the Mission have alleged many activities by the Mission and its patrons. These allegations have been, for the most part, not substantiated by subsequent investigation by the City. Those allegations which have been substantiated have been treated as any other violation in the City. The Mission opponents have yet to advance a legal theory which could be a basis for action they seek from the City. The Mission is operating in the correct zone, in a building which it owns and is actively improving. Consequently, the Mission must be allowed to continue its operation at the Newmark facility, and the City should not actively seek to close the Mission or force its relocation.

City Attorney Randall Tosh discussed the rights and privileges provided by the State and Federal constitutions, citing the Fourteenth Amendment of the Federal Constitution, the Religious Freedom Restoration Act, and the Fifth Amendment "Takings". Mr. Tosh briefly explained the rights provided by these laws, and noted the City must treat all entities similarly and cannot target against one group in the enforcement of City ordinances. Councilor Spangler inquired if the City has a right to take property as long as compensation is given. Mr. Tosh responded it would have to be for the public good.

Mr. Grile asked Community Services Director Bruce Meithof to explain about the zoning matter and the status of the building permits. Mr. Meithof reported two permits have been taken out to remodel the kitchen and install a hood in the kitchen. The permits are good for 180 days. He reported the variance for parking requested by the Mission attorney, Jerry Lesan, is scheduled to go before the Planning Commission on February 11th. Mr. Meithof noted this matter could not be discussed with the Council because the Council also sits as the Appeal Board.

Mr. Meithof reviewed the zoning for the area in which the Mission is located, which is C-2, general commercial, and allows multi-uses as listed in the land development ordinance. He reported prior to the Mission, the previous use was a soup kitchen. Councilor Spangler inquired why there was a difference in the bed capacity which was initially at 19 and then changed to 12. Mr. Meithof explained there was no record establishing 19 and when he computed the number of beds allowed according to the ordinance, it came to 12. Councilor Spangler noted that a document signed by Bob Mitchell stated 19 was allowed. Councilor Spangler commented that Mr. Ellis had accused him of

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being responsible for getting the number reduced. Mr. Meithof responded that initially the sleeping facilities were on the first and second levels and based on the area they could have had a 19 bed capacity except there was a problem with the required exits. Mr. Meithof said the Mission qualified as group residential care and complies with C-2 zone use, and also as tourist habitation similar to the THE house. Councilor Spangler asked under which use was the Mission and Mr. Meithof said group residential. Mr. Meithof explained he had come across a previous decision from some years ago that the THE house came under tourist habitation and reasoned that the Mission could also come under the same use. There was further discussion the on the required space for sleeping, cooking, and residential space on the first floor and on the second floor. Mr. Grile commented C-2 permits residential types a combination of use on the first floor if the residential does not occupy more than 30 percent. Councilor Spangler inquired if the Mission is a group residential care facility or group residential. City Attorney Tosh pointed out that it is possible for a particular use to fall under several classifications. Councilor McKeown asked if the Mission is in compliance in the C-2 category and Mr. Meithof said yes. Councilor Miller moved to accept the report and conclude the Mission review. Councilor Weeks seconded the motion. City Manager Grile recommended the Council accept the factfinding report and if additional information was requested, he would be happy to provide it. Mr. Grile noted the document would be the cornerstone of the City's response should litigation proceed.

Mayor Verger stated for the record her son is member of the Mission board. The Mayor stated she has not said anything about the report, has not influenced the report, and would not take further part in the discussion or the vote. Mayor Verger turned the meeting over the Councilor Miller to chair and stepped down from the Council dias. Councilor Miller asked for public comments.

Councilor Spangler inquired if it was normal for a business to start up before they had authorized parking. He noted the Mission has gone on for two and a half years without the required parking spaces. City Manager Grile said this does occasionally occur, however, due to this matter coming before the Planning Commission, the Council should not discuss it. Councilor Weeks asked that Council proceed with public comments.

Stan Ellis, pastor of the Bay Area Rescue Mission, reported he had reviewed the factfinding report and that was very extensive. He commended the City Council for the review process dealing with the Mission. Mr. Ellis reported the Mission has accomplished a lot and thanked the Council and City staff for their work.

Councilor Weeks moved to accept the factfinding report as presented. Councilor Spangler seconded the motion which passed with all Councilors present voting aye.

### **City Attorney's Report**

City Attorney Randall Tosh reported he anticipated bringing materials for fees in lieu of assessment to the Council in the near future.

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

City Manager Grile reported on a meeting regarding the Eastside boat ramp and learned the City will be required to submit a new application to the State for the project. He noted the Marine Board has \$3.5 million available for parks, and the deadline for the application is in June for the

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funding cycle beginning in July. Mr. Grile reported receiving an informal proposal from the County Parks Director for maintenance of the boat ramp after it is constructed.

Mr. Grile reported the Design Review Board would be meeting next Monday at 7 p.m. and would be discussing the direction to proceed with the Empire Urban Renewal District. He noted the additional revenue for the district will be appropriated with a supplemental budget at the next Council meeting. Mr. Grile reported the Board will also schedule a meeting to discuss the parameters of the Board and will be asking for direction from the Council. Councilor Stufflebean inquired if the Board had received correspondence regarding the theme for the Empire District and staff responded none had been received.

### **Mayor and Council Comments**

**Councilor Stufflebean** reported attending the Public Access TV Committee meeting and that they are moving ahead with the program. He said Pat Lay had been hired as the director and Miles Everett as the technician.

**Councilor Weeks** reported attending Senator Ron Wyden's town hall meeting and found the meeting informative. She commended OMI for a job well done in the operation of the wastewater treatment plants.

**Councilor McKeown** expressed appreciation to all the candidates willing to serve on the Budget Committee during a difficult time.

**Mayor Verger** reported attending the Mid-winter gathering of the Indians and found it very interesting. She commented on making the State of the City address in the morning at the Chamber of Commerce meeting. Mayor Verger reported she would be attending League of Oregon Cities meetings Friday and Saturday regarding the implementation of Measure 47 and other bills in the legislature.

### **Adjournment**

There being no further business to come before the Council, Mayor Verger adjourned the meeting to January 27, 1997 at 5:00 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